

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application)	Docket No:
of Rocky Mountain Power for)	09-035-15
Approval of its Proposed Energy)	
Cost Adjustment Mechanism)	
)	
)	

In the Matter of the Application)	Docket No:
of the Utah Association of)	10-035-14
Energy Users for a Deferred)	
Accounting Order Directing Rocky)	
Mountain Power to Defer)	
Incremental REC Revenue for)	
Later Ratemaking Treatment)	

TRANSCRIPT OF HEARING PROCEEDINGS

TAKEN AT:	Public Service Commission 160 East 300 South Salt Lake City, Utah
DATE:	August 17, 2010
TIME:	9:02 a.m.
REPORTED BY:	Kelly L. Wilburn, CSR, RPR

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(The previous exhibits and related testimony
were prefiled and are part of the PSC record
and filed at the Commission.)

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1 AUGUST 17, 2010

9:02 A.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 of portions of Phase II
5 of Docket No. 09-035-15, captioned: In the Matter of
6 the Application of Rocky Mountain Power For Approval
7 of Its Proposed Energy Cost Adjustment Mechanism.

8 The focus on this portion -- we divided, or
9 bifurcated if you will, portions of Phase II in this
10 docket at the request of the parties. And today we'll
11 be hearing testimony on hedging and reliance on market
12 purchases. And then the next phase we'll deal with
13 design elements as we move forward in this particular
14 docket.

15 I guess we'll conduct this hearing like we
16 normally do, beginning with the Company as the moving
17 party. And we will hear then from the Division
18 witnesses, Office witnesses, and WRA, and UAE, and
19 UIEC, I guess. In that, in that order. Just because
20 it's easier for me to keep track of people that way.

21 Let's take appearances for the record,
22 please, beginning Mr. Monson and Ms. Hogle.

23 MR. MONSON: Gregory Monson and Yvonne Hogle
24 for Rocky Mountain Power.

25 CHAIRMAN BOYER: Thank you. Welcome.

1 Ms. Schmid?

2 MS. SCHMID: Patricia E. Schmid, with the
3 Attorney General's Office, for the Division of Public
4 Utilities.

5 CHAIRMAN BOYER: Okay. Mr. Proctor?

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

8 CHAIRMAN BOYER: Thank you.

9 MS. HAYES: Sophie Hayes on behalf of Western
10 Resource Advocates and Utah Clean Energy.

11 CHAIRMAN BOYER: And how is that spelled,
12 H-a-y-e-s?

13 MS. HAYES: Uh-huh.

14 CHAIRMAN BOYER: Okay. Mr. Dodge?

15 MR. DODGE: Gary Dodge on behalf of UAE.

16 MR. EVANS: William Evans on behalf of the
17 Utah Industrial Energy Consumers.

18 CHAIRMAN BOYER: Very well. Since there are
19 no preliminary matters let's begin with the Company's
20 first witness. I should tell you, though, in terms of
21 how we're going to unfold, we have a teleconference at
22 3:00. So we will at least be planning on taking a
23 short recess at that point in the afternoon.

24 And with that part of the interruption,
25 Mr. Monson or Ms. Hogle?

1 MR. MONSON: Our witness is Greg Duvall. And
2 are we not gonna re-swear people, I guess, because
3 we're still in the same docket?

4 CHAIRMAN BOYER: We are still in the same
5 docket, although I don't know that all witnesses have
6 been sworn.

7 MR. MONSON: Okay.

8 CHAIRMAN BOYER: I think Mr. Duvall has.

9 THE WITNESS: I certainly have.

10 CHAIRMAN BOYER: You certainly have.
11 He's been sworn and sworn at.

12 GREGORY DUVAL,
13 called as a witness,
14 having previously been duly sworn,
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. MONSON:

18 Q. Mr. Duvall, please state your name and your
19 position?

20 A. My name is Gregory M. Duvall, and I am the
21 director of long-range planning and net power costs.

22 Q. And have you prepared, for this portion of
23 the case, rebuttal testimony that has been filed with
24 the Commission, including one highly-confidential
25 exhibit and also your testimony is highly

1 confidential; is that right?

2 A. That's correct.

3 Q. Do you have any corrections you wish to make
4 to that testimony?

5 A. No, I do not.

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

9 A. They would.

10 THE REPORTER: I don't think, I don't think
11 his microphone is on. If you could check that,
12 please?

13 THE WITNESS: Is it on now? It's on now,
14 yes.

15 Q. (By Mr. Monson) Do you have a summary of
16 your testimony?

17 A. Yes, I do.

18 Q. Please present that.

19 A. On July 20, 2010, I filed rebuttal testimony
20 on the issues raised by the Commission in its
21 February 10, 2010, report and order on Phase I of this
22 proceeding. Namely, is the Company's use of natural
23 gas hedging and the level of and reliance on market
24 energy affected by the use of an ECAM.

25 On market reliance, the level and the

1 reliance -- the level of and reliance on market energy
2 has delivered significant cost savings to Utah
3 customers that are already reflected in rates.

4 The Company's level of reliance on market
5 purchases was reduced in the 2008 IRP update as
6 compared to the 2008 IRP. It's also consistent with
7 the level of -- that was forecast in establishing base
8 net power costs in our last general rate case.

9 Part of the evidence that I present is from
10 the 2008 All Source RFP and is highly confidential, so
11 I won't discuss the specific results in this summary.
12 However, review of the evidence demonstrates the
13 customers will realize substantial net present value
14 benefits from the Company's decision to cancel the
15 Lakeside II project that was selected as a result of
16 the 2012 RFP, and instead rely on market purchases
17 during the bridging period.

18 On hedging, the Company's hedging program has
19 provided benefits to Utah customers by reducing the
20 risk of net power costs being substantially higher
21 than forecast, and the benefits are already reflected
22 in rates.

23 The Company's provided substantial
24 information regarding its hedge -- hedging program
25 previous -- previously in this docket and other

1 dockets through testimony and workshops. This
2 information demonstrates that the Company has a
3 sophisticated and well-managed hedging program that
4 reduces customer exposure to power and fuel price
5 volatility.

6 None of the parties have demonstrated that
7 the Company's level of market reliance on its hedging
8 for its hedging programs have harmed customers in the
9 past or will likely harm them in the future.

10 Mr. Wheelwright, however, presents an analysis in his
11 surrebuttal testimony that attempts to show that there
12 was some harm.

13 I claim that that analysis is misguided. It
14 is only looking at swaps, it's not looking at all of
15 our hedges. If you look at all of the hedges -- which
16 his testimony actually purports that it does, but it
17 doesn't. If you look at all of them you'll find that
18 there's been substantial gains.

19 Since current rates already reflect the
20 Company's market reliance on hedging, an ECAM is
21 merely a mechanism to true up the actual amounts of
22 market reliance and hedging to what's already in
23 rates.

24 As directed by the Commission in its
25 acknowledgment order of the 2008 IRP, the Company is

1 committed to evaluate both of these issues in its 2011
2 IRP. And agrees that Mr. Wheelwright's suggestion
3 that there be annual review of hedging in conjunction
4 with fewer IR -- future IRPs is a sensible plan.

5 The 2011 IRP is scheduled to be filed on
6 March 31st of 2011, or just seven months from now. I
7 recommend that no further studies need to be conducted
8 prior to implementing the ECAM.

9 Because of these facts I recommend the
10 Commission conclude that there is no need to require
11 the Company to adjust its reliance on market energy
12 and its hedging program with the adoption of an ECAM.

13 I further recommend the Commission reject the
14 suggestions of the other parties that an ECAM not
15 include all front office transactions, hedging costs,
16 or natural gas fuel costs. Exclusion of these highly
17 volatile and interrelated components of net power
18 costs from an ECAM would defeat the purpose of the
19 ECAM.

20 I recommend the ECAM be run as a pilot
21 program through 2013, with a review that would take
22 place during 2013 allowing it to become permanent in
23 2014 with any adjustments that may be ordered by the
24 Commission as a result of that review proceeding.

25 The remainder of my testimony addresses a

1 number of issues raised by the parties that I simply
2 did not want to leave un rebutted, but did not
3 necessarily believe were germane to this phase of the
4 ECAM.

5 For example, I point out that the
6 determination of whether the Company's level of market
7 reliance and hedging strategies are optimal, which is
8 a focus raised by other parties, is not necessary to a
9 decision to include them in ECAM.

10 Parties will have an opportunity to review
11 our purchase and transaction costs, both in rate cases
12 and in the ECAM review cases. The Company's ECAM
13 filing was consistent with Commitment U-23, approved
14 by the Commission, and its order -- report and order
15 issued June 5, 2006, in Docket No. 05-035-54 that
16 required an ECAM to be filed at least three months
17 prior to the filing of a general rate case.

18 This was done so that there would be an
19 opportunity in the general rate case for the
20 Commission to determine the appropriate level of net
21 power costs.

22 As all parties essentially acknowledge, the
23 best place to consider changes to the Company's level
24 of market reliance and hedging strategies is the IRP
25 process. As I already mentioned, the Company is

1 committed to fully cooperating with the review of
2 these issues in the IRP.

3 Including market purchases and hedging costs
4 in the ECAM does not foreclose the IRP review. This
5 concludes my summary.

6 MR. MONSON: We would offer Mr. Duvall's
7 rebuttal testimony and its exhibit. I want to
8 apologize, I didn't prepare a sheet with the listing
9 of our exhibits. But -- and in part -- well, that
10 isn't the reason.

11 But we had trouble deciding how to number
12 things in this case. Do you have a suggestion,
13 Mr. Chairman?

14 CHAIRMAN BOYER: And with my suggestion and a
15 dollar you could buy a soft drink. But perhaps use
16 Phase II Part 1 in your identification of the exhibit.

17 MR. MONSON: So we would offer Mr. Duvall's
18 rebuttal testimony as Rocky Mountain Power Exhibit 1
19 Phase II Part 1. And his -- and it's -- I note again,
20 it's highly confidential testimony. And also his
21 exhibit, which is highly confidential, as Rocky
22 Mountain Power Exhibit 1 -- I'm sorry, make it 1R, I
23 guess, because it's rebuttal testimony. And his
24 exhibit to his testimony as Rocky Mountain Power
25 Exhibit 1.1R Phase I Part 1.

1 CHAIRMAN BOYER: Phase II Part 1.

2 MR. MONSON: Phase II Part 1, sorry.

3 CHAIRMAN BOYER: Are there any objections to
4 the admission of Mr. Duvall's prefiled written
5 testimony, together with exhibits?

6 Very well, they are admitted.

7 (Exhibit Nos. RMP-1R Phase II Part 1 and
8 RMP-1.1R Phase II Part 1 were admitted.)

9 MR. MONSON: Thank you. Mr. Duvall is
10 available for cross examination.

11 CHAIRMAN BOYER: Ms. Schmid, any cross
12 examination of Mr. Duvall?

13 MS. SCHMID: A few.

14 CROSS EXAMINATION

15 BY MS. SCHMID:

16 Q. Good morning.

17 A. Good morning Ms. Schmid.

18 Q. The Company's 10-K report and its risk
19 management policy indicate that the use of options is
20 allowed under the current hedging program. Has the
21 Company used options in the past?

22 A. It's, it's not used financial options, and to
23 a very limited extent we've used some physical
24 options. I think they've been subject of a -- in the
25 rate cases. The Nebo heat rate option, for example,

1 the Morgan Stanley option.

2 Q. To your knowledge has the Company ever been
3 denied recovery of option costs?

4 A. I don't think so. Maybe once in, in Oregon.
5 But it's certainly been a subject of controversy in
6 testimony before this Commission on the net power
7 costs.

8 Q. If we turn to line 279 of your rebuttal
9 testimony you indicate to the effect that the current
10 market is dynamic and requires continual analysis and
11 study. You also indicate that you would like to wait
12 to discuss options as part of the next IRP process.
13 How do you reconcile these two positions?

14 A. Well, I think they're completely separate. I
15 mean, the conditions change all the time. I think the
16 important thing about options is that they have
17 premium payments to them. And you would be in a
18 situation where we'd have to make sure that we
19 understand that we could pay a premium.

20 The option may never actually be -- ever be
21 in the money. And the question is, is that premium
22 useful? Is that recoverable? And I think the Company
23 would at least like to have those discussions, you
24 know, before we launch out using a lot of options.

25 I think in terms of the expected outcome,

1 whether to use options or swaps? You know, if
2 everything turns out the way you'd have expected it to
3 turn out, everything would -- the economics would be
4 identical.

5 Q. Is there a premium associated with hedging?

6 A. Well, "hedging" is a, is a word that I think
7 has been confused in this docket. So hedging, hedging
8 is really -- and I'm not sure what you're asking in
9 terms of hedging.

10 But in my view, hedging includes anything
11 that we do to purchase either gas or electricity prior
12 to the time that we actually need it.

13 Q. Using that definition, and to the extent that
14 you can state without treading into any confidential
15 waters, has the Company paid more because it has
16 hedged into the future?

17 A. As, as opposed to?

18 Q. If it had purchased on spot market? Or not
19 had the long-term contracts?

20 A. No. In fact, if you -- in my testimony I
21 have a footnote on that somewhere. I think I see it.
22 No.

23 Anyway, we had presented some evidence that,
24 that if you look at all of the, all of the hedging and
25 the gains and the losses of the hedges versus if you

1 had just gone to spot market, that that benefit was a
2 hundred million dollars to the, to the good.

3 The analysis that was presented in the
4 surrebuttal testimony of Mr. Wheelwright only looked
5 at a subset of our hedging, which was swaps. It
6 completely left out the physical forward contracts
7 that we do, mainly on the sales side, that are also
8 hedges.

9 Q. Come back to that. Turning now to TEVaR, the
10 new metric. And am I pronouncing that correctly?

11 A. Sounds right to me.

12 Q. Okay, good enough.

13 A. Have you got a page number there?

14 Q. No. I just have some general questions about
15 TEVaR.

16 A. Okay.

17 Q. Does TEVaR represent the value of the
18 contracts as of a particular point in time based on
19 the anticipated forward price curve?

20 A. Well, it's the -- it looks at the value of
21 the whole portfolio, not particular contracts. But
22 it's the -- to the expir -- expiration of the
23 contracts.

24 Q. As the forward price curves change do the
25 value of those contracts change?

1 A. Well, the measure of the TEVaR changes.

2 Q. Okay. That's better.

3 A. Yeah. It's not only forward price curves,
4 but it's everyday the forward price curves and the
5 volatilities and the correlations are updated.

6 Q. Using the TEVaR can I find an indicated --
7 could someone with more mathematical skills than I
8 find an average price for MMBTU for natural gas
9 contracts?

10 A. Well, this is beyond my level of expertise.
11 I don't --

12 Q. Then I'll withdraw the question --

13 A. I don't compute the TEVaR.

14 Q. -- because it was beyond mine, too.

15 A. Yeah.

16 Q. Does the Company have approved ECAMs in place
17 in other states?

18 A. We have a, I guess starting with California
19 we have a dollar-for-dollar -- it's called the ECAC,
20 but it's the same thing -- dollar-for-dollar true up
21 in our California service territory. We have an ECAM
22 in our Idaho service territory, which is a, it's a
23 9010. It's got some other features to it.

24 We have a PCAM in Wyoming, which was actually
25 the result of a settlement of some disputes we had

1 there. We are now in the process of revising that and
2 we have proposed an ECAM pretty similar to Utah, the
3 Utah ECAM, in Wyoming as well.

4 We don't -- we have an annual update of our
5 net power costs in Oregon, but it's not a true up to
6 actual so it's a little bit different. We have
7 nothing in Washington and nothing Utah.

8 Q. Now let's move to a few hypothetical
9 questions. To start, we have Utility A. Utility A
10 has an ECAM and a hedging practice. Utility B has a
11 hedging practice but no ECAM.

12 If hedging A, with its ECAM and hedging
13 practice, lost more money with hedging than Utility B,
14 which hedged but had no ECAM, would the public
15 interest be served by the program of Utility A with
16 its ECAM and hedging practice?

17 A. Well, I think the important thing here is to
18 understand that an ECAM is not put in place to make
19 money or to lose money. I mean, it's -- you can't
20 actually call the market, it's the same as buying and
21 selling stocks.

22 You know, if you -- you have no way to
23 actually determine whether you can make money or not.
24 It's all about hedging risks. And, you know,
25 mitigating the risks associated with the volatility of

1 the market.

2 So if, if, you know, measuring you -- I think
3 your question was if you, if you measure the gains or
4 losses. And, and I wouldn't measure the gains or
5 losses because that's not what a hedging program is
6 about.

7 Q. Do you think the public interest is -- just
8 one moment.

9 Is the purpose of an ECAM to make the utility
10 whole?

11 A. Well, the purpose of the ECAM is to -- for
12 the -- it's to have, you know, customers pay the
13 actual cost of providing service.

14 MS. SCHMID: Thank you. Those are all my
15 questions.

16 CHAIRMAN BOYER: Thank you Ms. Schmid.
17 Anything further?

18 MS. SCHMID: No.

19 CHAIRMAN BOYER: Okay. Mr. Proctor?

20 MR. PROCTOR: Thank you Mr. Chairman.

21 CROSS EXAMINATION

22 BY MR. PROCTOR:

23 Q. Mr. Duvall, I have just one question of
24 clarification. You were discussing the chart that
25 Mr. Wheelwright included in his surrebuttal, I

1 believe, that showed that the -- and I'm not certain
2 about it either for myself, so that's why I'm asking
3 you.

4 That was a comparison of your swap costs with
5 what?

6 A. Well, just the swap costs.

7 Q. Okay.

8 A. So it's all of the -- with, with the swap you
9 have, you have -- it's a financial instrument where
10 one party pays a fixed price, the other one pays a
11 floating price. That floating price would be a market
12 index.

13 And so if, if -- for gas, for example, if the
14 fixed price were \$5, and we were the fixed-price payer
15 and the market came in at \$8, then we would receive
16 the difference -- we would pay the \$6 and we would
17 receive the difference on the swap between the \$8 and
18 the \$5. So we get an extra \$3.

19 So, in essence, we're always paying the \$5.
20 And I think that's stayed with the same numbers.

21 Q. Would it be fair to state -- to describe them
22 to be transaction costs?

23 A. No, it's the settlement costs.

24 Q. All right. And is Mr. Wheelwright's chart
25 correct that over the period of time that he was

1 measuring your swap costs your settlement costs were,
2 in fact, significant?

3 A. The -- and I would, I guess, refer to -- it's
4 DPU-SR Exhibit 2.1. And I believe that's, that's what
5 I was talking about. And how that comes up with a
6 number that he pulls into his testimony.

7 Q. What's his number? And by the way, is his
8 number confidential?

9 A. That's what I was looking at.

10 MS. SCHMID: Yes.

11 THE WITNESS: It appears to be, yes. But it
12 shows up on, on page 1 of his testimony, and on
13 line 26.

14 Q. (By Mr. Proctor) And that's of his
15 surrebuttal or rebuttal?

16 A. Of his surrebuttal, correct. Which is the
17 same number that shows up on exhibit -- his exhibit --
18 Surrebuttal Exhibit 2.1, in the top left-hand box
19 under the total.

20 MR. MONSON: May I, may I interrupt for just
21 a second?

22 MR. PROCTOR: Certainly.

23 MR. MONSON: I hope this will help. These
24 numbers in their total amounts per year are not
25 confidential. So if you want to talk -- say the

1 numbers, you can. As long as we don't get into the
2 detail of them and the backup behind them.

3 Q. (By Mr. Proctor) If --

4 A. Okay. So I was, I was pointing to the --

5 Q. What was the total number, then?

6 A. It's the 59.5 million per -- number.

7 Q. And that, that was a cost rather than a gain?

8 A. Yeah, that was a net cost.

9 Q. Net cost?

10 A. Of the -- net of all the swaps. Which, in my
11 mind, makes absolutely no sense because it's only a
12 subset of the hedging.

13 Q. Whether it makes sense in your mind, sir, are
14 those numbers correct? Not quarrelling with whether
15 or not you believe they should even be used, are those
16 numbers correct as a reflection of your costs, your
17 settlement costs?

18 A. Yeah. I would, I would say yes, subject to
19 check. We --

20 Q. Well, where are you gonna check them?

21 A. Well, these, these numbers were presented in
22 the surrebuttal testimony that we got just recently.
23 And we've, we have looked at them, and I would -- I --
24 my sense is they're correct. And they're also
25 presented in the direct testimony of Mr. Peterson in

1 the next phase of this, so we will certainly address
2 them in rebuttal.

3 Q. Would those numbers have come from discovery
4 responses provided by the Company?

5 A. Yes, they did.

6 Q. Okay. And were you a part of the preparation
7 of those discovery responses?

8 A. I reviewed them.

9 Q. And are these the numbers that you provided
10 to the Division?

11 A. Well, the -- here's, here's what the concern
12 is, is because the question says --

13 Q. Excuse me Mr. Duvall, I didn't ask you what
14 your concern was. I'm sure your counsel will have the
15 opportunity to ask you that. Are these the numbers
16 that the Company provided to the Division?

17 A. Not for hedging costs.

18 Q. But were the costs --

19 A. And the question --

20 Q. -- misused by Mr. Wheelwright? The swap
21 costs, the settlement costs, are those the numbers you
22 provided?

23 A. Yeah. His, his question says he's, he's --
24 that he's referring to hedging costs, yet his answer
25 is just the swap costs.

1 Q. Okay. And those are the swap cost numbers
2 you provided, correct?

3 A. Yes, they are.

4 Q. Now, you provided a number of approximately a
5 hundred million dollars, just moments ago, as being
6 the benefit from comparing spot purchases to your
7 hedging costs? Did I hear that correctly?

8 A. Well, it's, it's looking at all hedging
9 costs, not just swaps. And in fact, in the responses
10 cited in Exhibit 2.1, the 14.14 had all of, all of the
11 costs. Mr. --

12 Q. What page -- what line are you referring to?

13 A. In the, in the heading of the exhibit he says
14 DPU data request 4.14, 8.1, and 8.2. And so 4.14 had
15 not only the swap costs, but all the costs associated
16 with the physical hedges, and added up to the hundred
17 million dollar benefit.

18 And he chose to ignore anything except the
19 swap costs. And in 8.1 and 8.2 alls he asked for was
20 the additional swap costs. He didn't ask for all the
21 hedge costs.

22 Q. And you gave him accurate numbers and
23 answered his questions, did you not?

24 A. Yes, we did.

25 Q. Now, you described swap costs and physical

1 hedging costs. Are there any other costs or benefits
2 associated with your comparison that you described as
3 resulting in a hundred million dollar benefit?

4 A. No.

5 Q. What are physical hedges?

6 A. Well, if you, if you want to sell forward,
7 for example, typically what we had done up until about
8 four years ago, before we started using swaps, was
9 everything was a physical forward. So we could,
10 today, sell a 2011 contract for power.

11 And that's really a combination of -- that
12 has a financial hedge in it as well as the physical
13 delivery. If we were to do that through a spot, the
14 financial part of it would be through a swap and the
15 physical part would be through an indexed sale.

16 So there -- it's -- the market has evolved
17 from always just doing physical forwards to using
18 swaps and index deals. And what that allows is
19 actually more counterparties. And it's actually been
20 a more of a traditional way of doing business on the
21 gas side for years.

22 Q. Does your company have a definition of a
23 physical hedge within its policy?

24 A. I don't recall if it's within our policy, but
25 we -- when we -- in my rebuttal testimony there was a

1 question about describing all of the instruments we
2 use, and I certainly described it there.

3 Q. Where within your testimony did you describe
4 it?

5 (Pause.)

6 MS. HOGLE: If you will look at page 21.

7 THE WITNESS: Twenty-one, thank you.

8 Yes, starting on -- I'm on line 459. Well,
9 actually 455:

10 "Question: Mr. Gimble states it
11 would be useful for the companies and
12 parties to understand the various types
13 of standard market products that are
14 currently available to the Company and
15 how they might differ by market hubs."

16 Q. (By Mr. Proctor) And the -- and you used the
17 phrase "fixed price physical transaction"; is that
18 correct?

19 A. That's correct.

20 Q. What is, then, a fixed price physical
21 transaction?

22 A. It is what probably within the grid world
23 would consider a short-term firm sale. So it involves
24 a price, a fixed price, and it involves, you know,
25 power. Or on the gas side it would be a fixed price

1 and the commodity.

2 Q. And would it include both sales from the
3 Company to a third party, as well as purchases from a
4 third party to the Company?

5 A. Yes, it would.

6 Q. Of either fuel or energy?

7 A. Correct.

8 Q. Correct? Is there a transaction in fuel or
9 energy with a fixed-for-floating financial swap
10 transaction?

11 A. Yes. That's what we call a swap.

12 Q. There's a physical exchange of either ener --
13 of energy or fuel?

14 A. No, there's not. That's, that's purely a
15 financial deal.

16 Q. That's helpful, Mr. Duvall. You testified
17 just moments ago that options have been a subject of
18 controversy before this Commission and other
19 commissions, did you not?

20 A. I did.

21 Q. And so this Commission has explored, in
22 general rate cases, the use by the -- of the -- by the
23 Company of options?

24 A. Well, to a limited degree. They, they have
25 never investigated the use of purely financial

1 options.

2 Q. The two options you mentioned, one was Nebo
3 and I forget the other.

4 A. Morgan Stanley.

5 Q. And Morgan Stanley. What does Morgan Stanley
6 option consist of?

7 A. Well, it's a, it's a call option. So it has
8 a monthly premium. And then if, if it's in the money,
9 then we will use that.

10 Q. Use, use what? You get fuel or energy?

11 A. We get, we get power.

12 Q. Okay.

13 A. Right.

14 Q. And the Nebo, you used two words to describe
15 that?

16 A. Nebo heat rate options?

17 Q. Yes. And what is that?

18 A. Yeah, Nebo is actually a generating facility
19 that we had the option to run the fuel through. And
20 we would do that when it was in the money. But we
21 paid a fixed premium to have the right to do that.

22 Q. And that's a gas plant?

23 A. Yes, it is.

24 Q. And it's located...

25 A. In Utah.

1 Q. In Utah right off the freeway, is it not?

2 A. Beats me.

3 Q. Somewhere down in -- have you not been there?

4 A. I have not been there.

5 Q. Well, I may be wrong which one it is, but
6 there's something there. So the Company -- and those
7 are -- would you describe those as physical
8 transactions?

9 A. Yes. They, they involve the commodity.

10 Q. But this Commission has never considered a
11 financial option in a general rate case?

12 A. We, we have not presented any.

13 Q. Have you used any?

14 A. No, we have not.

15 Q. But how long have you been engaging in the
16 swaps?

17 A. Well, my recollection is we didn't have swaps
18 until about, I would say four years ago.

19 Q. Well, let me ask it this way. Fixed for
20 floating financial swap transactions, how long have
21 you engage -- has the Company, pardon me --

22 A. To the best --

23 Q. -- been engaging in those?

24 A. Yeah. To the best of my knowledge, we've
25 been engaging in those maybe for four years. Maybe a

1 little longer. But I -- they -- I, I -- my
2 recollection is through the net power cost study where
3 we pull in swaps into the, you know, short-term firm
4 purchases and sales.

5 And it turned up, I would say about four
6 years ago, that we started having spot transactions as
7 well. So that's my understanding.

8 Q. Mr. Wheelwright's chart based upon the
9 Company's numbers that we spoke about just moments
10 ago, it covered the time frame I believe from 2005 to
11 2009; am I correct?

12 MR. PROCTOR: Mr. Chairman, may I ask
13 Mr. Wheelwright the time period for his?

14 CHAIRMAN BOYER: Yeah, go ahead.

15 MR. WHEELWRIGHT: 2006.

16 MR. PROCTOR: Through 2010, or?

17 MR. WHEELWRIGHT: Through May of 2010.

18 MR. PROCTOR: Okay.

19 Q. (By Mr. Proctor) So Mr. Wheelwright
20 mention -- said that his -- the numbers that you gave
21 to him that he's used in compiling his own testimony
22 was 2006 through May of 2010; is that correct?

23 A. Yes.

24 Q. And so that's about the entire time you've
25 been engaging in fixed-for-floating financial swap

1 transactions?

2 A. Pretty close, yes.

3 Q. Has the Commission ever examined those
4 transactions in a general rate case?

5 A. The -- I'm sorry, which transactions?

6 Q. The fixed-for-floating.

7 A. They have been included in the net power cost
8 studies --

9 Q. Didn't ask you if they were included, asked
10 you if they've ever considered them.

11 A. Well, they've -- I'm not sure --

12 Q. As an in -- well, that's a bad question. As
13 an independent component to net power costs?

14 A. So I, I don't -- I'm not sure what you mean
15 by "considered." Did they address it in an order, or?

16 Q. Well, let me ask it this way. Did you
17 present to this Commission, at any time in that
18 four-year period -- almost four years -- any
19 fixed-for-floating transaction the same way you
20 presented the Nebo physical transaction? That was
21 subject to controversy?

22 A. Well, the -- they're all included in the net
23 power cost study, in that all of the -- all of them we
24 had provided discovery to all the parties on.

25 The Nebo and the, and the Morgan Stanley were

1 actually raised by, by the Office witness. And his,
2 his position was that because they weren't exercised
3 in the power cost study, that the customers shouldn't
4 pay the premium.

5 Q. And so your answer is that, indeed, the
6 fixed-for-floating financial transactions have not
7 been independently litigated in front of this
8 Commission in any general rate case?

9 A. No one has brought any kind of issue with
10 them. They've been included in the cases. No one's
11 challenged them. No one's said that they are not --
12 nobody's put testimony in saying they shouldn't be
13 allowed.

14 Q. So your answer is no, they have not been
15 litigated?

16 A. They have not been an issue before this
17 Commission.

18 Q. Okay. Your purpose here, though, is to
19 establish that in the judgment of the Company,
20 financial transactions are an appropriate component of
21 an ECAM?

22 A. I believe they are, yes.

23 Q. And is that in part because you believe that
24 the Company's hedging practice, or hedging policy, is
25 a sophisticated one?

1 A. No. I --

2 Q. It's not sophisticated?

3 A. Yes, it's sophisticated, but that's not the
4 reason that I would agree -- that would, would say
5 that swaps ought to be in the, in the ECAM.

6 Q. Well, you would say because it provides some
7 comfort or some hedge against volatility within either
8 the energy or the fuel market?

9 A. No, I would, I would say they are, are
10 included first of all because they're a replacement or
11 a -- similar to a power sale or a power purchase.
12 It's just a different way of doing it. The power -- a
13 power sale or a power purchase includes the financial
14 hedge as well as the physical commodity.

15 When you, when you do it separately with a
16 swap and an indexed commodity deal you get the same
17 answer, it's just two different products.

18 Q. And so since 2006, up until May of 2010,
19 those have been included in rates? Those financial
20 transaction costs have been included in rates?

21 A. They have, yes.

22 Q. And presumably they would remain in rates
23 until such time as the next general rate case,
24 correct?

25 A. Just like any other element of net power

1 costs.

2 Q. And at that time they could be scrutinized by
3 this Commission. Parties could raise them. Conduct
4 discovery upon them. Determine whether or not, in the
5 parties' judgment, they're an appropriate component of
6 net power costs; is that correct?

7 A. I think that they could do anything they
8 want.

9 Q. And the Commission would have the opportunity
10 to evaluate the various positions and come to a
11 conclusion about the inclusion of those financial
12 costs in, in rates at that time, could they not?

13 A. They could. They could also do that in an
14 ECAM review proceeding.

15 Q. Well, but if they did it in ECAM isn't it
16 true that rather than a scrutiny through a general
17 rate case, which you acknowledge can be controversial
18 because of your option testimony, and subject to
19 discovery, correct?

20 A. That's correct. And I would imagine that the
21 ECAM would also be subject to discovery and scrutiny
22 by the parties.

23 Q. But one thing that would not be subject to
24 scrutiny if they would be placed in an ECAM as
25 proposed now would be the Company's policy or practice

1 of hedging; isn't that also true?

2 A. No, it's not.

3 Q. Well, where do you propose that this
4 Commission have an opportunity to examine and
5 scrutinize the Company's hedging practices and the
6 propriety of including those hedging costs -- and
7 again, we're talking about fixed-for-floating
8 financial transactions -- within rates?

9 A. The ECAM review proceeding would look at
10 whether the costs included in the ECAM are prudent or
11 not prudent.

12 Q. Have you ever -- has the Company ever
13 presented to this Commission, for their approval, your
14 fixed-for-floating hedging practice, or policy, or
15 manual?

16 A. No, we've not, but they've been included in
17 net power costs for the last several years.

18 Q. Which have never been litigated. You've
19 already admitted that, right?

20 A. Well, they haven't -- I mean, that particular
21 issue has not been raised by any party. The net power
22 costs have certainly been litigated.

23 Q. But your policy itself has not?

24 A. Well, the policy has been provided in
25 discovery and no one's taken any kind of issue with

1 it.

2 Q. Your proposal is to include such an
3 examination in an IRP, is it not?

4 A. Well, we've been, we've been ordered by the
5 Commission to evaluate both the hedging and the market
6 reliance in the IRP, and we intend to do that.

7 Q. But you want to also include it in an ECAM
8 before you've done that evaluation in an IRP, don't
9 you?

10 A. They're already included in base rates. So
11 we're just changing how you do the ratemaking from a
12 base rate to a true up.

13 Q. Do you want -- I mean, you -- and I apologize
14 for saying "you" because I know, Mr. Duvall, that it's
15 the Company. And I'm not trying to direct anything
16 towards you personally, understand, please.

17 The Company's position is that the
18 examination of its hedging practices or policy will
19 take place in an IRP, but in the meantime we're going
20 to adjust those general rates based upon the inclusion
21 of financial hedging in an ECAM. Is that the
22 Company's position?

23 A. The Company's position is that the, the
24 hedging policy is already -- and all the hedging
25 instruments are already built into the base rates.

1 And that we have, we have provided a massive amount of
2 evidence before this Commission that the hedging has
3 provided benefits to customers in terms of reducing
4 the risk of costs going too high.

5 Q. Isn't that also true with your market
6 reliance practices? That they're included in base
7 rates now, but your market reliance practices or
8 policy has never been, itself, examined by this
9 Commission?

10 A. Well, market reliance has -- and the front
11 office transactions have always been part of the
12 Integrated Resource Plan since, I believe, about 2004.

13 Q. Does the integrate -- does an IRP
14 acknowledgment or any order from this Commission
15 pertaining to an IRP result in a change in rates?

16 A. No.

17 Q. Is the Company bound to modify its rate
18 structure and its ratemaking practices as an out -- as
19 a result of an order -- any order from this Commission
20 pertaining to an IRP?

21 A. No, it's not.

22 Q. And in fact the Company takes the IRP
23 outcome -- acknowledgment, non-acknowledgment,
24 whatever -- and translates that into a business plan;
25 is that correct?

1 A. Well, the business plan and the IRP are
2 usually developed -- or developed in conjunction with
3 each other.

4 Q. Is the business plan provided to the
5 Commission for their approval?

6 A. No, it's not.

7 Q. Is it provided to the Commission for their
8 scrutiny in their official capacity?

9 A. Not that, not that I'm aware of.

10 Q. And it's the business plan that defines the
11 Company's operations in the future, is it not?

12 A. Well, the IRP is the -- the IRP and the
13 business plan -- the IRP develops the resource
14 portfolio for the business plan.

15 Q. But they do vary on occasion, do they not?

16 A. Very slightly.

17 Q. But they do vary? They can?

18 A. Well, they, they can, but it would probably
19 be a matter of timing.

20 Q. Well, it would also be a matter of the
21 discretion of the Company, would it not?

22 A. No.

23 Q. The Company's not in charge of its business
24 plan which it does not submit to this Commission?

25 A. It is, but the Company also is the one who

1 determines what its IRP is. We, we make the IRP and
2 we file it.

3 Q. And you ask other, other parties to comment
4 upon your IRP, correct?

5 A. We do.

6 Q. You invite them to participate in your public
7 process as well as the process before this Commission,
8 do you not?

9 A. Yes, we do.

10 Q. Do you invite other company -- other parties
11 to prepare their own IRP alternative to submit to the
12 Commission?

13 A. No, we don't.

14 Q. In fact, the IRP process does not provide for
15 that, does it?

16 A. No, it doesn't.

17 Q. Where within the IRP process, in particular
18 the standards and guidelines, is an examination by
19 this Commission of the Company's fixed-for-float --
20 for-floating financial transactions provided for?

21 A. Well, it was in the order in the 2008 IRP.

22 Q. Where within the guidelines, the specific
23 guidelines for the preparation of an IRP, is
24 hedging -- financial hedging provided for?

25 A. I don't believe it's specifically called out

1 in any guidelines.

2 Q. You are currently engaged in the preparation
3 of a 2011 IRP?

4 A. Yes.

5 Q. And you would expect that to be completed or
6 at least published when?

7 A. March 31, 2011.

8 Q. Have IRPs ever been -- the publishing date,
9 have they ever been extended?

10 A. Yes, they have.

11 Q. For six months, for example?

12 A. I don't recall any for six months. Last year
13 we asked for two months, I believe.

14 Q. And for what period of time would you
15 anticipate the Company covering in its IRP that you
16 hope to be submitting in March of 2011?

17 A. Well, the primary focus is on the first ten
18 years.

19 Q. And the secondary focus?

20 A. Well, the, you know, beyond ten years we tend
21 to use generic resources and so on. But it's -- the
22 first ten years is then used to develop the action
23 plan which we use for the actions that we want to take
24 over the next, you know, one to two years.

25 Q. And that ten years would begin in what year?

1 A. Probably 2011.

2 Q. Now, the financial swap transactions that are
3 presently in, in rates, those are a product of
4 transactions that go through what period of time? In
5 other words, right now the Company, I assume, has
6 certain financial contracts for which it is obligated
7 in order to smooth out the volatile market, as I think
8 you described?

9 A. Correct.

10 Q. How long are those trans -- those -- are
11 those transactions? Oh, contracts, I'm sorry.

12 A. I believe they're -- that we have contracts
13 out through the next four years.

14 Q. So through 2014, roughly?

15 A. Pretty close.

16 Q. So if these transaction costs, the financial
17 transaction costs were included in an ECAM, they would
18 be based upon contracts that already exist, that
19 you're already obligated to, and that won't change as
20 an outcome of any IRP study until 2015; isn't that
21 true?

22 A. Whatever contracts we have in place are
23 contracts we have in place.

24 Q. And no IRP examination of your financial
25 hedging practices or policy is gonna change that, is

1 it?

2 A. I'm not sure what you're asking. Would
3 change what?

4 Q. Change anything. Change the rates. Change
5 how much the contract is. Change what you are allowed
6 to commit to. Any limits on -- or caps on mark -- on
7 hedging. None of that's gonna change because you have
8 absolute contractual obligation through, in some
9 instances, 2014?

10 A. The, the IRP will not change any contract
11 terms.

12 MR. PROCTOR: Okay. Thank you Mr. Duvall.

13 CHAIRMAN BOYER: Thank you Mr. Proctor.

14 Ms. Hayes, questions for Mr. Duvall?

15 MS. HAYES: Yes, thank you.

16 CROSS EXAMINATION

17 BY MS. HAYES:

18 Q. Sorry to make you turn. You stated in your
19 summary that front office transactions have been
20 reduced in the 2010 IRP business plan update; is that
21 correct?

22 A. The 2008 IRP update.

23 Q. Okay. Can you point me to a table in that
24 update that illustrates that?

25 A. I don't actually have a table number, but

1 the -- over the, the 2008 IRP, the average over all
2 the years was 809 megawatts. And in the 2008 IRP
3 update it was 687 megawatts. And there's, there's
4 tables in both of those documents that you can look at
5 to get those numbers.

6 Q. Are those Tables 5.5 and 5.7?

7 A. I don't know offhand what their numbers are.

8 Q. All right. Well, if I could just direct you
9 to 5.5 and 5.7.

10 MR. MONSON: Could you, could you provide him
11 with copies? I don't think he has them.

12 Q. (By Ms. Hayes) Oh, you don't have the IRPs?

13 A. I don't have them, no.

14 Q. Okay.

15 (The witness and Counsel are talking too
16 quietly.)

17 THE REPORTER: Do you want to keep your
18 voices up, please, if you want it on the record?

19 MS. HAYES: Oh, sorry. I'm just pointing out
20 in these Tables 5.5 and 5.7 where it lists the front
21 office transactions.

22 THE WITNESS: Okay.

23 Q. (By Ms. Hayes) Isn't it true that the
24 changes in front office transactions depicted in those
25 tables are not quite accurate, because they reflect

1 the changes between the business plan, the
2 October 2009 load forecast, and a portfolio developed
3 using the November 2008 forecast -- which is the
4 5B_CCCT_Wet -- not the final preferred portfolio
5 developed with the February 2009 forecast?

6 A. I didn't follow you at all, sorry.

7 Q. All right. Well, I'm trying -- the numbers
8 in those tables are -- I just don't know if they're
9 accurate, because they are not -- it's not the --
10 they're not comparing the front office transact --
11 transaction reductions based on the preferred
12 portfolio identified in the IRP process. They are
13 compared to a portfolio developed using the
14 November 2008 forecast.

15 A. The preferred portfolio out of the 2008 IRP
16 used the November 2008 forecast, I believe.

17 Q. I think the preferred portfolio was developed
18 with the February 2009 forecast?

19 A. My recollection -- and I don't have it in
20 front of me. But my recollection is that we did a
21 sensitivity on the February forecast, but the
22 preferred portfolio itself was based on the
23 November 2008 forecast.

24 MS. HAYES: Okay, thank you.

25 CHAIRMAN BOYER: Is that all, Ms. Hayes?

1 MS. HAYES: Yes, thank you.

2 CHAIRMAN BOYER: Okay, thank you Ms. Hayes.

3 Mr. Dodge?

4 MR. DODGE: No questions, thank you.

5 CHAIRMAN BOYER: Mr. Evans?

6 MR. EVANS: Thank you Mr. Chairman.

7 CROSS EXAMINATION

8 BY MR. EVANS:

9 Q. I have a couple of questions, Mr. Duvall,
10 good morning.

11 A. Good morning.

12 Q. We are in a difficult position here to have
13 you look at me while I ask questions, but if you can
14 try, that would be great. If you can't, don't hurt
15 your neck trying. We'll keep this short and kind of
16 broad, I think.

17 On May 25th the Company offered a
18 presentation to the Commission and others about a
19 change to a TEVaR metric and a new -- introduction of
20 a new hedging program. Were you, were you at that
21 presentation?

22 A. I believe I was, yeah.

23 Q. I've got a couple of questions about the new
24 hedging program that was introduced. First, has the
25 TEVaR been implemented? Are you currently using it?

1 A. Yes, we are.

2 Q. And the new hedging program as well?

3 A. I'm not sure what you mean by the new hedging
4 program.

5 Q. Well, I think I was under the impression at
6 that meeting that the Company was gonna change its
7 hedging practices in some way using this TEVaR metric.
8 Was I wrong in thinking that?

9 A. Well, the TEVaR metric just was a replacement
10 for the, for the fixed volume limits. Sort of the --
11 or the targets for hedging for both natural gas and
12 electricity. The rest of the program remained the
13 same.

14 Q. So there was really no -- been no change in
15 the hedging program itself as a result of implementing
16 the TEVaR metric; is that correct?

17 A. The hedging program didn't change very much.
18 It was just the metric that you could use to see how
19 the, how the open position affected net power cost.
20 It was a much more informative way and useful way to
21 look at it.

22 Q. So as far as hedging goes, you're using the
23 same fixed and -- or physical and financial products
24 as you used before; is that correct?

25 A. That is correct.

1 Q. And you're using it in the same way?

2 A. Well, it will vary over time, but essentially
3 there wasn't any material change.

4 Q. And there's not been any plan to terminate or
5 otherwise dispose of any of the existing physical or
6 financial products as a result of this move to the
7 TEVaR metric?

8 A. No.

9 Q. So really it makes no difference in the
10 hedging program? Is that what you're -- is that what
11 I'm hearing?

12 A. It's just a different way to measure the, the
13 targets.

14 Q. Thank you. Without belaboring it, I want to
15 follow up on a conversation you had with Mr. Proctor a
16 few minutes ago about these fixed for -- fixed-for-
17 floating financial swap transactions. That's --
18 we're, we're just talking natural gas here, aren't we,
19 for those?

20 A. No, natural gas and electricity.

21 Q. Natural gas and electric both? Let's call
22 them "swaps" for short. Because it's different from
23 your other hedging which may include physical or other
24 purchases, right? Can we call those "swaps"?

25 A. That's what they are, is swaps.

1 Q. Okay. It's just a piece of the hedging,
2 right?

3 A. It's one, one tool to use to hedge.

4 Q. Okay. What is it you actually get for the
5 hedging dollars that you've got in rates right now?
6 Those swap dollars? What's the deliverable?

7 THE REPORTER: What's the what? I'm sorry.

8 MR. EVANS: Deliverable.

9 Q. (By Mr. Evans) Do you get a commodity for
10 that?

11 A. No, swaps are just a financial transaction.

12 Q. You don't get any gas?

13 A. No, we do not.

14 Q. Or power?

15 A. Not under a swap.

16 Q. You don't get security of supply either, do
17 you?

18 A. They're, they're only intended to hedge the
19 price.

20 Q. So you have to go out and buy the physical in
21 a separate transaction; is that correct?

22 A. That's correct.

23 Q. So when I look at the, when I look at the
24 statute that authorizes the ECAM? I'm curious about
25 what you -- how you think this all fits. What I, what

1 I see here is that an energy balancing account is for
2 some or all of the components of incurred actual power
3 costs, including two things.

4 One of them is the less wholesale revenues,
5 but the other is the three things that we're concerned
6 about: Fuel, purchase power, and wheeling expenses.
7 You look at fuel for your settlement dollars on your
8 swaps, do you?

9 A. We, we get a, you know, price guarantee. In
10 fact, all of these swaps -- the fuel-related swaps are
11 actually recorded in fuel accounting -- in the fuel
12 account. And the power purchase swaps are actually
13 recorded in the power purchase accounts as well.

14 Q. Although -- well, they're recorded in the
15 accounts but you don't actually get fuel or power for
16 the, for the dollars, do you?

17 A. We, we don't get the commodity, no.

18 Q. So which one of these categories: Fuel,
19 purchase power, wheeling expenses?

20 MR. MONSON: Are you asking for a legal
21 opinion?

22 MR. EVANS: I'm asking where he thinks these
23 costs ought to go.

24 THE WITNESS: Where they, where they do go,
25 if it's a swap dealing with fuel it'll go in the fuel

1 account. If it's a swap doing -- dealing with
2 wholesale purchase or sale it will go in the, in the
3 wholesale purchase or sales accounts.

4 Q. (By Mr. Evans) Okay. But what you're really
5 buying is insurance against the price of the fuel,
6 right?

7 A. You're, you're buying the, the price, I guess
8 hedge, that's normally part of a, a physical deal. So
9 if we -- like I described before, if we, if we buy gas
10 at \$5 a MMBTU and it's -- it could be a physical deal,
11 where we get the gas and we get the hedge.

12 Or we could do it by buying index gas, that
13 floats all over with whatever the index is, and buy a
14 swap. The swap and the index deal together are the
15 same as a physical transaction.

16 Q. The counterparties are different, aren't
17 they? Why do you say that's one transaction? It's
18 two transactions.

19 A. They're two separate transactions that get
20 the exact same result as one physical transaction.

21 Q. Well, one gets gas and the other gets
22 nothing. Just a price guarantee.

23 A. A price, a price on either gas or
24 electricity.

25 Q. Right, okay. Let's move on. In your

1 rebuttal testimony at lines 207 to 210 -- and you say
2 this throughout and I think that you don't need to
3 turn to it. You understand that the issue in this
4 portion of Phase II should be, and I'll quote this:

5 "Whether the Company's hedging and
6 reliance on market energy should be
7 changed in the context of an ECAM."

8 Do you see that?

9 A. Sounds familiar. Yes, I do.

10 Q. You are aware, of course, that others here
11 disagree that the issue should be that narrow?

12 A. Yes, I, I do.

13 Q. Is it, is it your, your -- let's say the
14 Company's position that the Commission here is somehow
15 confined to looking at whether hedging and reliance
16 should be changed in the context of an ECAM?

17 A. No, it's not my position that they should be
18 confining at all.

19 Q. Okay. So the Commission could decide that no
20 level of market reliance or hedging costs should be
21 allowed in an ECAM?

22 A. They can make whatever decision they wish to
23 make.

24 Q. One more follow up on Mr. Proctor's cross
25 examination. He was talking about the IRP and the way

1 it integrates with the Company's business plan. And
2 you seem to say that the Company's business plan
3 adheres to the IRP. Is that always the case?

4 A. Yeah, we -- in recent years we've worked on
5 aligning the business plan and the IRP. It may not
6 have been the case years ago, but we try to make that
7 the case as much as we can.

8 Q. What are the consequences if the Company's
9 unsuccessful in aligning the business plan with the
10 IRP, for whatever reason?

11 A. I'm sorry, I didn't -- I missed the question.

12 Q. What are the consequences if the Company is
13 not successful in aligning the business plan with the
14 IRP?

15 A. Well, I, I guess the -- one of the
16 consequences is that we would probably not be in
17 compliance with the Utah -- one of the Utah IRP rules.

18 Q. Would it, would it mean disallowance of some
19 costs and rates?

20 A. No, it would not.

21 Q. Would there be -- has the Commission ever
22 issued an order enjoining, or rather compelling the
23 Company to do something that was in its IRP that it
24 wasn't doing?

25 A. No. The, the Commission basically -- I think

1 it's probably summarized best in their response to the
2 2007 IRP order. And that's where they, they basically
3 said -- and I was just referring to page 4 of
4 Mr. Gimble's surrebuttal -- that the Company bears the
5 risk of any unreasonable costs to ratepayers
6 associated with its decision -- decisions to change
7 the quantity and type of resource it procures based on
8 asserted but unexamined risks.

9 And so essentially the, the policy is that
10 the Company makes its decisions based on the input it
11 gets from folks. And it takes the risks that it would
12 bear the risk of the unreasonable costs. My reading
13 of that is that as long as the costs are reasonable,
14 then that's fair for customers to bear that risk.

15 Q. And if it turns out there are unreasonable
16 costs the disallowance wouldn't be in the IRP, it
17 would be in the rate base, wouldn't it?

18 A. That's correct.

19 Q. Just a couple of questions of clarification
20 in your testimony, if you don't mind. I'm looking at
21 line 740 in your rebuttal, where you talk about a
22 spark spread. Can you tell me what a "spark spread"
23 is, please?

24 A. Yeah. Essentially the spark pr -- spark
25 spread is the difference between the market price and

1 the gas price as, as converted to a market price by
2 the rate of the gas unit.

3 Q. So there are two pieces of it. One was the
4 conversion factor from the gas to electricity, and the
5 other compared with the market price for electricity.
6 And do you use that spark spread on a daily -- when
7 you're looking at daily purchases between -- when
8 you're making decisions between burning gas or buying
9 power daily, you look at that spark spread?

10 A. That's correct. It's an indication of
11 whether your gas plants are in the money.

12 Q. And how far out can you determine whether
13 your gas plants are in the money by using the spark
14 spread?

15 A. Well, you can, I guess, determine it as far
16 out as you want. Obviously as long as you have a gas
17 price and a market price you can determine -- and a
18 heat rate of your gas plant you can determine the
19 spark spread.

20 But, you know, it certainly becomes less
21 useful the further out you go, just like anything
22 else.

23 Q. So when you're, when you're engaging in your
24 hedging practices and you're setting up your natural
25 gas supplies you don't use that spark spread for

1 buying these swaps, do you?

2 A. The, the spark spread is built in to the, the
3 TEVaR metric, for example. It looks at those, those
4 sorts of things. But again, you're pushing on the
5 edge of my expertise here.

6 Q. One more. One more question. And this is to
7 follow up. You have said throughout your testimony
8 that the purpose for hedging is, I thought, to -- as a
9 means to reduce volatility in prices. Is that pretty
10 much accurate?

11 A. Well, this was brought up by Mr. Wielgus, I
12 believe, in his testimony, his surrebuttal. Where he
13 claims that we have switched our position from market
14 volatility to -- or the volatility in the prices to
15 market exposure.

16 There is no switch involved at all. Those
17 are really one and the same.

18 Q. So you're not contending that these -- the
19 current hedging practices insure or work toward
20 obtaining fuel and power supplies at the least cost,
21 are you?

22 A. The hedging is not intended to reduce cost or
23 increase cost, it's intended to reduce volatility.

24 MR. EVANS: Okay, thank you. No more
25 questions.

1 CHAIRMAN BOYER: Thank you Mr. Evans.

2 Let's turn now to the commissioners.

3 Commissioner Allen? No questions?

4 Commissioner Campbell?

5 COMMISSIONER CAMPBELL: Just a few. When you
6 look at that \$59 million that we've talked about in
7 swap costs, how does that compare to the swap costs
8 that -- or net power cost over that time period; do
9 you know?

10 THE WITNESS: Yeah, I, I would imagine that
11 on a year-by-year basis they were pretty close. It
12 depends on the test year and whether all the --
13 whether there was a future piece of the test year.
14 But anything that would have been historical would
15 have been included in the test year. We get that
16 information out of the net power cost studies.

17 COMMISSIONER CAMPBELL: So let's talk about
18 how hedging relates to rates for a minute. I want to
19 understand this interaction. After rates are set in a
20 general rate case how would customers be exposed to
21 market prices for natural gas or electricity?

22 THE WITNESS: Under ECAM?

23 COMMISSIONER CAMPBELL: No, under our current
24 method.

25 THE WITNESS: Under the current method, once

1 rates are set, then that's the rate that goes to
2 retail customers. And any changes in market prices
3 are borne by the, by the Company.

4 COMMISSIONER CAMPBELL: And so in a rate case
5 when we do net power costs, customers I guess are
6 exposed to market prices to the extent that the
7 Commission estimates wrong, or -- you made a statement
8 that hedging is there to reduce customer exposure to
9 the market.

10 I'm trying to understand that. Because I --
11 as I look at the current system for you all in
12 comparison to Questar -- I understand how Questar,
13 with their pass-through 191 account, how their hedging
14 costs are borne by customers. Or how customers
15 benefit from that hedging.

16 Under our current system isn't the Company
17 the primary beneficiary of the hedging that takes
18 place?

19 THE WITNESS: Well.

20 COMMISSIONER CAMPBELL: I'm trying to
21 understand how customers benefit from the hedging.

22 THE WITNESS: Yeah.

23 COMMISSIONER CAMPBELL: I mean, I
24 understand -- doesn't the hedging really help the
25 Company stabilize revenue? And I'm not saying that

1 that doesn't help customers in the sense that you have
2 an opportunity to earn your return and so forth.

3 But generally isn't it fair to say that your
4 current hedging program under current regulation in
5 Utah primarily benefits the Company, not the
6 customers?

7 THE WITNESS: I, I would say that it -- I
8 don't know -- the word "primarily" threw me off there.
9 I think it benefits both customers and the Company,
10 because a lot of the hedging is already included in
11 the net power cost study.

12 What's not included, though, is as we move
13 through the test period, or the year when the rates
14 are in effect, and the loads, and resources, and
15 prices move all over, you know, in the way that they
16 do, then that's, you know, what the, the Company bears
17 right now. But, you know, and a lot of it depends on
18 the test period.

19 For example if we have a, you know, a test
20 period that's, that's a future test period then we
21 will -- as we prepare the net power cost study we will
22 do an extract from our system and we'll pull out all
23 of the hedges, whether they're swaps or whether
24 they're the physical forwards.

25 You know, every, every contract we have done

1 will be included in the net power cost study. And so
2 it's only the ones that we, we didn't do -- that we
3 did after the time we prepared the net power cost
4 study that wouldn't be included in rates.

5 COMMISSIONER CAMPBELL: Well, let's limit
6 this discussion then just to the financial swaps.
7 Because I understand that you've always, under a
8 least-cost environment, sold surplus power forward, to
9 the benefit of customers. Or to get lowest cost to
10 utilize your generation capacity.

11 So let's just set that aside and let's just
12 limit ourselves to the financial piece. And it's
13 probably because I'm dense, but how does the financial
14 hedging benefit customers?

15 I mean, when you say that it reduces customer
16 exposure to the market I'm still struggling with how,
17 under the current regulatory method -- I understand
18 how it happens in Questar's case with their 191
19 account.

20 But under our current method of regulation
21 for your company, how does -- how do the financial
22 hedges benefit customers?

23 THE WITNESS: In the same way that physical
24 hedges do. It locks in the price so that it limits
25 the volatility. So if, if, on the gas side if we, if

1 we lock in at a \$5 per MMBTU and, and the market goes
2 to \$10 or it goes to \$3, the customers are still
3 paying the \$5.

4 It creates rate stability. And the same
5 thing on the wholesale sale side.

6 COMMISSIONER CAMPBELL: Okay. It doesn't
7 affect rate stability between rate cases. You're
8 suggesting that it affects rate stability right when
9 rates are established?

10 THE WITNESS: Yeah, I think that's a fair
11 statement.

12 COMMISSIONER CAMPBELL: I'll -- I still don't
13 see how that, how that -- you -- all right, thank you.

14 CHAIRMAN BOYER: Just a couple questions,
15 Mr. Duvall. One is tempted -- and indeed some of the
16 parties were tempted -- to evaluate the efficacy of
17 hedging activities by looking backwards and seeing how
18 much you actually saved over, you know, some other
19 technique. Relying on the stock market or whatever.

20 And you've indicated that that, that's not
21 the function of hedging anyway. But does it depend --
22 if one were to do that. If one were to Monday night
23 quarterback your hedging activity, so to speak. Would
24 it depend on what kind of a -- the environment in
25 which you find yourself?

1 I mean, if you're in an environment where
2 fuel costs are relatively stable or declining, then
3 the hedging activities might not look as attractive as
4 if they were in a different environment. Is that a
5 fair statement?

6 THE WITNESS: Well, it's, it's a little more
7 complex with our company, because we hedge both
8 wholesale power -- long wholesale power, so we're
9 hedging sales, and we're short gas and so we're
10 hedging gas.

11 And while you may, in a declining market --
12 which is the example that everybody's looking at.
13 They're looking at a declining market and the
14 dis-benefit associated with hedging gas and not
15 picking up on that declining price.

16 But on the flip side, we're hedging the sales
17 and high prices.

18 CHAIRMAN BOYER: You've locked in higher
19 prices on the sales?

20 THE WITNESS: We have, yeah. And you have to
21 look at the whole picture to understand the, you know,
22 what the result is.

23 CHAIRMAN BOYER: And so with that in view, is
24 the -- are your hedging practices a fluid or kind of a
25 dynamic process? I mean, do you -- like you're pretty

1 well hedged right now, 90 or 100 percent. Does that
2 change over time, depending on the economic
3 circumstances in which you are operating?

4 THE WITNESS: Well, it would, it would -- I
5 think if it were to change it would take a review -- a
6 manage -- senior management review to change the
7 policies as to what those are.

8 CHAIRMAN BOYER: Okay. Thank you Mr. Duvall.
9 Mr. Monson, back to you for redirect.

10 MR. MONSON: Thank you.

11 REDIRECT EXAMINATION

12 BY MR. MONSON:

13 Q. Mr. Duvall, there's -- I think there's been
14 some confusion about how swaps relate to physical
15 hedges. When, when the Company buys gas two years in
16 the future does it agree to pay a fixed price, or does
17 it agree to pay an index price, or both?

18 A. If you're speaking of the commodity, we could
19 do it either way. But I think typically we buy the,
20 the commodity on an index basis.

21 Q. So, so you're not agreeing that you're gonna
22 buy it for \$5 per MMBTU. You're agreeing to buy it
23 for whatever the market is when it's delivered, right?

24 A. On the, on the physical side, yes.

25 Q. Okay. So then how does a swap, a swap relate

1 to that?

2 A. Well, then the swap will protect against if
3 the, if the market price goes to \$15, like it did in
4 2008, if we had a swap at \$5 or \$6 then we wouldn't be
5 exposed to that \$15 market.

6 Q. And is that the basis for your statement that
7 the two transactions together add up to the same thing
8 as the former one transaction?

9 A. Yes, it is.

10 Q. Why does the Company use swaps but not
11 options right now?

12 A. Well, the options, I think what we've talked
13 about is we have, we have had a little bit of
14 experience with them. And we've had some pretty
15 fierce opposition from some of the parties that, that
16 want to at a -- an option comes with a premium
17 payment. And you may actually never do anything with
18 the option.

19 And so the question is, should customers pay
20 this, this premium if you never used it. So that
21 if -- an example of that would be that if you, if you
22 buy -- you could buy a gas swap at \$5. Or you could
23 buy a cap at \$5, which is an option.

24 And, and, but the cap you'd have to pay a
25 premium. And let's say you paid a \$2 premium. So as

1 long as gas came in at \$5, under the swap you'd pay
2 \$5, but under the cap you'd pay \$7. Because it would
3 be the \$5 for the gas and the \$2 for the premium.

4 If gas fell to say \$3, then under the swap
5 you'd still pay \$5. But under the cap you'd pay the
6 \$3 plus the \$2 premium, so you'd pay \$5. You'd be in
7 the same situation.

8 So -- and I think it's pretty important to go
9 through that and make sure that the parties and the
10 Commission really understand what all the moving parts
11 are of options before we move rapidly into them. And
12 that's why we recommended a staged approach.

13 And we'd like to make sure that it's clear
14 what the -- what all the parameters are associated
15 with, with options before we would propose doing that.

16 Q. Commissioner Campbell asked you about the
17 benefit to ratepayers of hedging in the current scheme
18 with no ECAM. And I think -- I don't want to beat a
19 dead horse, maybe you've said all you can on that
20 subject.

21 But do you -- what is -- do you have anything
22 else you want to say about the benefits to customers
23 from hedging in the current environment?

24 MR. PROCTOR: Objection, it calls for a
25 narrative. It's an inappropriate direct examination.

1 CHAIRMAN BOYER: Well, it does follow on what
2 the cross examination was. But he did, he did have an
3 opportunity to elucidate his thoughts on that. Maybe
4 you could ask it a different way, your question.

5 MR. MONSON: I can ask it a different way.

6 Q. (By Mr. Monson) How does hedging in the
7 current ratemaking environment benefit customers?

8 A. It -- the main benefit is that it provides --
9 it limits rate volatility. And in fact if you look at
10 the testimony of Dr. Schell, for example, who's
11 recommending that we reduce the amount that we hedge,
12 she admits that -- or just identifies that when you do
13 that you're gonna increase rate volatility.

14 So that the benefit of hedging -- so it's
15 really how much rate volatility or lack of rate
16 volatility is desired.

17 Q. You were also asked a question about whether
18 the -- what -- whether changes -- or, or questions
19 regarding whether hedging was prudent or not would be
20 resolved in an IRP process or in a rate case.

21 When you say "rate case" are you referring
22 simply to general rate cases, or are you referring
23 more broadly to ECAM adjustment proceedings as well?

24 A. More broadly.

25 Q. So you consider an ECAM adjustment proceeding

1 to be a rate proceeding?

2 A. Yes, I do.

3 Q. You were also asked about the guidelines and
4 whether the guidelines talk about hedging. When
5 were -- do you know when the guidelines for IRPs were
6 prepared? Do you have any, do you remember?

7 A. I should know.

8 Q. Would you accept that it was in 1992?

9 A. I would accept that.

10 Q. Does it surprise you that the guidelines
11 prepared in 1992 wouldn't discuss hedging?

12 A. No, it wouldn't surprise me, since that was
13 really before electricity was a commodity.

14 MR. MONSON: That's all.

15 CHAIRMAN BOYER: Okay. Thank you Mr. Duvall,
16 you may be excused.

17 Let's take a ten-minute recess and then we'll
18 hear from the Division's witnesses.

19 (A recess was taken from 10:25 to 10:40 a.m.)

20 CHAIRMAN BOYER: Okay, let's go back on the
21 record now and we'll hear from the Division's
22 witnesses.

23 Mr. Peterson, were you sworn in Phase I?

24 MR. PETERSON: I believe so.

25 CHAIRMAN BOYER: Do you want to make sure?

1 MS. SCHMID: I would feel very comfortable if
2 he could be re-sworn.

3 THE WITNESS: Okay.

4 CHAIRMAN BOYER: Let's just be sure.

5 (Mr. Peterson was sworn.)

6 CHAIRMAN BOYER: Thank you, please be seated.

7 Ms. Schmid?

8 MS. SCHMID: Thank you.

9 CHARLES E. PETERSON,
10 called as a witness, having been duly sworn,
11 was examined and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. SCHMID:

14 Q. Good morning Mr. Peterson.

15 A. Hello.

16 Q. Could you please state your name, your
17 employer, and your position?

18 A. Charles E. Peterson. I work for the Division
19 of Public Utilities. And I'm a technical consultant.

20 Q. Have you participated on behalf of the
21 Division in Phase II of this ECAM docket?

22 A. Yes, I have.

23 Q. Did you assist in the preparation of Division
24 witness Mr. Douglas Wheelwright's testimony, which he
25 filed in this phase in this docket on June 16th?

1 A. Yes.

2 Q. But you didn't submit any testimony on that
3 date in your name in this docket, did you?

4 A. That's correct.

5 Q. However, on August 10th you did file
6 testimony in this docket, in this phase, under your
7 own name. And that testimony has been marked for
8 identification as DPU-4.OSR; is that correct?

9 A. Yes.

10 Q. Why did you file this testimony on
11 August 10th?

12 A. Based upon -- well, it was specifically in
13 response to Mr. Duvall's rebuttal testimony that he
14 had filed earlier. And it was based upon my
15 experience in working in the IRPs particularly since
16 2007. And, and my general knowledge of issues related
17 to front office transactions as they relate to the
18 IRPs.

19 Q. So with this you are the Division's witness
20 on market purchases; is that correct?

21 A. Yes, in terms of responding to Mr. Duvall's
22 rebuttal testimony.

23 Q. Thank you very much.

24 MS. SCHMID: The Division would like to offer
25 Mr. Peterson's testimony, marked as DPU Exhibit

1 No. 4.OSR, filed on August 10th, into evidence.

2 CHAIRMAN BOYER: Is there any objection to
3 the admission of Mr. Peterson's surrebuttal testimony?

4 Very well, it is admitted.

5 MS. SCHMID: Thank you.

6 (Exhibit No. DPU-4.OSR was admitted.)

7 Q. (By Ms. Schmid) Mr. Peterson, do you have a
8 summary to give this morning?

9 A. Yes, I do. In this part of the ECAM docket
10 I've provided surrebuttal testimony in response to
11 Mr. Duvall's testimony. Specifically, as I said
12 earlier, I'm responding to his remarks regarding front
13 office transactions, or FOTs.

14 The Division understands FOTs to be
15 essentially power purchase agreements made primarily
16 in the wholesale markets. And they're for a limited
17 period of time. Usually no more than about a year,
18 but they may be up to three years.

19 Mr. Duvall has made a number of claims
20 regarding FOTs, or front office transactions, in his
21 rebuttal testimony. The Division does agree with some
22 of the positions taken by Mr. Duvall. Perhaps the
23 most significant one is that the Division has
24 consistently had the -- taken the position in this
25 docket, or the ECAM docket, that it is not necessary

1 to resolve the questions that have been raised
2 revolve -- revolving around front office transactions
3 before designing and implementing a power
4 purchase -- or excuse me, a power adjustment mechanism
5 for the Company.

6 The Division also agrees that -- with
7 Mr. Duvall that building -- that by building
8 generation capacity it is possible that ratepayers
9 could become at risk if a lull falls such that the
10 capacity -- that the Company has overcapacity, and the
11 Company -- or the ratepayers may still be obligated to
12 pay for the excess capacity. However, there's no
13 current evidence that such an outcome is likely to
14 happen anytime soon.

15 The Division remains concerned, as we've
16 expressed in our comments in various IRP dockets and
17 in this matter, with what it considers to be
18 relatively high-level front office transactions
19 engaged in by the Company. Particularly to cover its
20 load in lieu of constructing its own generation plant.

21 The Division, however, does not re -- deem it
22 prudent that the Commission order the complete
23 elimination of front office transactions, or to
24 hastily order the diminishment of front office
25 transactions.

1 The Company's generation portfolio, as it
2 currently exists, cannot be modified substantially in
3 a short period of time. However, the Division does
4 agree with the general idea expressed in the 2008 IRP
5 by the Company that the Company should work towards
6 reducing its reliance on front office transactions.

7 The Division believes that Mr. Duvall has, in
8 places, mischaracterized the testimony of the
9 Division. In particular, the Division does not
10 believe that the IRP is necessarily the best place to
11 resolve the issues concerning front office
12 transactions, although it is one place where the issue
13 may be discussed.

14 The Division also does not, as implied by
15 Mr. Duvall, the Division does not recommend the
16 elimination of, of front office transactions. Or --
17 the Division does not agree with Mr. Duvall's
18 testimony in his rebuttal that an ECAM would -- or
19 that, that an ECAM does not affect the incentives the
20 Company has to build or otherwise deploy generation
21 resources.

22 We believe that there are reasons to believe
23 that an ECAM could encourage or incentivize the
24 Company, in at least a small way, to avoid purchasing
25 additional or otherwise acquiring additional

1 generation capacity. And in my surrebuttal testimony
2 I outline two or three ways that that could occur.

3 In sum, the Division believes that the
4 Commission could explore, if not in this docket in
5 another docket, a way of giving teeth to any level of
6 front office transactions that the Division may deem
7 appropriate upon further investigation.

8 And in my direct testimony filed on
9 August 4th in regards to the design part of Phase II
10 the Division has recommended a possible way or a
11 possible mechanism of bringing in -- or connecting
12 front office transactions to the ECAM in a way that
13 would give some teeth to the Division -- or the
14 Company's IRP goals for front office transactions.

15 The con -- otherwise the Division does not
16 believe that Mr. Duvall has rebutted any of its
17 testimony or positions regarding front office
18 transactions.

19 And we continue to support our
20 previously-stated positions that we are concerned that
21 ratepayers are incurring that at risk, and it may not
22 be sufficiently modeled in the IRP as it's been
23 currently performed. With that, that's my summary
24 statement.

25 MS. SCHMID: Thank you. Mr. Peterson is now

1 available for cross examination.

2 CHAIRMAN BOYER: Thank you.

3 Thank you Mr. Peterson.

4 Let's go to the Company first for cross
5 examination. Mr. Monson?

6 MR. MONSON: Thank you.

7 CROSS EXAMINATION

8 BY MR. MONSON:

9 Q. Mr. Peterson, am I supposed to ask you the
10 questions about market reliance that relate to
11 Mr. Wheelwright's direct testimony, or am I -- can I
12 reserve those for him?

13 A. You may ask me those questions that are
14 related to front office transactions or market
15 reliance.

16 Q. Okay. Well, in Mr. Peter --
17 Mr. Wheelwright's direct testimony, on lines 92 to 95,
18 he makes a statement about modeling related to front
19 office transactions. Do you have his testimony?

20 A. Yes, just a moment. Which lines were you
21 referring to again?

22 Q. Ninety-two to 95. It's on page 4.

23 A. Yes, I have them.

24 Q. You have that? Do you see there he says
25 the --

1 "While there are some benefits to
2 the Company using these front office
3 transactions as part of its strategy,
4 the concern for the Division is that the
5 Company has not been adequately modeling
6 the potential risks it and ultimately
7 ratepayers face by being subject to the
8 whims of a potentially volatile and
9 costly energy market."

10 With regard to Commissioner Campbell's
11 question regarding the current ratemaking regime and
12 structure with no ECAM, how would customers be -- have
13 risks from the whims of a potentially volatile and
14 costly energy market?

15 A. The customers potentially have the risks in
16 that the Company may be incurring higher net power
17 costs and report those costs in their rate case
18 applications due to their reliance on front office
19 transactions.

20 In other words, it is a potential that the
21 Company -- there's two ways this could happen. The
22 first way is that, that the wholesale markets could
23 end up being higher than what the Company could
24 generate power for.

25 And if the Company needs to buy power in

1 those markets, then ratepayers are at risk that way.
2 The other method is one that has been discussed in the
3 IRPs, and that is is that the Company in its
4 modeling -- it's an either/or situation. They either
5 have front office transactions, or they have
6 generation capacity.

7 And the Company is not able -- would not be
8 able to make an economic choice between generating
9 power or purchasing on the market, depending -- if it
10 had -- if it did not have the generation capacity to
11 make that choice. It would be just subject to
12 whatever the markets are.

13 Q. But if rates are set in a rate case and then
14 the market goes up, do ratepayers bear the risk of
15 that?

16 A. Not immediately, but it could happen in --
17 when the Company immediately files for a new rate case
18 in order to cover that -- those higher costs.

19 Q. Thank you. This statement suggests that,
20 that the Company has not been adequately modeling the
21 potential risks. Are you familiar with the stochastic
22 analysis that use - that is used by the Company in the
23 IRP process?

24 A. Well, in general terms I'm familiar with it.
25 I know that they have a model where they, where they

1 allow certain variables to fluctuate.

2 Q. And one of those variables would be price for
3 the commodity, right?

4 A. Yes, electricity price is one of them.

5 Q. So in that modeling don't they take into
6 account, through a Monte Carlo analysis, what might
7 happen if the price is higher than is anticipated in
8 the future?

9 A. Well, they, they model what the cost would be
10 based upon the generation -- based upon the portfolio
11 that's assumed to -- that the Company is assumed to
12 have at that time in that par run. So to some extent
13 they are modeling some of the risks, but they're not
14 modeling all of them at the detail that I'm
15 suggesting. At least that is my belief.

16 Q. Are you suggesting that they ought to use
17 only a high-cost scenario in deciding how to plan for
18 future resource needs?

19 A. No, I don't think they should use only a
20 high-cost scenario. I think that the, the first and
21 best scenario would be the middle-of-the-road scenario
22 or a best-guess scenario. But the stochastic model,
23 as I understand it, only shows what the effects of a
24 given portfolio would be given the variability that's
25 built into the stochastic model.

1 And then of course, you know, the usefulness
2 of that is based upon the inputs into that model and
3 how many variables are allowed to fluctuate. So there
4 are limitations in this modeling.

5 Q. Well, and that's what I was getting at. I
6 mean, if the Company -- if in their model one of the
7 cases is the case where there's high, high energy
8 costs or high fuel costs, either one, and they've got
9 a level of front office transactions in that
10 portfolio, aren't they, aren't they testing,
11 essentially, the risk associated with an increase in
12 price?

13 A. Well, they're, they're testing the level of
14 front office transactions that they, they have assumed
15 in a given portfolio. And -- but that does not answer
16 the question about the risk of what happens if front
17 office -- if they have the option, for example, of
18 running plant or running -- or buying on the market.

19 I do not believe the stochastic method drills
20 down in that detail, for example. And the other risk
21 that it may not be covering has to do with
22 reliability. And what happens if the Company -- if
23 there's a major transmission outage that affects the
24 ability of the Company to purchase on the, on the
25 grid. On the wholesale market. Or if there's

1 unexpected outages.

2 Those are rely -- those reliability issues
3 are not covered in the grid model, since -- or the par
4 model, since it's a very high-level model.

5 Q. Wouldn't a lack of transmission affect both
6 purchased and generate -- loan-generated resources?

7 A. Not necessarily, it depends on where the
8 outage is.

9 Q. Okay. In your surrebuttal testimony on
10 lines 29 to 33, related to what you were just talking
11 about, you say:

12 "The Company, if it has owned plant,
13 can choose between running its plant and
14 purchasing on the market, depending on
15 which is most economic. If it does not
16 have the owned plant to cover its load,
17 the Company has no choice but to
18 purchase on the market and thereby
19 subject itself and ratepayers to the
20 risks of the wholesale market."

21 Is your point here that the Company has more
22 flexibility if it has own -- if it owns capacity?

23 A. Yes. That's always been the point in the
24 Division's comments in the IRP as well.

25 Q. Okay, but aren't there costs associated with

1 owning capacity?

2 A. Well, of course there's costs. But there's
3 costs in purchasing on the open market, too.

4 Q. Okay. But if you own capacity don't you have
5 the cost of the plant which is included in rate base?

6 A. Well, of course.

7 Q. And if -- and you also have the O&M
8 associated with the plant that's presumably included
9 in setting rates?

10 A. Of course.

11 Q. So the flexibility that you're seeking here
12 comes at some cost, right?

13 A. Well, there's always a cost to do something.
14 Nothing is cost free. In one way or another there is
15 going to be a cost. But the question is, is whether
16 the -- this gets to the point of the risk that the
17 Company faces.

18 And if they have generation capacity, then
19 they can make an economic choice. Whoever is selling
20 the power to PacifiCorp on the open market also
21 presumably has a plant, and has O&M, and has fuel
22 costs, and these other things.

23 So the question is, is whether it's going to
24 be better -- whether the Company has flexibility to
25 make an economic decision, or whether it has locked

1 itself in to reliance on a market that we know can be
2 variable, for various reasons, which may not have
3 anything to do with the underlying fuel or O&M costs.

4 Q. Okay. Let, let's take a hypothetical here to
5 test your -- what you're saying. Are you suggesting
6 that the Company should have gone ahead with the
7 Lakeside II proposal last year so that it would have
8 capacity available for this flexibility?

9 A. Well, are you talking about in terms of 20/20
10 hindsight, or in terms of the time that it was under
11 consideration?

12 Q. Why don't you deal with both of them. First
13 deal with 20/20 hindsight.

14 A. Well, with 20/20 hindsight I think it's, it's
15 clear that in the short run at least that the Company
16 may probably make the right decision. In the short
17 run again. In the long run it's less clear. And at
18 the time the decision was made it certainly wasn't
19 clear to the Division that that was the proper course.

20 Q. If you were to follow your position to its
21 logical conclusion, wouldn't the Company want to
22 buy -- own resources in excess of its load
23 requirements, because then it would have more
24 flexibility in dealing with changing market
25 conditions?

1 A. Well, obviously there's a point where it
2 wouldn't be prudent to cover all of the potential peak
3 loads and everything that may come into play. The
4 Company has to make a rational choice on that.

5 The Division does not claim that it knows
6 what the optimum level of front office transactions
7 are. Or what the optimum of -- amount of peaking
8 plant is. However, we have raised this concern
9 consistently.

10 And the Company has even admitted in its 2008
11 IRP that it basically agrees that front office
12 transactions increase the risk -- their own analyses
13 show that -- to customers.

14 And their own analyses -- the Company's own
15 analyses show that there's a negligible increase in
16 the, in the cost of the portfolios that have fewer
17 front office transactions, and noticeably less risk
18 than the portfolios the Company seems to want to
19 choose.

20 Q. So you're talking about a comparison between
21 portfolios and the IRP?

22 A. Yes, I am. The Company -- that's, that's
23 where this discussion has originate -- has originated
24 from in the IRP dockets. Or IRP processes. And in
25 2007, and again in 2008, parties raised the issue of

1 their concern.

2 In 2008 the Company finally admitted that
3 their own analyses show that in general, as a
4 generalized statement, the parties' concerns are well
5 placed. That front office transactions increase risks
6 noticeably, with little or no increase or negligible
7 increase in cost.

8 Q. Let's turn to lines 190 and 208 -- through
9 208 of your surrebuttal.

10 A. Excuse me, 190 which?

11 Q. One ninety through 208. It's a pretty long
12 section.

13 A. Okay.

14 Q. It's just an answer. It's a paragraph there.

15 A. I have it, yes.

16 Q. And in that you're talking about Mr. Duvall's
17 testimony that an ECAM wouldn't reduce the Company's
18 incentive to invest in new plants because the Company
19 only earns a profit on rate base and not on expenses;
20 is that right?

21 A. Yes.

22 Q. You're responding to that? And you agree in
23 that answer that a rate base regulated utility would
24 have a natural propensity, as you say, to build it in
25 theory, right?

1 A. Right.

2 Q. But on lines 194 and 195 you state that this
3 natural propensity has not spurred the Company in
4 recent years to an aggressive generation acquisition
5 program; is that right?

6 A. Right.

7 Q. Are you aware that the Company has added
8 approximately 1,500 megawatts of gas-fired plants in
9 recent years?

10 A. What do you mean by "recent years"?

11 Q. Starting in -- from 2005 to the present?

12 A. You mean starting with the Lakeside and
13 Currant Creek plants?

14 Q. Right.

15 A. And then the Chehalis acquisition?

16 Q. (Moves head up and down.)

17 A. That would add up to approximately 1,500
18 in -- well, I guess the construction would have had to
19 have started before 2005, but the last six or
20 eight years.

21 Q. Okay. And it's added 1,500 megawatts of wind
22 resources since MEHC bought the Company?

23 A. At least in terms of nameplate.

24 Q. And the Company's currently involved in an
25 RFP for additional capacity?

1 A. Well, it's been involved in an IRP for
2 additional capacity for several years now.

3 Q. Okay. But it is currently involved in one?

4 A. Well, yes.

5 Q. Okay. And -- but you say that's not
6 aggressive? There's not an aggressive acquisition
7 program?

8 A. That has not reduced the front office
9 transactions that the Company admits is -- puts
10 ratepayers at additional risk. It's admitted it in
11 its 2008 IRP. And an aggressive acquisition or
12 construction program would be to bring the, the
13 generation capacity of the Company more in line with
14 its expected load.

15 Q. But as we've already discussed, you wouldn't
16 necessarily want to do that if the prices for new
17 capacity didn't indicate that it was -- made sense to
18 do it at a given point in time; is that right?

19 A. Well, I -- well, of course there's going to
20 be decisions that are going to have to be made. And
21 whether they're based on -- completely on economic
22 decisions or -- that are right or wrong, then I guess
23 we can either -- we can always second guess.

24 But yes, the, the Company needs to construct
25 or acquire generation capacity in a prudent manner. I

1 would agree with that as a general statement.

2 Q. Okay. And you talked about second guessing.
3 If an ECAM's in place we can second guess, can't we?
4 Because aren't we looking historically at what the
5 Company did and knowing whether or not it made sense
6 in an ECAM review proceeding?

7 A. Well, that remains to be seen whether we can
8 effectively second guess what the Company does, or
9 whether we should. Presumably the Company would want
10 an ECAM to be -- or the results of an ECAM to be
11 implemented into rates in a fairly timely manner and
12 not be bogged down for months or years in an
13 investigation of its prudence.

14 On the other hand, the regulators and I do
15 not see any way that we can second guess the Company
16 on all of the thousands of transactions and decisions
17 that it makes during a year of operating its system.
18 So I think the -- an ECAM does not necessarily put the
19 Company at risk for second guessing.

20 Q. But at least there will be a hindsight
21 review; is that right?

22 A. Well, there will be some hindsight review,
23 but it -- again, it remains to be seen how effective
24 that review will be.

25 Q. In the case of Questar Gas with its gas

1 balancing account, isn't it the fact that they file
2 for a change in rates and then the rate -- that change
3 is usually granted on an interim basis?

4 A. That's correct. And --

5 Q. And sometimes the audits aren't completed on
6 that for two or three years?

7 A. That's my understanding.

8 Q. I know there's an effort to speed that up,
9 but that's the way it's been sometimes recently,
10 hasn't it?

11 A. Again, that's my understanding. I'm not
12 intimately involved in the passthrough account with
13 Questar.

14 Q. And until the audit's completed they aren't
15 final rates and therefore could still be subject to
16 change; is that right?

17 A. They could be subject to change.

18 Q. Okay. You know what the -- one reason the
19 Company might not act in accordance with its natural
20 propensity to, to add rate base is that the parent
21 holding company might have alternative investments
22 which would promise a higher rate of return; is that
23 right?

24 A. That's something I discuss in my testimony,
25 yes.

1 Q. And if -- the way that would happen would be
2 that they -- the parent would take money from the
3 utility to use for these alternate investments, right?

4 A. Well, there's various methods that might
5 happen. The most obvious would be that the Company
6 would -- the parent would have the Company dividend
7 to -- money. The Company could withhold further
8 contributions which it has made.

9 The Company could otherwise cause the utility
10 to postpone or otherwise spread out its capital
11 expenditure program. So those would be mechanisms by
12 which the parent company could affect the capital
13 expenditure program of, of the utility.

14 And there may other ways that I'm not
15 thinking of right now, but those are some of the more
16 obvious ones.

17 Q. But if the, if the parent wants to use those
18 funds to invest in a more profitable venture it would
19 have to, have to get a dividend of those funds, right?

20 MS. SCHMID: Objection, calls for
21 speculation.

22 CHAIRMAN BOYER: Let's let him answer that
23 question. Overruled.

24 THE WITNESS: Well, there's different methods
25 that the Company could -- the parent company could,

1 could get funds from the -- more effectively get funds
2 from the utility. One -- the most straightforward
3 would, of course, be dividends.

4 The other method that would be more indirect
5 would be borrowing money against -- meaning the parent
6 company borrowing money against the assets of the
7 utility. And using that money to fund its own --
8 well, its other projects. Although that may run up
9 against certain ring fencing provisions.

10 And the third way mentioned is that they
11 could, of course, withhold the funding. And they may
12 at some point increase the fees that go to the parent
13 company.

14 Q. (By Mr. Monson) If there was an increase in
15 fees, that would be something that would be
16 scrutinized in a rate case, right?

17 A. It's -- well, potentially all of what I'm
18 talking about can be scrutinized in a rate case. But
19 how effective it would be in changing behavior is an
20 open question.

21 Q. Now, with regard to the borrowing, as you
22 mentioned, that would be prohibited by commitments and
23 conditions for approval of the merger, right?

24 A. Potentially it could be, although I wouldn't
25 guarantee that (inaudible - the witness is speaking

1 too softly) found by clever attorneys.

2 THE REPORTER: I'm sorry, can you speak up
3 and repeat that?

4 THE WITNESS: I'm sorry, I didn't want to
5 speak too loudly on that. I said that I wouldn't
6 guarantee that, that the parent company may not find
7 ways around the ring fencing prohibitions.

8 Q. (By Mr. Monson) And -- well, we're -- and
9 maybe clever accountants too, right?

10 A. Clever accountants, maybe even a clever
11 economist.

12 Q. Yeah, okay. Just so we include everybody.

13 A. Yeah.

14 Q. All right. But you're aware that the
15 Company -- the parent of Rocky Mountain Power hasn't
16 received any dividends since it acquired the Company;
17 is that right?

18 A. That's correct.

19 Q. And so it's actually allowed the Company to
20 retain 1.8 -- 1.9 billion, essentially, in retained
21 earnings since it acquired the Company. Are you aware
22 of that?

23 A. Well, I'll accept your \$1.9 billion. I don't
24 know the exact number.

25 Q. And, and with regard to withholding

1 investment -- which is another point you raised -- the
2 parent company's invested over \$1 billion in the
3 Company since it acquired it?

4 A. I believe that's mostly correct, more or
5 less.

6 Q. So at least the alternative investment
7 opportunities of the parent is apparently not the
8 reason the Company hasn't been more aggressive in
9 acquiring new plants?

10 A. At least not to this point. I can't -- that
11 was raised as a hypothetical potential. And it was
12 not meant to accuse the parent company of, of engaging
13 in that sort of behavior to this point.

14 Q. You talked about the prudence review and the
15 problems with reviewing all of the Company's
16 transactions. Let me just pose a hypothetical to you.
17 Suppose the Company were relying heavily on front
18 office transactions and the price of electricity, or
19 gas, or both went up in such a way that the net power
20 costs just increased astronomically compared to what
21 had been presented in the general rate case.

22 Do you think that would require a detailed
23 review of transactions, or do you think the Division
24 and other parties would simply object to it as being
25 unreasonable?

1 A. Well, again, it would depend on the exact
2 situation. It's certainly conceivable that the
3 parties would simply object as -- and again, it
4 would -- the objection would be that the Company was
5 imprudent in having the level of front office
6 transactions that it was engaged in. Which, in part,
7 is part of the concerns that we're raising.

8 Q. So the Division has an opportunity when the
9 Company files a general rate case, in reviewing the
10 net power costs, to review the level of front office
11 transactions that are included in the, in the net
12 power cost study in that case, right?

13 A. The Division and other parties, of course,
14 have that opportunity.

15 Q. And so you can review it on a projected or
16 forecast basis in that situation; is that right?

17 A. Yes.

18 Q. And then when the Company seeks to adjust the
19 ECAM, in an annual proceeding I guess is what we're
20 talking about, the Division can review the actual
21 purchases of power and the actual purchases of gas in
22 that context, right?

23 A. It could.

24 Q. So you'd actually have -- with an ECAM you'd
25 have two bites at the apple; is that right?

1 A. Well, it depends on how quickly the
2 proceeding goes. If you're going to imagine that the
3 audit process can go on for years with interim rates,
4 then I suppose that would be true. There would be two
5 bites at the apple.

6 MR. MONSON: I think that's all I have. I'm
7 just trying to see if I had any other questions for
8 Mr. Wheelwright on market reliance. I don't think I
9 did, so.

10 CHAIRMAN BOYER: Okay. Thank you Mr. Monson.
11 Mr. Proctor? No questions.

12 Ms. Hayes, questions for Mr. Peterson?

13 MS. HAYES: No questions.

14 CHAIRMAN BOYER: Mr. Dodge?

15 MR. DODGE: No questions.

16 CHAIRMAN BOYER: Mr. Evans?

17 MR. EVANS: Just a couple, Mr. Chairman.

18 CROSS EXAMINATION

19 BY MR. EVANS:

20 Q. Good morning Mr. Peterson. Dr. Peterson?

21 A. Mister.

22 Q. Mister, okay.

23 A. Although it could be an honorary title.

24 Q. You note in your testimony that the Company's
25 paid out 173 million as a result of being on the wrong

1 side of its electric and natural gas swaps.

2 THE REPORTER: Keep your voice up please,
3 Counsel.

4 Q. (By Mr. Evans) Give me -- I'm getting there.

5 A. Okay, where --

6 Q. That, that's line 105.

7 A. Of my surrebuttal?

8 Q. Of your August 4th testimony.

9 A. Oh, of my August 4th testimony. Okay, I'll
10 accept that it's that.

11 MR. MONSON: Can I just -- I don't know if I
12 want to object or I want to just note that we're now
13 talking about testimony in Phase II Part 2.

14 MR. EVANS: Okay. Well, that --

15 MR. MONSON: Is that --

16 MR. EVANS: Well, and maybe, maybe I'll just
17 keep the questions general, because I think part of
18 that August 4th testimony does pertain to what we're
19 talking about here today.

20 Q. (By Mr. Evans) So let me just ask you some
21 questions generally, without specific references to
22 your testimony. It sounds like you think that in --
23 the Company could do better in its front office
24 transactions and hedging practices; is that accurate?

25 A. Well, with regard to front office

1 transactions the Division has raised concerns about
2 the level and what we see as the added risks that
3 ratepayers are facing.

4 We're not proposing at this time that we know
5 a better front office transaction than what the
6 Company has been doing. Although we think -- and we
7 agree with other parties -- that there is a concern
8 there and that the -- there's a need for further
9 investigation.

10 With regard to the hedging, this is, this is
11 part of the problem that the Division has faced -- and
12 perhaps other parties as well -- is getting our arms
13 around what is -- what exactly is going on with the
14 Company's hedging.

15 We heard earlier today, for example, that
16 Mr. Duvall complained that Mr. Wheelwright, in his
17 analysis, only included swaps. To some extent we
18 consider that -- the financial swaps to be of peculiar
19 interest.

20 And we -- at least I have understood in the
21 past that the Company has represented that the
22 financial swaps -- the electric swaps and the gas
23 swaps -- are supposed to more or less offset one
24 another. And what is of interest to me is that
25 historically they don't appear to have been.

1 Now, Mr. Duvall suggests -- or seems to
2 suggest in his testimony this morning that we need to,
3 we need to expand our vision of what is included in
4 the, in the hedging practices of the Company. And
5 that may be true, but it highlights the difficulty
6 that the Division has had in trying to understand this
7 rather complex situation that comes under the rubric
8 of hedging.

9 Q. Let's -- let me ask you a question, then,
10 just about the financial swaps. If these were to be
11 disallowed in the ECAM would that create a problem, as
12 far as you are concerned, for the Company's
13 incentives?

14 A. Well, it would, it would create an incentive
15 to the Company to perhaps reduce or eliminate its
16 hedging program. Any -- anything that they're not
17 going to receive recovery for is going to be an
18 incentive of one form or another.

19 Q. And when you say "hedging program," let's
20 just confine it to the swaps.

21 A. The swaps, yes.

22 Q. Okay. So it would be a disincentive to
23 continue its current practice of buying these swaps?

24 A. That would be my, at least initial evaluation
25 of the incentives. Whether or not that would actually

1 cause the Company to reduce or eliminate its financial
2 swaps is another question. But certainly there's
3 incentive there that would tend toward that action.

4 Q. And so that, that would be the reason that
5 you would say, Let's not eliminate swaps altogether
6 from an ECAM?

7 A. Well, that's why in my August 4th testimony
8 that I say that the Division decided that we were not
9 going to try to pick and choose specific items within
10 the NPC at this -- at least at this time because it
11 could create incentives that we may not want it to
12 create.

13 Q. And you are aware, of course, that the
14 Company is hedged on its natural gas swaps almost
15 fully for the next two years?

16 A. Yes.

17 MS. SCHMID: I'll object. I believe these
18 questions are more properly for Mr. Wheelwright on the
19 amount of hedging.

20 MR. EVANS: Okay. Well, I -- let me, let me
21 finish with incentives, if I might.

22 MS. SCHMID: Okay. It's up to the
23 Commission, of course.

24 Q. (By Mr. Evans) If the Company --

25 MR. EVANS: Well, it's just a follow up to

1 his answer, if the Commission doesn't mind.

2 CHAIRMAN BOYER: Mr. Peterson, seems well
3 versed up to this point in all the questions you've
4 asked, so go ahead.

5 Q. (By Mr. Evans) So if it were the case that
6 the Commission disallowed swaps into the ECAM, and
7 that -- and if it were also the case if that were an
8 incentive for the Company to reduce its purchase of
9 swaps, that would -- we wouldn't see any impact for
10 two years, would we?

11 A. Well, we could see a, an impact -- well, it
12 wouldn't -- I'll have to think through this.

13 If the, the swaps were eliminated from the
14 ECAM, then there would not be an ECAM adjustment that
15 would reflect the activity of the swaps. However,
16 that may not preclude the Company from asking for
17 recovery in a rate case.

18 Q. They have, now, a rate case.

19 A. -- well, they have the -- their forecast --

20 Q. Correct.

21 A. -- what they forecast their net swap position
22 would be in the rate case. So.

23 Q. So the question was --

24 A. I don't, I don't know if I'm answering your
25 question.

1 Q. The question was any, any significant impact
2 over the next two years on Company -- on perverse
3 incentives to the Company. It wouldn't see the impact
4 for at least two years, would it?

5 A. Well, the Company has entered into contracts
6 that would require them -- that they would be required
7 to fulfill. And then -- so the Company wouldn't see
8 any impact on its costs for at least two years. Or at
9 least minimal impact.

10 However, whether they get to recover those
11 costs or not, they may see an impact more, more
12 quickly than two years. Based upon what happens in
13 the next general rate case, for example.

14 Q. They would, they would be at risk for
15 recovering the amount that's currently in rates?

16 A. Well, the -- for the -- to the extent that
17 the swaps are currently in rates, then as long as
18 those rates remain in effect then they're not at risk.
19 But if they -- if we get into another general rate
20 case then they would be at risk for recovery.

21 Q. So I think I'm hearing no impact.

22 A. Well, I guess the -- I'll be the typical
23 economist and say, Well, it depends. On what your
24 assumptions are.

25 Q. Okay.

1 A. But if -- poten -- I guess potentially,
2 you're right that there may not -- there's potential
3 that we wouldn't see an impact for two years.

4 Q. If we completely left the swaps out of the
5 ECAM?

6 A. Right.

7 Q. Okay. Thank you.

8 CHAIRMAN BOYER: Anything further, Mr. Evans?

9 MR. EVANS: That's all I have. Thank you,
10 Commissioner.

11 CHAIRMAN BOYER: Thank you.

12 Commissioner Allen?

13 COMMISSIONER ALLEN: Thank you Mr. Chair.

14 Mr. Peterson, I think, having read the
15 testimony and listened to the hearing so far today,
16 I've got some clarity when it comes to the risks and
17 benefits to customers, consumers.

18 Looking at the other side of my regulatory
19 hat, I've got some questions that popped in my mind
20 here about the Company's health and how this might
21 affect them long term.

22 I think we have some previous testimony from
23 you in other cases that the Company has probably been
24 underperforming in terms of their allowable rate of
25 return. Is that -- is my memory correct?

1 THE WITNESS: Yes.

2 COMMISSIONER ALLEN: And has that still been
3 the case as far as the recent information you have, or
4 have they made improvements?

5 THE WITNESS: It's generally been the same.
6 They -- their return on equity has typically been less
7 than 10 percent.

8 COMMISSIONER ALLEN: And as we move forward
9 and we look at these issues that deal with front
10 office transactions and hedging are these tools in
11 their tool box to improve that rate of return? Or are
12 they minimal? Can they be maximized? Is one more
13 helpful than the other?

14 THE WITNESS: Well, the -- front office
15 transactions is a method that -- of -- in one -- in
16 the first instance it allows the Company to delay,
17 postpone purchasing or acquiring, building, own
18 generation capacity. And maybe it would be prudent
19 for them to do that into perpetuity.

20 It does not necessarily affect their ability
21 to earn their allowed rate of return, except to the
22 extent that where here in Utah we have forecast test
23 years. If the forecast is wrong about the cost of
24 front office transactions, then they're, then they're
25 at risk that they could incur additional expenses that

1 were not in rates, so to speak.

2 Or the flip side could happen where the --
3 they could have over-forecast the cost of front office
4 transactions and they would reap a benefit that way.

5 To the extent that their forecasts are
6 unbiased -- that is, that they tend to be equally high
7 or low over time -- then it would be rather, then it
8 would be rather neutral. The hedging program is
9 supposed to be neutral in terms of whether they earn
10 their allowed rate of return or not.

11 The swaps have historically been, apparently
12 they've been underwater. And so it has been a drag on
13 their earnings on a historical basis.

14 COMMISSIONER ALLEN: So I guess what I'm
15 hearing you say is that they're tools. But they're
16 not significant because they're supposed to, when
17 properly run, net out to everyone; is that correct?

18 THE WITNESS: At least over time. Any, any
19 one year, of course, they could be high or low. You
20 know, in the money or out of the money, so to speak.
21 But over time they should be neutral. At least that's
22 the intent.

23 COMMISSIONER ALLEN: Would there be -- yeah,
24 one final question. Would there be -- in the long
25 run. If I'm looking at the long-run performance.

1 Would there be an advantage -- you mentioned front
2 office transactions maybe in the short run being a
3 better setting.

4 But wouldn't there -- is it possible there
5 would be an advantage to building plant, and properly
6 proving up the new revenue requirement, and then
7 getting that rate of return? Is that better than
8 front office transactions in the long run? Or, like
9 you say as an economist, does it depend?

10 THE WITNESS: Well, as Mr. Monson had me
11 point out -- or he highlighted in my testimony, in the
12 traditional rate based regulated company -- which
13 PacifiCorp more or less is still -- it's to the
14 advantage of ratepayers -- or not ratepayers,
15 stockholders to build plants, to acquire assets and
16 put them in rate base, because that's what they earn
17 their rate of return on.

18 The caveat I highlighted is, is that earning
19 10 percent rate of return on your investment, as an
20 example, is well and good. But if you have an
21 opportunity to earn 15 percent somewhere else, then
22 there will be a tendency to want to invest somewhere
23 else.

24 COMMISSIONER ALLEN: Okay, thank you. That
25 helps, thank you.

1 CHAIRMAN BOYER: Commissioner Campbell?

2 COMMISSIONER CAMPBELL: I think I just have
3 one question, but I'm gonna perhaps lay some context
4 for that question. I understand in the IRP process
5 that they're planning a single system, yet you have
6 differing states with differing viewpoints of the
7 world.

8 For example, let's assume that Utah is a,
9 kind of a steel-in-the-ground state, where we like to
10 see capacity. And Oregon and Washington are perhaps
11 states that are more trustworthy of front office
12 transactions, or historically have been. And Utah was
13 along for a number of years, and then we had that
14 power crisis when we were actually short and kinda saw
15 what reliance on the market could potentially do to
16 us.

17 Yet in the Northwest, as I try to understand
18 why they're more comfortable with front office
19 transactions, they seem to have access to very liquid
20 markets up there with the Mid-C market and others.

21 My question to you is, do you think the
22 Division viewpoint or policy as far as own capacity
23 might change as the Gateway system is built out, and
24 we have like Gateway West, and we have greater,
25 greater ability to access the markets that the

1 Northwest has been able to access for a lot of years?

2 THE WITNESS: That's a possibility.

3 Certainly if we have access to power from a wider
4 geographical area, then that diminishes the potential
5 for ending up being short. So that is definitely a
6 possibility that our viewpoint would change.

7 Of course it would depend on whether or not,
8 in surveying those markets, there appear to be
9 adequate capacity to cover potential demands. You
10 know, is there a 12-or-15-percent planning reserve
11 margin, so to speak, on the entire Western grid?

12 If there is, then maybe we would be more
13 comfortable. And I'm just bringing that up as a --
14 the 15-percent planning reserve margin as an example.
15 Maybe not a good one. But yes, I think you're right,
16 it could change.

17 COMMISSIONER CAMPBELL: Do you know if, in
18 the IRP, the Gateway project affects, at all, the
19 front office transactions? I mean, does the IRP
20 calculate if there's greater liquidity for, for the
21 Eastern side of the system with the Gateway project in
22 the IRP?

23 THE WITNESS: If it does, I'm not familiar
24 with how that would work. My knee-jerk reaction would
25 be to say at this point it does not. I -- but I

1 haven't, I haven't seen evidence that it does. At
2 least, I can't recall.

3 CHAIRMAN BOYER: Okay. Thank you,
4 Mr. Peterson.

5 Any redirect, Ms. Schmid?

6 MS. SCHMID: Yes.

7 REDIRECT EXAMINATION

8 BY MS. SCHMID:

9 Q. Just a couple of questions related to the
10 questions from Mr. Evans. If swaps are disallowed
11 from an ECAM, will natural gas costs still be in?

12 A. Yes.

13 Q. Would those natural gas costs be solely
14 un-hedged?

15 A. Well, they would be, they would be -- they
16 could be hedged in a physical sense, in that they've
17 purchased -- they could purchase gas ahead of a
18 specific price. Mr. Duvall mentioned that.

19 Q. To what extent would that pass on gas price
20 volatility to customers?

21 A. I'm sorry, which -- what would pass on?

22 Q. The physical, the physical hedge. To what --

23 A. Well, it's -- physical hedge, if it's, if
24 it's tied to an index, then it would pass on to
25 customers the -- whatever volatility -- or potentially

1 reflect the price or the volatility of the price in a
2 rate case as the Company tried to forecast its, its
3 natural gas costs.

4 Although once the rates are set, then the
5 customers would no longer see volatility.

6 Q. Are you aware that the Company is planning on
7 filing a rate case in January?

8 A. That's what the Company has indicated, yes.

9 Q. If the Commission disallows swaps in an ECAM,
10 could that affect how the Company files its next rate
11 case?

12 A. Well, whatever -- there's a lot of things
13 that -- well, the answer is yes, it could. But I have
14 no knowledge of what the Company might do.

15 MS. SCHMID: Thank you.

16 CHAIRMAN BOYER: Okay. Thank you,
17 Mr. Peterson. You may be excused.

18 THE WITNESS: Thank you.

19 CHAIRMAN BOYER: Let's begin with
20 Mr. Wheelwright, Ms. Schmid.

21 MS. SCHMID: Okay.

22 CHAIRMAN BOYER: And we'll see how far we get
23 before lunch.

24 Mr. Wheelwright, you have not been sworn in
25 this proceeding, have you?

1 MR. WHEELWRIGHT: No.

2 (Mr. Wheelwright was sworn.)

3 CHAIRMAN BOYER: Thank you, please be seated.

4 DOUGLAS D. WHEELWRIGHT,

5 called as a witness, having been duly sworn,

6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MS. SCHMID:

9 Q. Good morning. Could you please state your
10 full name, position, and employer, for the record?

11 A. My name is Douglas D. Wheelwright. I'm
12 employed by the Division of Public Utilities as a
13 utility analyst.

14 Q. On behalf of the Division have you
15 participated in this Phase II of the ECAM docket?

16 A. Yes, I have.

17 Q. Did you prepare testimony premarked for
18 identification as DPU Exhibit No. 2.0, both a
19 confidential and a redacted version, and testimony
20 marked as DPU Exhibit No. 2.0SR, your surrebuttal
21 testimony, both confidential and redacted, with its
22 accompanying DPU Exhibit No. 2.1SR, both in
23 confidential and redacted form?

24 A. Yes, I did.

25 MS. SCHMID: The Division would like to move

1 into evidence DPU Exhibit No. 2.0, in both
2 confidential and redacted form, 2.0SR, and 2.1SR, also
3 in confidential and redacted form.

4 CHAIRMAN BOYER: And you've had no
5 corrections to those?

6 THE WITNESS: No. No corrections.

7 CHAIRMAN BOYER: Are there any objections to
8 the admission of Mr. Wheelwright's direct and
9 surrebuttal testimony, together with exhibits?

10 Okay, they are admitted.

11 MS. SCHMID: Thank you.

12 (Exhibit Nos. DPU-2.0, 2.0SR, and 2.1SR were
13 admitted.)

14 Q. (By Ms. Schmid) Mr. Wheelwright, do you have
15 a summary you would like to present today?

16 A. Yes, I do.

17 Q. Please proceed.

18 A. Thank you Commissioners. The purpose of my
19 testimony is to present information and
20 recommendations relating to PacifiCorp's current
21 hedging policy and practices and how it relates to the
22 proposed ECAM.

23 The current hedging program has been a
24 concern of the Division and other parties for some
25 time. Issues relating to the amount and the duration

1 of the Company's hedging program have been raised in
2 this docket and in the last two general rate cases.

3 There's been a lack of understanding
4 concerning the amount and the duration of the current
5 hedging program, as well as the extent and price
6 fluctuation in the existing contracts. Some parties
7 have questions -- questioned the need or
8 appropriateness for an ECAM, primarily based on the
9 structure and the extent of the current program.

10 The Division is concerned that the current
11 hedging strategy has been conducted without the
12 scrutiny or approval of regulators, and has not been
13 determined to be in the best interest of the Company
14 or its ratepayers.

15 It puts both the Company and ratepayers at
16 risk. The Company is at risk for non-recovery of a
17 portion of net power costs if it is determined that
18 the hedging program has not been prudent. The
19 ratepayers are at risk if the Company is required to
20 pay significantly higher prices compared to the
21 current market price.

22 The Commission should provide guidance to the
23 Company concerning the direction and the appropriate
24 goals for a hedging strategy. There should be an
25 understanding of the priorities for price stability

1 versus minimiza -- versus cost minimization from the
2 perspective of both the Company and the ratepayers.

3 The existing hedging program has been
4 designed to reduce the volatility in the price of
5 natural gas commodity paid by the Company. The
6 current program does not result in the least cost, but
7 does provide a degree of stability for ratepayers.

8 Due to the structure of the long-term
9 transaction, the Company has not been able to take
10 advantage of the drop in the natural gas prices that
11 has occurred during the past two years. The Company
12 has acknowledged that hedging is a dynamic issue, and
13 that market conditions are constantly changing.

14 However, the Company has also acknowledged
15 that it has not modified the risk tolerance position
16 in the hedging program for several years. Based on
17 the forward price curve provided by the Company and
18 outside sources, it appears that the price for natural
19 gas will remain near the current level for some time.

20 This would make a review of the current
21 hedging program appropriate and would allow for some
22 comparison to other utilities. The Division and other
23 parties have made recommendations that the Company
24 prepare an analysis that would include the use of
25 options or other financial products that have specific

1 price bands.

2 These products could limit the exposure to
3 wide swings in the commodity price, and could
4 certainly protect the Company from rising prices and
5 allow ratepayers to participate should prices fall.
6 The Company has agreed to look at the possible use of
7 options, but would like to delay any further review
8 until the next IRP process.

9 Delaying a focused review of the Company's
10 hedging practices until the 2011 IRP would needlessly
11 delay a review of this issue. And would require
12 parties to obtain updates to the substantial
13 information concerning the Company's hedging practices
14 that has already occurred.

15 In addition, it would put review of this
16 issue into the IRP process, where parties would not be
17 allowed to question the Company or other witnesses
18 under oath. It would also put hedging into an
19 acknowledgment process, where there is no clear
20 Commission approval. And where the Company is under
21 no clear obligation -- or no clear legal requirement
22 to follow the direction provided by the Commission.

23 A better solution would be to use the
24 existing hedging docket, 09-035-21, and proceed with a
25 comprehensive look at the current program and allow

1 parties to present alternatives. If changes are
2 recommended a revised strategy could be submitted to
3 the Commission for approval, with implementation by
4 the end of 2011.

5 Once a hedging strategy has been established,
6 the strategy would be reviewed by the Commission every
7 two years under a separate docket.

8 The Division has recommended that the Company
9 separate the financial and the physical hedges in
10 future reporting, and separate the natural gas and
11 electric hedging strategies. This will allow parties
12 to review the performance of the hedging strategy of
13 each commodity independently and determine if there --
14 if changes are needed.

15 While the Company has agreed to separate the
16 physical and financial hedges, it does not want to
17 separate the two commodities due to price correlation
18 and spark spread.

19 While there is a correlation, the dollar
20 value of the offset between the natural gas and
21 electric swaps is not equal. A review of the two
22 commodities should be independent of each other, since
23 the desired outcome would likely be different.

24 As a consumer of natural gas, the Company
25 would want to protect against a possible increase in

1 the commodity price. As a seller of electricity, the
2 Company would want to stabilize revenue and protect
3 against possible price decrease.

4 The Company's expressed concerns relating to
5 the different requirements and guidelines for the
6 various states in which it operates. This concern has
7 some validity, but should not impact the hedging
8 decision of this Commission since none of the states
9 in which PacifiCorp operates has provided guidance
10 concerning hedging or the use of options.

11 Since Utah represents over 40 percent of the
12 PacifiCorp load, the responsibility to establish a
13 hedging policy and direction should begin within this
14 Commission. In the event that another state provides
15 hedging requirements in the future, the Company could
16 present any conflicts to the Commission.

17 As stated before, the current hedging program
18 has been a concern of the Division and other parties
19 for some time. As evidenced by the discussions this
20 morning, there still is a -- quite a bit of confusion
21 on this issue.

22 The issue should be specifically addressed by
23 the Commission in order to provide guidance and
24 direction to the Company. And to protect, not only
25 the Company, but also ratepayers. Thank you.

1 CHAIRMAN BOYER: Thank you Mr. Wheelwright.
2 Mr. Monson, if -- are you interested in
3 pursuing cross examination before we break for lunch,
4 at the risk of being interrupted mid-stride?

5 MR. MONSON: Whatever is your pleasure. I
6 mean, I can either start -- I don't think I'd finish
7 before lunch.

8 CHAIRMAN BOYER: All right. Let's take an
9 hour and-a-half recess for lunch and then we'll
10 commence with cross examination.

11 Thank you Mr. Wheelwright.

12 (A recess was taken from 11:44 to 1:18 p.m.)

13 CHAIRMAN BOYER: Let's go back on the record.
14 Mr. Monson, you were about to commence your
15 cross examination.

16 MR. MONSON: Thank you.

17 CROSS EXAMINATION

18 BY MR. MONSON:

19 Q. Mr. Wheelwright, would you open your direct
20 testimony to lines 211 and 212?

21 A. Yes, I have that.

22 Q. Okay. And there you say:

23 "The Company is unable to respond to
24 short or even intermediate-term changes
25 in markets."

1 Is that right?

2 A. Yes.

3 Q. Now, you're aware that the company updates
4 its models every day based on changes in loads,
5 markets, market prices, and spark spreads, right?

6 A. Yes.

7 Q. And so -- and you -- are you aware that these
8 changes affect the Company's position, whether it's
9 long or short, or open or closed, or whatever?

10 A. Yes.

11 Q. And so as load forecast and prices change,
12 the Company is able to have -- to some degree to
13 respond to the market, isn't it, in its hedging
14 program?

15 A. No, I don't believe it is. Because if
16 they're hedged a hundred percent two years in advance,
17 they can't do anything -- if the prices go down,
18 they're locked into that price. And can't take
19 advantage if there's a drop in the price.

20 Q. Okay. Are they ever, are they ever hedged a
21 hundred percent two years in advance?

22 A. According to the information, yes. Pretty
23 close to. According to the year-end 2009 information,
24 I think they're about 97 percent hedged.

25 Q. The year?

1 A. With financial hedges.

2 Q. Okay, financial hedges. And are you
3 saying -- in which year were they hedged?

4 A. They're -- well, I can get you the specifics.

5 Q. Is it what you tes -- is it from the 10-K?

6 A. Yes.

7 Q. That you talked about? Okay, we're gonna
8 talk about that in a minute, so.

9 Okay. So you're talking about financial
10 hedges. And you're talking about one to two years in
11 advance, right?

12 A. That's -- yeah. If they're locked in at
13 nearly 100 percent up to 24 months in advance, they
14 can't take advantage if there is a drop in the price
15 of natural gas.

16 Q. Okay. Now refer to your direct testimony,
17 lines 218 and 219, please.

18 A. Okay.

19 Q. You say:

20 "There has been no information
21 presented to indicate that the current
22 level of hedging has been determined to
23 provide the best protection for the
24 Company or for ratepayers."

25 Right?

1 A. Yes.

2 Q. Okay. But you do agree in your testimony
3 that hedging -- the hedging program has reduced the
4 volatility of prices?

5 A. Yes.

6 Q. And that's a benefit to both the Company and
7 the customers, right?

8 A. It's, it has reduced the volatility of the
9 prices, yes.

10 Q. Okay. What information could the Company
11 present that would show that its hedging program
12 provides the best protection for customers?

13 A. Well, I, I think, in looking at some of the
14 other utilities and what they've done, they've
15 presented multiple scenarios and multiple options that
16 are available in the hedging programs.

17 We have one program. It's -- that's the way
18 it's been done. We have not looked at any
19 alternatives, or the use of options, or anything else,
20 other than the way it's been done today.

21 Q. Okay. So you're talking about maybe a
22 process somewhat like the IRP process, where there's a
23 variety of hedging approaches presented and then the
24 Company compares the results of those, or something
25 like that?

1 A. I'm saying -- well, it would -- I think the
2 Company should prepare, prepare an analysis to look at
3 some different scenarios of what it -- what are some
4 different hedging strategies. What would it do? How
5 would it, how would it affect the net power costs?

6 Are there some, some ways that we could take
7 advantage and get out of some of these long-term
8 contracts if the price of natural gas drops?

9 Q. Okay. Now look at lines 200 to 202. You say
10 here that -- you're talking about the goal of hedging:

11 "Should the goal give priority to
12 (on the existing extreme) to cost
13 stability, or (on the other extreme) to
14 cost minimization."

15 When you talk about cost minimization are you
16 talking about lowest cost of net power costs? Is that
17 what you mean by "cost minimization"?

18 A. Yes.

19 Q. You state the Division believes the Company
20 has leaned too heavily towards cost stability, right?

21 A. Yes.

22 Q. And you say that the Division also doesn't
23 believe that cost minimization should be the goal of
24 the hedging program either, right?

25 A. Say that again.

1 Q. Do you also agree that the -- that cost
2 minimization should not be the, the sole goal of the
3 hedging program; is that right?

4 A. Yes, that's true.

5 Q. You believe there should be a balance?

6 A. Yes.

7 Q. Okay. Does this mean that the Division
8 advocates that hedging should be used, in part, to try
9 to beat the market?

10 A. No.

11 Q. Then what do you mean by "cost minimization"?

12 A. We're looking at two extremes. One is, if
13 you do no hedging at all, you subject the ratepayers
14 to extreme volatility.

15 That's not what the Division is recommending.
16 We're not recommending the Company go out and try and
17 beat the market. We're trying to determine what's the
18 best solution to minimize exposure to ratepayers, and
19 to benefit the Company.

20 This -- what we're recommending is -- would
21 be of benefit to the Company as well. The reason
22 we're here today is because there's concerns about the
23 hedging program. Nobody understands that. The
24 Commission has never approved that program, and so we
25 have questions today on what the Company's done.

1 If we had an approved program, the Company
2 could move forward and not have to worry about these
3 issues.

4 Q. Are you aware of any hedging program the
5 Company could adopt that would guarantee cost
6 minimization?

7 A. No.

8 Q. And that -- is that because we can't predict
9 the future?

10 A. You can't predict the future.

11 Q. Okay. You mentioned earlier, in your summary
12 I think, that there's indications that the price of
13 gas -- well, the price -- the prices are low and will
14 remain low for quite a long time; is that right?

15 A. Based on the projection we've seen, yes.

16 Q. Okay. So do you think the Company ought to
17 accept that as a premise in its hedging program, that
18 prices aren't gonna change much for several years?

19 A. No. I think there's, there's always risk
20 that -- we don't know what the future holds.

21 Q. So you're not suggest the Company should
22 hedge when prices are rising, but not hedge when
23 they're falling?

24 A. No. We don't know when that is.

25 Q. Okay. So I guess I still have a concern,

1 though, about what you believe the object -- objective
2 of a hedging program is. Isn't the objective of
3 hedging to reduce the risk that power -- net power
4 costs will be significantly higher than was
5 anticipated?

6 A. The -- let me qualify that -- state that
7 again. Let me, let me see if I understand what your
8 question is.

9 Q. Isn't the, isn't the objective of hedging to
10 reduce the risk that net power costs will be
11 significantly higher than was anticipated when rates
12 were set?

13 A. The, the purpose of the hedging program as,
14 as the Company has set it up is to minimize any
15 increase in price, yes. As far as the Company's
16 concerned.

17 Where I'm concerned is there's no provision
18 to benefit ratepayers if the price of natural gas goes
19 down. We're locked into a price today.

20 Q. Okay. But isn't the purpose of hedging only
21 to assure that the price doesn't rise too much? Or
22 that the, that the ratepayers and the Company are
23 protected if the price rises? It doesn't even address
24 what happens if the price goes down.

25 A. That's your definition of hedging. I think

1 you need to, to determine what the risk is to both the
2 Company and the ratepayers.

3 Q. Okay. Now, in the gas hedging docket there
4 was a technical conference held on June 3, 2009,
5 right?

6 A. Yes.

7 Q. And the Commission arranged -- or maybe the
8 Division, I don't know -- arranged for Ken Costello of
9 NRRI to make a presentation?

10 A. Yes.

11 Q. Do you recall that? Who did arrange that, do
12 you know?

13 A. I don't know.

14 Q. Okay. And Mr. Costello provided an article
15 to the participants prior to that conference, right?

16 A. I believe so.

17 Q. And I think -- I'm not sure. I think you
18 refer in your testimony to studies by Mike Gettings,
19 and Pace --

20 A. Yes.

21 Q. -- and so forth, right?

22 A. Yes.

23 Q. Is this article one of the things you were
24 referring to?

25 A. Yes, it is.

1 Q. Okay. Could you turn to page 4 of the
2 article and read the sentence I've got highlighted,
3 please?

4 MR. PROCTOR: Excuse me, Mr. Chairman, but I
5 don't believe there's a foundation for, in effect,
6 placing this matter into -- this particular study --
7 and I only have one page of it -- into evidence.

8 And secondly, I think there may be a problem
9 if, in fact, this witness -- or the people who
10 authored this document were retained by the
11 Commission, or on behalf of the Commission, or at
12 their direction at a technical conference, and then to
13 enter it into evidence with respect to this witness's
14 testimony as cross examination I think may cross the
15 line between a technical conference and the gathering
16 of evidence.

17 So if, for example, the Commission sponsored
18 this particular presentation, now we're using
19 Commission-sponsored information as evidence. I don't
20 know if it's incorrect or not, but I think it should
21 be pointed out to the Commission and they should
22 decide that.

23 MS. SCHMID: And I would like to point out to
24 the Commission that I echo Mr. Proctor's concerns
25 about the cover sheet and one page only of the article

1 being presented to the witness.

2 CHAIRMAN BOYER: Mr. Monson?

3 MR. MONSON: I'd be happy to provide a full
4 copy. I did provide a full copy to Mr. Wheelwright.
5 And I just didn't want to copy that many pages for
6 everybody. But I --

7 MR. PROCTOR: That's -- I'll accept that.

8 MR. MONSON: -- I'm happy to do that. And
9 I've got a full copy here, and if anybody else wants
10 to see it I'm happy to let them see it.

11 CHAIRMAN BOYER: I was just gonna say we
12 could take administrative notice of it. Because I did
13 read this, and I did attend that conference, and I do
14 recognize this particular statement.

15 MR. MONSON: Okay. And in response --

16 CHAIRMAN BOYER: But you haven't offered it
17 into evidence at this point.

18 MR. MONSON: No, I haven't.

19 CHAIRMAN BOYER: You're just asking him
20 questions --

21 MR. MONSON: But in response to the other
22 part of the objection, I mean, it's -- first of all,
23 he cited this article in his testimony so he
24 apparently regards it as a reliable source. He's
25 purporting to be an expert witness on the subject of

1 this article. It's totally fair to ask him if he
2 agrees with a statement in this article.

3 CHAIRMAN BOYER: Well, I think I agree with
4 Mr. Monson.

5 Q. (By Mr. Monson) So I just wanted you to read
6 that statement and I was gonna ask you if you agree
7 with it.

8 A. It says:

9 "So why hedge? The answer is to
10 mitigate the disproportionate pain
11 associated with dramatic price
12 increases, not to 'beat the market.'"

13 Q. So do you agree with that statement?

14 A. I agree that -- yes.

15 Q. Okay.

16 A. We're not trying to beat the market with
17 hedging.

18 Q. Okay. And then could you also turn to
19 page 3? Which I haven't passed out, I'm sorry. I
20 didn't anticipate this, but. I'll be happy to get a
21 copy for anybody.

22 But you have it, right, page 3?

23 A. Yes.

24 Q. Could you read the first sentence under the
25 heading: "Why hedge at all?" I mean not the first

1 sentence, the first paragraph.

2 A. "When the question 'Why hedge at all?'
3 arises, one will often hear discussions
4 of whether or not one can 'beat the
5 market.' Those discussions miss the
6 point, so they will not be debated here.
7 Let us accept that anyone who has
8 confidence in beating the market would
9 not be writing papers about it."

10 Q. Okay. So I think we already established that
11 you don't think the Company ought to be trying to beat
12 the market --

13 A. No.

14 Q. -- with its hedging program? Okay. And then
15 the article goes on to discuss the fact that prices
16 are typically skewed upward, right? Right --

17 A. Yes.

18 Q. -- after the thing you read. So based on
19 these statements, at least according to these authors
20 and according to the Company, isn't the purpose of
21 hedging to mitigate the risk of increases in prices
22 above what was anticipated?

23 A. It is, but I think you need to go to the rest
24 of the article because it has a specific section on
25 contingencies. And while you may plan for an increase

1 in the price of natural gas, you need to plan for a
2 contingent that if the price goes down you need to
3 have a plan in place to how you will handle that.
4 That's what I don't believe the Company has in place
5 now.

6 Q. Okay.

7 A. So if you look at rest of the article it
8 includes that.

9 Q. Let's see. And one of the costs of
10 hedging -- of having a hedging program is that if
11 prices do turn out lower than was anticipated then
12 customers will pay more than they would have paid if
13 they just bought on the spot market, right?

14 A. Say that again.

15 Q. If -- one of the costs of having a hedging
16 program to mitigate risk of increased prices is that
17 if prices do go down customers will actually be paying
18 more than they would have paid if the Company had just
19 relied on the spot market or the short-term market,
20 right?

21 A. If they go down and they're hedged they will
22 pay more; is that what you said?

23 Q. Yes.

24 A. That is correct.

25 Q. Okay. So --

1 MR. MONSON: I'd offer this article. And
2 I'm -- and like I said, I'll be happy to provide a
3 full copy to anybody who wants it. This is Cross
4 Exhibit 1. I guess RMP Cross Exhibit 1.

5 CHAIRMAN BOYER: Let's see if Mr. Proctor
6 maintains his objection.

7 MR. PROCTOR: Well, yes. And for different
8 reasons. You want to introduce the whole thing?
9 Fine. Certainly this witness testified there's a lot
10 more in this article than that one page.

11 It would be misleading and inappropriate to
12 introduce it unless the whole thing is available. Not
13 only to the Commission, but to everybody else. Not
14 later, now. That would be my objection.

15 MR. MONSON: Can we use a copy machine? I've
16 got the whole thing here.

17 CHAIRMAN BOYER: Let's -- do any of the other
18 parties have any objection to the admission of the
19 entire Pace article?

20 No one seems to. Why don't we --

21 MR. MONSON: Can we do it during a break?

22 MR. PROCTOR: Mr. Chairman, we don't -- we --

23 CHAIRMAN BOYER: I mean, I don't know that
24 you really need it. I mean, you've got your expert
25 witness here, who's already said he agrees with the

1 statement and so on and so forth.

2 MR. MONSON: I agree.

3 CHAIRMAN BOYER: Nonetheless, the article is
4 interesting and it does have, you know, additional
5 commentary on other aspects of ECAMs.

6 MR. PROCTOR: I'm sure Mr. Monson will
7 provide you with a full copy at the appropriate time.
8 I have no question about that. If he enters the whole
9 thing, then my objection is taken care of. It's just
10 that maybe we ought to better plan things.

11 MR. MONSON: I'm just trying to be green.
12 That's the only reason. Well, and it's heavier to
13 carry 15 copies of the whole thing.

14 MR. PROCTOR: Well, and I, I agree, but.

15 CHAIRMAN BOYER: So is the motion then to
16 admit the entire article into the record?

17 MR. MONSON: We'll do that, yes.

18 CHAIRMAN BOYER: There's no objection to
19 that, so it will be admitted.

20 (Exhibit No. RMP Cross-1 was admitted.)

21 CHAIRMAN BOYER: And you can substitute -- or
22 give us a copy of the --

23 MR. MONSON: I'll do that.

24 CHAIRMAN BOYER: Give us -- let's make copies
25 for those who want it.

1 MR. MONSON: Okay.

2 CHAIRMAN BOYER: And those who would rather
3 save the trees.

4 MR. MONSON: Okay.

5 CHAIRMAN BOYER: You know. Thank you.

6 Q. (By Mr. Monson) Just to conclude this, any
7 attempt to beat the market would really be
8 speculation, wouldn't it?

9 A. Yes.

10 Q. And there are people who do that, right?
11 There's people who are speculators. In fact, some of
12 the counterparties the Company deals with are probably
13 speculating about what the market is gonna do; is that
14 right?

15 A. I would agree with that.

16 Q. Others may have more gas than they need or
17 more electricity than they need so they may just be
18 doing a transaction. But -- there's speculators out
19 there but you aren't suggesting the Company ought to
20 be a speculator?

21 A. Absolutely not.

22 Q. Okay. And you wouldn't support recovering
23 rates of costs associated with trying to beat the
24 market?

25 A. No.

1 Q. Okay. All right. Can you turn to your
2 direct, lines 353 to 356?

3 A. Okay.

4 Q. Here you're talking about the 10-K report.
5 And I think this is what you were referring to
6 earlier; is that right?

7 A. Yes.

8 Q. Okay. And it says that the Company reported
9 it economically hedged 95 percent of its financial
10 exposure and 53 percent of its forecasted physical
11 exposure for 2010. And 87 percent of the financial
12 and 26 percent of its physical exposure for 2011?

13 A. Yes.

14 Q. Okay. And this was in the December 31, 2009,
15 10-K report. So 2010 was the next year. And 2011 was
16 two years out, right?

17 A. Right.

18 Q. So would those numbers be -- would you amend
19 your earlier statement --

20 A. Yes.

21 Q. -- consistent with those numbers?

22 A. Yes.

23 Q. Okay.

24 A. Yes. Two years out we're about 87 percent
25 hedged.

1 Q. Financially?

2 A. Financially.

3 Q. Right. Okay. And then on line 365 you note
4 that the level of hedging is different between
5 physical and hedges. And I think you're referring to
6 that statement, right?

7 A. Yes.

8 Q. So you recognize that the Company's hedging
9 program includes both physical and financial hedges?

10 A. Yes.

11 Q. Now in your direct on lines 659 to 660, and
12 this is your Chart 8. You have a table or a chart
13 which shows, shows the cost/benefit by year of
14 PacifiCorp's hedging program, right?

15 A. Yes.

16 Q. From 2004 to 2009?

17 A. (Moves head up and down.)

18 Q. Okay. And this includes both physical and
19 financial hedges, true?

20 A. This chart was based on the technical
21 conference that the company held. This is, this is
22 the information that was provided in that information
23 in that, in that conference.

24 Q. Okay. So do you not know whether it includes
25 physical and financial?

1 A. I do not know.

2 Q. Okay. Well, let me represent to you that it
3 includes all hedging. All the Company's hedging. So
4 it includes both physical and financial. Do you --
5 and would you accept that subject to check?

6 A. Subject to check, yes.

7 Q. Okay. During this period the chart shows a
8 substantial cumulative net benefit from the hedging
9 program, right?

10 A. That's what it shows, yes.

11 Q. And in fact if you add up the numbers --
12 which I haven't done, but we can do it quickly --
13 you've got two years where it's negative, right? The
14 first two years. It's about -- so you're say
15 40 million in the hole.

16 A. (Moves head up and down.)

17 Q. And then you're 88 ahead, so you're 48 ahead.
18 Then, then 5 million, so 53. Eleven million, 64
19 roughly. And then 129 million ahead, so 193 million
20 to the good, right? Roughly?

21 A. I believe it is.

22 Q. And you have, you've done an analysis, but
23 you cut off 20004 and 2005, right?

24 A. The analysis that I did was based on
25 information we received from data requests that --

1 where we asked the company to provide the specific
2 information on the settled contracts for the previous
3 years.

4 Based on the information that was provided,
5 that's why we -- how I put together this table.

6 Q. Okay. And, and it goes from 2006 through May
7 of 2010?

8 A. Yeah. They didn't provide anything prior to
9 2006.

10 Q. Okay. Did you ask for it? Didn't you ask
11 for it from 2006 on?

12 A. I think we did, yes.

13 Q. Okay. And that information -- now, first of
14 all, the information that's on Chart 8 was provided in
15 response to another data request, 14.1 -- well, let's
16 look. Four point fourteen, right?

17 A. I believe so.

18 Q. Okay. So you had this information. And then
19 you asked the follow-up question you just wanted
20 information about the swaps, right?

21 A. We asked -- and I have the information, the
22 wording that's what we asked in the data request. It
23 says:

24 "In response to DPU Request
25 4.14(d)(2) include a detailed

1 spreadsheet of electric hedging
2 contracts from July 2006 through
3 August 2009. Please provide the same
4 monthly information from September
5 through December 2009, and the monthly
6 information for 2010."

7 We asked for all the specific information on
8 hedging contracts. Which I assume would have included
9 both the physical and the, and the swaps.

10 Q. But it was a follow up to another question
11 apparently, you said?

12 A. Well, it was -- the information from 4.12
13 only went -- included a portion of 2009. What I was
14 asking for was the remainder of 2009, September
15 through the end of the year, and then the year-to-date
16 2010 information.

17 Q. Okay. But in any event, your, your table and
18 your testimony -- your exhibit cuts off 2004 and 2005,
19 right?

20 A. Yes.

21 Q. So if you just look at Chart 8 and you cut
22 off 2004 and 2005 you're essentially adding 40 million
23 to the benefit, right? That would be shown on that
24 chart?

25 A. Yes.

1 Q. Okay. And --

2 A. Well, let me look at that again. What -- say
3 that again.

4 Q. If you cut off 20004 and 2005, which were the
5 two negative years --

6 A. Right.

7 Q. -- that's about \$40 million. I mean roughly,
8 round dollars.

9 A. Forty million dollar loss.

10 Q. Loss. So if you take that away you can
11 actually increase that amount -- 190 million or
12 something -- by 40 million, right?

13 A. Right.

14 Q. Because that was included in the total.
15 Okay. So do you understand that the difference
16 between this chart and the chart in your testimony is
17 the chart in your testimony is just gas swaps and
18 electric swaps and is not all hedging instruments?

19 A. I didn't know that until today.

20 Q. Okay.

21 A. I don't -- and I'm still not a hundred
22 percent convinced that's the case.

23 Q. Well. But given what we've just talked about
24 Chart 8, wouldn't you expect that the net benefit
25 would increase that's shown on Chart 8 if you had

1 comparable data in your, in your exhibit, rather than
2 decrease and go negative?

3 A. Say that again.

4 Q. Wouldn't you expect, based upon what we've
5 just discussed about Chart 8, cutting off the first
6 two years that are negative, wouldn't you expect if
7 you, if you do an analysis from 2006 through May of
8 2010 that the benefit would increase?

9 A. If I'm looking at Chart 8 only, yes, that's
10 true.

11 Q. Okay.

12 A. If I cut off two years.

13 Q. Now, do you know whether or not there was a
14 net cost from all hedging in the first five months of
15 2010?

16 A. It -- according to my chart? It looks like
17 it's a positive.

18 Q. Okay. So even just looking at swaps it's
19 positive --

20 A. Yes.

21 Q. -- right? Okay. So then by adding those
22 additional five months you'd even expect the benefit
23 to increase further, wouldn't you?

24 A. I don't know. If it doesn't include
25 everything, I don't know what it would show.

1 Q. Okay. But you agree that your, your
2 Exhibit 2.1 only includes financial swaps?

3 A. I don't know what it includes, because we
4 asked for all the specific settled contracts and this
5 is what we received from the Company.

6 Q. Okay. If you only look at swaps do you
7 understand that you're leaving out a lot of wholesale
8 electric transactions in which the Company had -- was
9 in the money during this period?

10 A. Yes. And I've gone back -- I went back
11 during the lunch period and looked at the electric. I
12 believe all of the electric information is included.
13 The only question that I have is whether or not the
14 natural gas physicals are included. But I believe all
15 the electric is in there.

16 Q. Okay. If we -- the numbers, the numbers from
17 2006 to 2009 are on Chart 8, right?

18 A. The information --

19 Q. About --

20 A. Yes.

21 Q. -- the net benefit or cost of hedging. So
22 the only thing we're missing is the first five months
23 of 2010; is that right?

24 A. Yes.

25 Q. Okay. I've prepared an exhibit that includes

1 that information as well. And I'd like to show that
2 to you.

3 A. Okay.

4 (Pause.)

5 Q. (By Mr. Monson) Now, if you'll compare the
6 numbers for 2006, 2007, 2008, and 2009 I believe
7 you'll see that they're the same numbers that are on
8 Chart 8; is that right?

9 A. Yes.

10 Q. Okay. So I'm gonna represent to you that the
11 numbers for January through May of 2010 are derived
12 from the same source and they're the same numbers.
13 Are you willing to accept that, subject to check?

14 A. Sure.

15 Q. Now, I don't know how they compare with your
16 numbers for 2010. Looks like they're similar. Let's
17 see, the gas hedges are the same, right? But the
18 electric hedges are different, right?

19 A. Yes.

20 Q. Okay. So apparently there's something in
21 electric hedging that isn't reflected on your
22 Exhibit 2.1.

23 Would you accept, subject to check, that this
24 shows that during the same period as covered by your
25 Exhibit 2.1 there's actually been a positive benefit

1 to ratepayers from hedging during this period of
2 \$303 million?

3 A. Yes, but I would want to look at this in more
4 detail. And the other thing I think it points out is
5 the dramatic swings that can occur within the hedging
6 program. That we can have dramatic swings in the net
7 power costs.

8 Q. Right. And in fact you made a point in your
9 testimony that, that in a down market, when the prices
10 are falling, that maybe hedging isn't such a good idea
11 or it's not as valuable, right? It may be a bad thing
12 to be doing?

13 In other words -- I, I don't want to put
14 words in your mouth. But was it your view that the
15 Company isn't taking advantage of a down market in its
16 hedging program?

17 A. If you're hedged to a very large percent, and
18 the price -- and you're locked into a price that's
19 above the current market price, and you don't need to
20 buy any more quantity, you can't take advantage of a
21 drop in price.

22 Q. Okay. What does this exhibit show about
23 that? When did the market turn down?

24 A. About 2008.

25 Q. Okay. Since 2008, if we look at these

1 numbers, we see that there was a big negative on
2 natural gas in 2009. But there was even bigger
3 upsides on electric hedges in 2009 and 2010; is that
4 right?

5 A. On the power side, yes.

6 Q. So would this indicate to you that in this
7 down market the Company's hedging program has actually
8 been beneficial to ratepayers?

9 A. I think the -- say the question again just a
10 moment.

11 Q. Would this indicate to you that, that in this
12 market where the prices have fallen, that the hedging
13 program has actually been beneficial to customers more
14 than it was before?

15 A. The -- again, I think if you want to narrow
16 the position down very tightly, you could say yes.
17 But I want to point out the dramatic swings that are
18 available in those, in those commodities.

19 That the natural gas -- and if you look at
20 the -- your information, we went down \$221 million
21 over the, over the, you know, the price that was, that
22 was available. What they, they purchased that gas
23 for.

24 Q. Right.

25 A. So I guess the question is, had the program

1 been separated and things been done a little bit
2 differently, could they have taken advantage and
3 reduced that loss -- reduced the loss of \$220 million?

4 Q. Do you have any idea how they could have done
5 that?

6 A. I think by changing the, the hedging program.

7 Q. How?

8 A. Looking at some contingent options. Looking
9 at some other strategies to get out of these long-term
10 deals so they're not locked in.

11 Q. Okay.

12 MR. MONSON: We'd like to offer this exhibit
13 as Cross Exhibit 2. RMP Cross Exhibit 2.

14 MS. SCHMID: And I'll object to the extent
15 that there's a lack of foundation, with particularity
16 as to the 2010 numbers.

17 THE WITNESS: Can, can I ask a question on
18 this?

19 CHAIRMAN BOYER: Go ahead and ask the
20 question, Mr. Wheelwright.

21 THE WITNESS: They continue to exclude their
22 Hermiston contract in the analysis, and a lot of the
23 in -- a lot of the information. And if that's a
24 portion of the hedging costs, it ought to be included.

25 Q. (By Mr. Monson) Do you know whether or not

1 the Hermiston contract's in the money?

2 A. I don't.

3 Q. Would you accept, subject to check, that even
4 with the decline in prices it's still in the money?

5 A. I have no idea.

6 Q. Okay. You don't know whether it's -- how you
7 could check that?

8 A. But I don't know why they continue to exclude
9 their Hermiston transactions.

10 Q. Well, how long is the Hermiston contract; do
11 you know that?

12 A. It ends in 2011, I believe.

13 Q. But do you know how long its --

14 A. I don't know.

15 Q. What its duration's been? Okay.

16 CHAIRMAN BOYER: Any other objections to
17 Cross Exhibit -- RMP Cross Exhibit 2?

18 I mean, we do have a foundational issue. I
19 mean, Mr. Monson has represented that he prepared it.
20 He's not a witness.

21 MR. MONSON: And actually, I didn't prepare
22 it. I couldn't prepare this.

23 CHAIRMAN BOYER: You caused it to be
24 prepared?

25 MR. MONSON: It was prepared by Company --

1 the same people who provided the other data and
2 responded to the data requests and the whole deal.

3 MR. PROCTOR: Well -- and Mr. Chairman, I
4 have an objection as well. From the content of the
5 examination and the answers, this is obviously
6 reflecting financial hedging. Which the evidence is
7 that isn't energy and it isn't fuel. And yet their
8 bottom row is listed as "Net energy."

9 I believe that's misleading. So to that
10 extent -- and since there's been no testimony
11 certainly from this witness or about this exhibit that
12 defines net energy in relationship to their hedging
13 practice, I don't think that this exhibit should be
14 admitted.

15 Now, if they want to go back and properly
16 describe it, then yes, perhaps it's appropriate. But
17 not, not this format. And the person who prepared it
18 needs to be here to establish exactly what that means.

19 MR. MONSON: We'd be happy to call a witness
20 if you want to take the time. The reason we didn't
21 put this on in Mr. Duvall's summary was because we
22 expected objections because it was new evidence.

23 But it happens to be responsive to testimony
24 that was filed last week. Surrebuttal testimony. And
25 we're happy to put a witness on if you want to take

1 the time to do that.

2 MR. PROCTOR: Well --

3 MS. SCHMID: I think that it contains
4 significant foundational errors. And I urge the
5 Commission either to not accept it into evidence, or
6 award it the proper weight of such an exhibit with its
7 noticeable foundational errors, which would be nil or
8 little.

9 CHAIRMAN BOYER: I'm inclined to deny
10 admission. But in fairness to Mr. Monson, I think you
11 could probably get this same type of testimony just by
12 asking Mr. Wheelwright an appropriate question.

13 For example, does he have personal -- you
14 could find out if he has personal knowledge of what
15 the net benefits or detriments were for the five
16 months in 2010. See if he knows that. And then if he
17 knows that, find out how much he knows it.

18 And then you've got your evidence in if he
19 can. If he doesn't, then he probably ought not to be
20 testifying about it.

21 MR. MONSON: Okay.

22 Q. (By Mr. Monson) I -- well, first of all
23 Mr. Wheelwright, every number on this chart except for
24 2010 is on your Chart 8 in your testimony, right?

25 A. Yes.

1 Q. And I already -- I think I did ask you about
2 if you knew about the first five months of 2010. And
3 you said that your numbers show there was a positive
4 benefit, right?

5 A. Yes.

6 Q. And your 40 -- even the 44 million number is
7 on your, is on your Exhibit 2.1. So the only number
8 we don't have verified is the 113,863,078; is that
9 right?

10 A. Yes.

11 Q. And your, your exhibit shows -- instead of
12 113,863,078 your exhibit shows 74,155,016; is that
13 right?

14 A. Yes.

15 Q. And I've explained --

16 A. On electric?

17 Q. Oh, sorry. Yeah, on electric, right.

18 A. Yes.

19 Q. And, and I've explained to you that the
20 difference is that this includes physical hedges,
21 where yours doesn't. Do you understand that?

22 A. Yes.

23 Q. Do you have any reason to doubt that that's
24 an accurate representation?

25 A. If you exclude Hermiston, I, I assume that

1 that's correct. But I, I don't know. I don't have
2 any information to verify if this is correct or not.

3 Q. Well, haven't you been given this information
4 in response to the discovery requests?

5 A. I --

6 MS. SCHMID: Objection, argumentative.

7 THE WITNESS: The, the last information I
8 have not been given, no. The subject you're asking
9 about now, information in 2010, I do not have
10 information -- that information.

11 Q. (By Mr. Monson) Okay. So on, so on
12 exhibit -- I mean in data request 414 you were just
13 given information through the end of 2009?

14 A. Four fourteen goes through, I believe it's
15 September of 2009.

16 Q. Okay.

17 A. Eight point one four continues through the
18 rest of 2009 and the first few months of 2010.

19 MR. MONSON: I'd still offer it, your Honor.

20 CHAIRMAN BOYER: Okay. We'll, we're not
21 going to admit it. But I think you've made your
22 record clear.

23 MR. MONSON: Okay. That's all I have.

24 CHAIRMAN BOYER: Okay. Thank you Mr. Monson.
25 Let's see. Mr. Proctor, any cross

1 examination of Mr. Wheelwright?

2 MR. PROCTOR: Yes.

3 CROSS EXAMINATION

4 BY MR. PROCTOR:

5 Q. Mr. Wheelwright, what is your understanding
6 of the purpose of this particular part to Phase II in
7 the ECAM docket?

8 A. It's my understanding that the, the purpose
9 of this phase is to look at the hedging and front
10 office transactions in relation to including those in
11 an ECAM.

12 Q. In other words, would it be fair for me to
13 describe it as to consider the dependent relationship
14 between an ECAM and hedging?

15 A. Yeah, I would, I would say that, yes.

16 Q. Now, is it the Division's position that the
17 financial hedging, the fixed, flowing hedging --
18 financial hedging transactions and the costs should be
19 included in the ECAM that is to be designed in the
20 subsequent proceeding?

21 A. I think the design phase has been identified
22 by Mr. Peterson in his testimony in -- but he has not
23 recommended excluding the hedging from the ECAM.

24 Q. So does that mean that the Division's
25 position is that it could be or should be included?

1 A. I think it could be included. It has not
2 been, been articulated in the -- and that's part of
3 Mr. Peterson's design phase.

4 Q. Now, you were kind enough to provide me with
5 a written copy of your comments -- summary comments
6 given this morning. And I have some questions in
7 particular about your choice of language and your --
8 in your summary.

9 The first thing that you stated -- or one of
10 the first things was that the Division and other
11 parties have been concerned for some time about the
12 amount and the duration of the Company's hedging
13 program; is that correct?

14 A. Yes.

15 Q. And there has been a lack of understanding
16 concerning the amount and duration of the current
17 hedging program, correct?

18 A. Yes.

19 Q. Including the extent of price fluctuation in
20 existing contracts?

21 A. Yes.

22 Q. Are you discussing there the financial
23 hedging?

24 A. Yes.

25 Q. Not physical hedging?

1 A. More the financials, yes.

2 Q. Well, do you have a similar concern -- does
3 the Division have a similar concern with respect to
4 physical hedging?

5 A. I don't believe to the same extent, because
6 they're not going out as far into the future with the
7 physicals as they are with the financials.

8 Q. So what you're talking about, then, is
9 including in a ECAM is what you have described in your
10 summary as a hedging strategy that has been conducted
11 without scrutiny or approval of regulators; is that
12 correct?

13 A. Yes.

14 Q. And that it has not been determined to be in
15 the best interest of the Company. You said that?

16 A. Uh-huh.

17 Q. Nor in the best interest of ratepayers. You
18 said that?

19 A. Yes.

20 Q. And that's the one that could be included in
21 an ECAM?

22 A. Yes.

23 Q. You criticized the Company's program because
24 there should be an understanding of the priorities for
25 price stability versus cost minimization from the

1 perspective of both the Company and the ratepayers.

2 And this leads to some of the questions
3 Mr. Monson was asking you, and in particular about
4 this article that was presented in a technical
5 conference. Were you present during Mr. Duvall's
6 testimony?

7 A. Today?

8 Q. Yes.

9 A. Yes.

10 Q. And did you hear Mr. Duvall describe that the
11 purpose of the Company's hedging -- financial hedging
12 was not cost minimization?

13 A. Yes, I did.

14 Q. That they're looking at it purely from the
15 standpoint of managing the risk of volatile pricing,
16 correct?

17 A. That's correct.

18 Q. Were you also present when Commissioner
19 Campbell asked the question of how the Company's
20 financial transaction hedging program benefits
21 ratepayers?

22 A. Yes, I was here then.

23 Q. Can you answer that question, how does it
24 benefit ratepayers?

25 A. I think the, the hedging program minimizes

1 the volatility of natural gas prices if they were
2 to -- as compared to if they were to purchase on the
3 spot market. So I believe it does benefit in that
4 way.

5 Q. Does that benefit ratepayers?

6 A. Yes.

7 Q. Okay. Looking at Chart 8, which is on
8 page 28 of your direct testimony. I think June 16th
9 testimony?

10 A. Yes.

11 Q. I want you to look at 2009.

12 A. Okay.

13 Q. Let's look at the -- and mine is just pure
14 yellow, so if there were color differentiations you'll
15 have to help me out with those. The number, a
16 positive 351,056,101, what does that represent?

17 A. Power hedges.

18 Q. In other words, they were able to -- what?
19 Buy power at a price that was?

20 A. They were able to -- the current market value
21 of those hedges is \$351 million higher.

22 Q. And cons -- and accordingly, or
23 comparatively, the \$221,785,835 was the amount they
24 paid for natural gas in excess of the market, correct?

25 A. That's correct.

1 Q. What is the Company's system-wide net power
2 cost, let's say dealt with -- or for which they were
3 allowed recovery in the last general rate case?

4 A. I don't have that. I'm not -- I don't know.

5 Q. Would you say about a billion point two?

6 A. That sounds about right.

7 Q. Well, just roughly, what percentage of a
8 billion 2 is 351 million 56 dollars and?

9 A. About 3 percent, I believe.

10 Q. Three hundred fifty-one million --

11 A. Or --

12 Q. It's more like 30 percent?

13 A. Thirty percent. True, yeah.

14 Q. And roughly the excess cost they paid in 2009
15 for natural gas is roughly 20 percent of their total
16 net power cost, as found in rates from the last
17 general rate case, correct?

18 A. Yes.

19 Q. I want you to turn to Table 1 on page 13 of
20 your June 16th testimony.

21 A. Say that again. Where am I?

22 Q. Page 13 --

23 A. Page 13.

24 Q. -- Table 1. This was the table reflecting
25 the percentage for which the Company had hedged both

1 physical and financial in 2007 through 2011, according
2 to their SEC filings; is that correct?

3 A. Yes, it is.

4 Q. I want you to look at 12/31/08, financial
5 hedging for 2009.

6 A. Okay.

7 Q. Okay? They list it as 94,000 -- or excuse
8 me, 94 percent, correct?

9 A. Um.

10 Q. Am I reading that improperly?

11 A. Are you looking at the year end 2008?

12 Q. July 31, 2008, says Financial. Come over
13 underneath the column --

14 A. Yes, 94 percent.

15 Q. Ninety-four percent. And what does that
16 represent?

17 A. Ninety-four percent of their -- the quantity
18 that they would need for natural gas that's been
19 hedged with financial products.

20 Q. And they were going to hedge, in 2010,
21 85 percent?

22 A. They had already hedged 85 percent of their
23 2010 need.

24 Q. Now go down to 12/31/2009, Financial. And go
25 over to 2010. Now you have a 95 percent hedge?

1 A. Yes.

2 Q. Why did it go -- change from 85 percent to
3 95 percent for 2010? Why? Do you know?

4 A. Well, they're, they're hedging even more in
5 the, in the current year.

6 Q. Why did they hedge more?

7 MS. SCHMID: Objection, I think that this
8 question would be more properly asked of the Company
9 witness, since the information was based on the
10 Company's 10-K.

11 MR. PROCTOR: That is not an objection. My
12 question is why. And if he doesn't know, he can say
13 that.

14 CHAIRMAN BOYER: Why don't you ask him if he
15 knows, first.

16 THE WITNESS: I don't know, I would -- I
17 don't know.

18 Q. (By Mr. Proctor) Did you ever ask the
19 Company?

20 A. No. The, the purpose of the hedging program
21 is to hedge amounts during the -- well, I'll leave it
22 at that.

23 Q. Did you ever review their SEC report, the
24 10-K, to determine if there was any explanation for
25 that difference?

1 A. I reviewed the 10-K, yes.

2 Q. Did it explain, at all, the difference
3 between their end-of-year 2008, and their end-of-year
4 2009 hedging policy for 2010?

5 A. No.

6 Q. Have you reviewed the Company's description
7 of its hedging policy?

8 A. Yes, I have.

9 Q. And within that hedging policy does it
10 provide any guidelines for analysis or evaluation that
11 would explain their changing the hedging from
12 85 percent to 95 percent over a period of one year?

13 A. It doesn't specifically identify that, no.

14 Q. Okay. And would that be consistent with
15 your, your conclusions that in fact their hedging
16 program is really not well understood or understood at
17 all by the regulators?

18 A. I would agree with that. That's the reason
19 why we're here today.

20 Q. And that's the type of hedging program that
21 the Division believes could be included in an ECAM?

22 A. That's the current program that's in place
23 today, yes.

24 Q. Yeah. So the Division's policy is, Yeah
25 sure, cool, go ahead and put it in an ECAM?

1 A. There's some provision --

2 MS. SCHMID: Objection, argumentative.

3 MR. PROCTOR: It was.

4 Q. (By Mr. Proctor) Is the Division's position
5 that that particular misunderstood, poorly understood,
6 or not-understood-at-all hedging program could be
7 included in an ECAM?

8 A. I believe the information on what's going to
9 be included in the ECAM would be better addressed by
10 Mr. Peterson.

11 Q. Well, but unfortunately you're the one
12 sitting in that stand today.

13 A. That's true.

14 Q. Is that the Division's position?

15 MS. SCHMID: Objection, beyond the scope of
16 this witness. What will be in the ECAM is delineated
17 as Phase II Part 2 of this docket, I believe.

18 CHAIRMAN BOYER: Well, you know, I'm a little
19 confused on the question as well. Are you -- the
20 Division -- I think Mr. Wheelwright has testified
21 that -- several times, in fact -- that hedging could
22 be included in an ECAM. But they have concerns about
23 the current hedging practices of the Company.

24 So you -- are you --

25 MR. PROCTOR: His answer -- yes, that's the

1 one that could be included would be -- that's his
2 answer. If he -- if that is his answer, he should say
3 that.

4 CHAIRMAN BOYER: Is that your answer,
5 Mr. Wheelwright?

6 THE WITNESS: The -- we can't change the
7 program as it stands today. That's the Company's
8 program. So I -- if it's included in the ECAM -- if
9 in the next phase it's determined that, that hedging
10 would be included then it would be included, yes.

11 Q. (By Mr. Proctor) And, and the reason that it
12 can't be changed is because that's the program that
13 has been used, without scrutiny or approval of
14 regulators, since its inception, correct?

15 A. Yes.

16 MR. PROCTOR: No more questions.

17 CHAIRMAN BOYER: Okay. Thank you
18 Mr. Proctor.

19 Ms. Hayes, questions for Mr. Wheelwright?

20 MS. HAYES: No questions?

21 CHAIRMAN BOYER: Mr. Evans?

22 MR. EVANS: Thank you.

23 CROSS EXAMINATION

24 BY MR. EVANS:

25 Q. Good afternoon Mr. Wheelwright.

1 A. Good afternoon.

2 Q. Just to follow up on something Mr. Proctor
3 was saying. Your -- it's the Division's
4 recommendation that the hedging program ought to
5 undergo a review; isn't that right?

6 A. Yes.

7 Q. And in your testimony you propose -- I'm
8 looking at page 34. It's lines 828, that question and
9 response there. You propose a process by which the
10 current hedging goals and strategies could be reviewed
11 by the Commission; isn't that right?

12 A. Yes, it is.

13 Q. And my, my questions are really to help us
14 understand what this process would be. You have
15 suggested by the -- by March 31 of each odd-numbered
16 year, beginning on 2011, there could be the
17 commencement of this review?

18 A. Yes.

19 MR. MONSON: Mr. Chairman, I, I want to
20 object to this line of questions. I know this isn't
21 my witness. But I think Mr. Evans is violating the
22 Commission rule that he can't try to make his case
23 through cross examination, and I think he's also
24 engaging in friendly cross. So I object to this line
25 of questions.

1 MR. EVANS: Well, may I respond?

2 CHAIRMAN BOYER: Please, Mr. Evans.

3 MR. EVANS: It's not really friendly cross.
4 I'm -- it's clarification. I'm not encouraging him to
5 reiterate his testimony. I'm asking him questions to
6 help clarify.

7 CHAIRMAN BOYER: Yeah, let's hear a few more
8 questions.

9 You may answer, Mr. Wheelwright.

10 THE WITNESS: Say the question again, would
11 you?

12 MR. MONSON: He actually already answered
13 before I objected.

14 CHAIRMAN BOYER: I don't think Mr. Evans is
15 finished yet.

16 MR. EVANS: But in fairness to Mr. Monson, he
17 objected to the whole line of questions, so there's
18 just a little tying up to do.

19 Q. (By Mr. Evans) I'm wondering, you're not
20 seeing that inside the IRP process, though, are you?

21 A. No.

22 Q. How does this process occur? Is it a
23 separate proceeding, a separate docket?

24 A. Yes, it would. A separate docket. The
25 Company would file information on what they would

1 propose to use for a hedging strategy. Then
2 intervening parties could also present information
3 concerning their recommended hedging strategies. And
4 then it would be, be hearings before the Commission.

5 Q. And what would the result of this proceeding
6 be?

7 A. Ideally it would be an approved program that
8 the Commission had reviewed and approved, and the
9 Company could go forward with that.

10 Q. And how would then -- say the Company
11 approves it. And let's -- for hypothetically let's
12 say the Company approves 85 percent natural gas
13 supplies hedged on swaps instead of 100, okay?

14 A. Okay.

15 Q. That, that's the program they decide (Counsel
16 is speaking too softly.)

17 THE REPORTER: I'm sorry, Counsel, that's the
18 program they decide?

19 MR. EVANS: Is prudent and that the Company
20 should go forward with.

21 THE REPORTER: Thank you.

22 Q. (By Mr. Evans) How does that get into rates
23 and ECAM after this proceeding's over and the
24 decision's been made. Then what?

25 A. Well, I think it's just -- it's the same as,

1 as the program today. The Company would know how to
2 proceed and how to, to build their, their IRP, and
3 what, what costs would be associated with that.

4 Q. Okay. But the cost of the 85-percent swap on
5 natural gas wouldn't really be implemented in rates
6 until the next rate case, would it?

7 A. That's correct.

8 Q. And it wouldn't be implemented in ECAM until
9 the ECAM proceeding following the rate case, following
10 the Commission's decision; isn't that right?

11 A. That's true. I wouldn't think that going
12 forward we'd have dramatic changes in the -- in an
13 approved plan. There might be some minor adjustments,
14 but I don't think we'd have major fundamental changes
15 from year to year.

16 Q. But, but any changes at all wouldn't be
17 implemented in ECAM until after they've been
18 determined by the Commission to be prudent, and then
19 after there's been a rate case, and then after there's
20 been another ECAM proceeding?

21 A. I believe that's correct.

22 Q. So we're not looking at an immediate change
23 in anything as a result of a change in the approval of
24 the hedging process?

25 A. No.

1 Q. Okay.

2 MR. EVANS: I think that's all I have for
3 Mr. Wheelwright, thank you.

4 CHAIRMAN BOYER: Thank you Mr. Evans.
5 Commissioner Allen?

6 COMMISSIONER ALLEN: Thank you. I believe in
7 your testimony, Mr. Wheelwright, that you had referred
8 to the -- a number of data requests. And it started
9 leading me to believe that a hedging program or
10 hedging program guidelines could be achieved in the
11 next couple of years. Did I understand that
12 correctly?

13 THE WITNESS: Yes.

14 COMMISSIONER ALLEN: And in the process of
15 doing that -- I'm just curious. I don't want to
16 answer the question today about what it might look
17 like. But were you able to discover how many other
18 states' commissions are actively pursuing program
19 guidelines or programs? Did you get any feedback as
20 to whether or not we're breaking new ground here, or?

21 THE WITNESS: No, we're not breaking new
22 ground. Based on the information that I've looked at,
23 most of the other utilities file a fuel cost docket
24 with their Commission in advance. And they review
25 that periodically.

1 I don't think we're breaking any, you know,
2 blazing any new ground here. I don't think -- mostly
3 the commissions do have some kind of a program where
4 they will review the fuel cost of the utility.

5 COMMISSIONER ALLEN: Okay. Thank you.

6 CHAIRMAN BOYER: Commissioner Campbell?

7 COMMISSIONER CAMPBELL: I'd like to just
8 spend a few minutes on the stability question. And in
9 response to Mr. Proctor you said that ratepayers
10 benefit from stability through the natural gas
11 hedging. Was that your answer? Is that -- is my
12 recollection right?

13 THE WITNESS: Yes. It is more stable than
14 buying on the spot market.

15 COMMISSIONER CAMPBELL: So if you go to
16 Chart 8 on page 28 of your, I believe it's your direct
17 testimony. And we'll do the little, the little math
18 exercise, I guess, that Mr. Monson put you through,
19 but I'm gonna go through that just on the natural gas
20 hedges.

21 THE WITNESS: Okay.

22 COMMISSIONER CAMPBELL: So if we look at the
23 first year, you're 32 million plus. Second year
24 you're 55 million plus. Third year you're 45 million
25 plus. And then we go 102 negative, 78 million

1 negative, and 221 negative. And I haven't added all
2 those up in my mind. I guess I can do it quickly.
3 Say roughly 100, 130.

4 And you're -- so, so I think I can honestly
5 say you're over 200 million to the negative in natural
6 gas to the ratepayers based on their natural gas
7 hedging. How -- was it worth it? I mean, what was
8 the benefit ratepayers got by paying over \$200 million
9 more than market for natural gas.

10 A. I think that's the reason we're here, because
11 we don't have information on the benefit to the
12 ratepayers. The Company has not been able to provide
13 that. The -- this -- the financial hedges are fairly
14 new, relatively, compared -- you know, we restyled the
15 financial hedges beginning 2006, escalating in 2007.

16 So we really don't have a benefit and -- when
17 we look at the cost of the natural gas hedging.

18 COMMISSIONER CAMPBELL: So we, we understand
19 what the cost of natural gas hedging is and we
20 understand what the cost of the financial hedging is,
21 because you did that on your SR-2.1.

22 And I'm -- so in a sense we know we're, we're
23 to the negative on those two areas. And the Division
24 doesn't have an idea of what the benefit is for those
25 costs.

1 THE WITNESS: The benefit I think would be
2 more stability to -- instead of purchasing on the spot
3 market. More stability in rates for the ratepayers.

4 COMMISSIONER CAMPBELL: Well, let's talk,
5 let's talk about that. I understand stability for the
6 Company. But once rates are set in a rate case rates
7 are stable for the ratepayers, no matter what happens
8 in the market.

9 THE WITNESS: That's true.

10 COMMISSIONER CAMPBELL: So where do they gain
11 the stability? And, and the only other option then is
12 in a rate case. And you're just doing a point
13 estimate.

14 You're not, you're not compare -- you're
15 doing a point estimate on the costs of those products
16 of natural gas. So I'm still struggling to figure
17 out, under the current hedging program, where the
18 stability for ratepayers lies.

19 THE WITNESS: I think what -- the way that
20 the Company has structured this, they want to fix
21 their costs essentially two years in advance. And
22 that's the reason why they, they hedge to -- well, 85
23 to 90 percent two years in advance, is because that is
24 the year that they're going to use for the test year
25 to set rates.

1 So by doing that and hedging two years in
2 advance, essentially, they can lock in the price of
3 the natural gas to determine the rates.

4 COMMISSIONER CAMPBELL: And maybe the way to
5 ask the question is if they didn't do that, what would
6 they do? How would we set the price of natural gas in
7 a rate case?

8 THE WITNESS: I believe they'd have to
9 estimate what the cost would be, based on the forward
10 price curve.

11 COMMISSIONER CAMPBELL: Okay. So you have an
12 estimate of a forward price curve or you have a
13 lock-in price. It's one estimate or another, is it
14 not?

15 THE WITNESS: That's true.

16 COMMISSIONER CAMPBELL: So how does that
17 generate stability?

18 THE WITNESS: I, I -- creates more stability
19 for the Company --

20 COMMISSIONER CAMPBELL: Okay.

21 THE WITNESS: -- than I believe it does for
22 the ratepayers.

23 COMMISSIONER CAMPBELL: Okay, I think I
24 understand that. And that gets me to my bottom-line
25 question here as it relates to this hearing and this

1 docket.

2 If the current hedging program provides
3 stability for the Company, for their earnings -- and
4 that's not necessarily a bad thing. I mean, there
5 could be ratepayer benefits there. It allows an
6 opportunity to earn their return, and so forth. There
7 may be some intangibles there that are not so direct.

8 But let's say it provides stability for the
9 Company. Now we're going to an ECAM. And if we put
10 hedging in an ECAM for customers -- now, now we're no
11 longer hedging solely for the Company but we're
12 hedging for customers, what changes?

13 And I, I -- in all the testimony I can't
14 find, from anyone, what changes with, with the
15 dramatic change in the incentive -- incentives as it
16 relates to hedging.

17 I mean, has the Division thought about if
18 we're hedging today for the Company, and tomorrow
19 we're hedging for the ratepayers because it's gonna
20 be -- I mean, the ratepayer perspective I assume is
21 gonna be perhaps different than what the Company's
22 perspective is as far as tolerance for risk and so
23 forth.

24 The question is, is there anywhere in this
25 docket where we talk about how that changes? Or is

1 that something we would do in this study that you've
2 talked about?

3 THE WITNESS: I think that's something that
4 would be, that would be done in the next study and
5 looking at how this affects the ratepayers. The -- by
6 including this in the ECAM the Company will recover
7 more of its costs.

8 They've also testified they're not going to
9 change the hedging program if the ECAM is adopted. So
10 we asked that in a data request, if they would be
11 adjusting anything, and they indicated they would not.

12 COMMISSIONER CAMPBELL: Let me just ask a
13 question about physical hedging. Is it your
14 understanding that, under the physical hedging
15 program, that part of that amount is not just
16 purchases of power but does that also include the
17 sales of -- sale of electric power?

18 THE WITNESS: Yes, it does.

19 COMMISSIONER CAMPBELL: So I'm gonna go back
20 to the old days now, and -- before we actually called
21 it "hedging." When the Company had surplus power --
22 they had power, they had shoulder power, whatever --
23 to minimize costs for ratepayers they would go to the
24 market and sell that.

25 Is that what's happening in some of this

1 physical -- what we now call "physical hedging"? Is
2 it just the normal operation of the utility where they
3 sell excess power on the market?

4 THE WITNESS: Yes. Part of that is their
5 transactions where they'll sell power on the market,
6 yes.

7 CHAIRMAN BOYER: Couple of questions. And
8 following up on Commissioner Campbell's question right
9 there, is the other part the fact that the Company is
10 locking in sale prices that may, in fact, be higher
11 than market later?

12 THE WITNESS: Say that again.

13 CHAIRMAN BOYER: Is one of the benefits of
14 the power hedging the fact that the Company is locking
15 in sales at --

16 THE WITNESS: At higher prices.

17 CHAIRMAN BOYER: -- prices that may be
18 higher?

19 THE WITNESS: Yes.

20 CHAIRMAN BOYER: That's it.

21 THE WITNESS: Yes.

22 CHAIRMAN BOYER: Now getting back to these
23 calculations. The benefit calculations, cost/benefit
24 calculations.

25 THE WITNESS: Okay.

1 CHAIRMAN BOYER: Where natural gas hedging
2 seems to be underwater most years -- and I'll use
3 that, most years -- and power hedging positive side.

4 Is it your position that if, if the Company's
5 hedging practices included some kind of a mechanism to
6 take advantage of a decline in fuel prices, gas --
7 natural gas prices, for example, that that net benefit
8 might even be higher than it is today?

9 THE WITNESS: Sure. Yes, it could be.

10 CHAIRMAN BOYER: That cost of hedging would
11 be down -- say if they're only hedging 60 percent, or
12 70 percent, or 80 percent, something like that.

13 THE WITNESS: And that, that was one of the
14 reasons why I want to -- why my recommendation is to
15 separate the gas and the electric hedges. Because if
16 we can reduce -- well, if -- for example, in 2009 they
17 show a \$221 million loss.

18 If you could reduce the amount of the loss on
19 the gas hedging, the net benefit to the Company is
20 greater.

21 CHAIRMAN BOYER: So if an ECAM were --
22 hypothetically, if an ECAM were approved, and if
23 hedging were included in that ECAM, would that be a
24 way to increase the benefit to customers, who now bear
25 the risk of fuel costs in an ECAM?

1 THE WITNESS: I think it would, yes.

2 CHAIRMAN BOYER: Because they could take
3 advantage of the ups and the downs?

4 THE WITNESS: They could take advantage of,
5 of a drop in the price.

6 CHAIRMAN BOYER: Okay. Thank you
7 Mr. Wheelwright.

8 Redirect, Ms. Schmid?

9 MS. SCHMID: Just a few.

10 REDIRECT EXAMINATION

11 BY MS. SCHMID:

12 Q. Mr. Monson asked you some questions about
13 beating the market.

14 A. Yes.

15 Q. Is it true that in economic theory the
16 long-term lowest price for a product is the market
17 price?

18 A. The market price or the spot price, is that
19 what you're saying?

20 Q. That the market price is the long-term lowest
21 price for the product. So yeah, the spot price.

22 A. I believe, yes, that is.

23 Q. Okay. Is it then fair to say that if one
24 wanted to achieve the lowest average price for a
25 commodity then one would rely upon market purchases

1 and not hedge; is that correct?

2 A. If you were looking strictly at price and you
3 were buying -- on the spot market, yes. But you would
4 have much more volatility.

5 Q. If I wanted to lower average costs I wouldn't
6 try to beat the market, I would go with the market.
7 Isn't that another way of saying what you just said?

8 A. Say that again.

9 Q. If -- let me rephrase the question. If you
10 wanted to lower average costs you would go with the
11 market rather than try and beat the market; isn't that
12 true?

13 A. Yes.

14 Q. You have made some -- on behalf of the
15 Division you have made some recommendations about
16 studying the Company hedging program and having the
17 Company provide some more information; is that
18 correct?

19 A. Yes, it is.

20 Q. So is it the Division's goal through
21 implementing the proposals that you make, such as
22 studying and Commission approval, that the Division is
23 seeking to balance the relationship between cost and
24 stability?

25 A. Yes, it is.

1 Q. I have just a few more. Mr. Monson asked you
2 about "the" objective of hedging. Is there more than
3 one objective for hedging?

4 A. I think there can be many objectives for
5 hedging, yes.

6 Q. So there's just not one?

7 A. No.

8 Q. And finally, you were asked questions about
9 why a utility may engage in a hedging process, and you
10 answered that. But one question that was left unasked
11 is, why would the counterparty participate in the
12 hedging process?

13 A. The counterparty believe -- the counterparty
14 wouldn't enter into the transaction if they didn't
15 think they could make money. They're not gonna enter
16 into a transaction if they're -- if the intent is to
17 lose money. So the counterparty intends to benefit
18 from the transaction.

19 Q. Are you generally familiar with the
20 Division's comments and testimony on ECAM design?

21 A. Somewhat.

22 Q. Is it your -- is your recollection that the
23 Division's ECAM design proposes sort of a sharing
24 band?

25 A. Yes.

1 Q. That -- and does this sharing band tie to
2 meeting hedging targets and participating in a hedging
3 analysis program?

4 A. I believe it does. It increases the, the
5 sharing percentage as some specific targets are met.
6 Is my understanding.

7 MS. SCHMID: Thank you. Those are all my
8 redirect questions.

9 CHAIRMAN BOYER: Okay. Thank you,
10 Mr. Wheelwright. You are excused.

11 We'll turn now to the Committee, but before
12 we do so let me check with our reporter.

13 Kelly, are you doing okay?

14 THE REPORTER: (Answers in the affirmative.)

15 CHAIRMAN BOYER: Our intention would be to go
16 till about five minutes to three. Would that be okay?

17 THE REPORTER: (Answers in the affirmative.)

18 CHAIRMAN BOYER: We do have to participate in
19 a telephone conference at 3:00 for a few minutes.

20 MS. HOGLE: Excuse me, Mr. Chairman.
21 Considering the importance of Commissioner Campbell's
22 question that I hear him asking, and he's been asking
23 for a little while and has not found an answer to his
24 satisfaction, the Company would be happy to provide
25 that answer.

1 And we think it would satisfy him. If, if it
2 would be helpful Commissioner Campbell. And we would
3 have somebody to answer that question for him.

4 CHAIRMAN BOYER: You're talking about the
5 customer benefit of hedging, is that the question?

6 MS. HOGLE: Yes.

7 MR. PROCTOR: Well, since I'm already
8 standing up should I just speak my objection at this
9 point?

10 CHAIRMAN BOYER: Sure. Go ahead,
11 Mr. Proctor. You're already up.

12 MR. PROCTOR: I probably need a microphone --
13 I'm not gonna need a microphone for this one. The
14 whole premise of this proceeding was to deal with --
15 in prefiled written testimony.

16 And then to wait until well, there's a
17 question asked, and conclude that the Commissioner
18 hasn't received an answer that he wants -- I don't
19 know how you figured that out. And then say, Oh,
20 we'll bring somebody else in.

21 Who? When? Will we have an opportunity to
22 depose them? So all those reasons, inappropriate.
23 With all due respect. I mean, the Commission needs
24 the information, that's why it's asking questions.
25 But this is not the way to go about doing it.

1 DANIEL E. GIMBLE,
2 called as a witness, having been duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. PROCTOR:

6 Q. Mr. Gimble, you are employed by the Utah
7 Office of Consumer Services; is that correct?

8 A. That's correct.

9 Q. What is your title there?

10 A. Special project manager.

11 Q. And in a sentence could you describe what
12 duties you have as special project manager?

13 A. Yes. Primarily analyzing filings by the
14 Utility. And working with Office staff and
15 consultants retained by the Office to address issues
16 contained in those filings.

17 Q. And in that capacity and with those duties,
18 Mr. Gimble, did you prepare the prefiled testimony
19 that is listed on the exhibit list for the Office and
20 your testimony that's been distributed?

21 A. I did.

22 Q. Do you have any corrections or changes that
23 need be made to any of those versions of the
24 testimony?

25 A. I have a few.

1 Q. Would you start with the first one and go
2 through them, please?

3 A. I have a couple changes -- corrections to
4 make to my direct. Page -- or line 424 on page 16.
5 "Forward" should be for -- or "forwards" should be
6 "forward." And line 681 on page 24, "complete" should
7 be "completed."

8 Couple more in the surrebuttal. Line 10,
9 page 1, should be June 16th. Line 142 there's two
10 periods after "study," should be one. Line 233, page
11 8, it says "both of these issues." "It" should
12 replace "both of these issues."

13 And my final correction is on page on 14 in
14 Footnote 9. It should say "direct testimony." I say
15 "my testimony," I should say "my direct testimony."

16 Q. With those corrections, Mr. Gimble, if I were
17 to ask you the questions that were asked in your
18 direct or in your prefiled written testimony would
19 your answers remain the same?

20 A. Yes.

21 MR. PROCTOR: With that, Mr. Chairman, the
22 Office would move for admission of the testimony that
23 is listed on Mr. Gimble's exist -- exhibit list.

24 CHAIRMAN BOYER: Any objection to the
25 admission of Mr. Gimble's direct and surrebuttal

1 testimony?

2 They are admitted.

3 (Exhibit Nos. OCS-5D Gimble, OCS-5D Gimble
4 (errata), and OCSW-5SR Gimble were admitted.)

5 Q. (By Mr. Proctor) Mr. Gimble, have you a
6 brief summary of your testimony?

7 A. I do.

8 Q. Would you provide it, please?

9 A. Sure. Market reliance and hedging are two
10 threshold issues that must be resolved prior to the
11 consideration of an ECAM, otherwise the public
12 interest will not be served. Accordingly, the Office
13 recommends that the Commission take the following
14 actions:

15 Initiate at first take a -- initiate a
16 thorough review of the Company's hedging practices
17 before any natural gas fuel or hedging costs are
18 included in an ECAM. The Office's hedging experts
19 have submitted specific recommendations that should be
20 included as part of this review.

21 Initiate -- secondly, initiate a
22 comprehensive market analysis to determine an
23 appropriate baseline level of market reliance. This
24 analysis should include the supply and price risk
25 associated with the Company's market reliance

1 strategy.

2 Further, the market analysis should be
3 presented as part of a focus proceeding before any
4 costs associated with market purchases are allowed in
5 any ECAM design.

6 Third, based on information acquired from the
7 market analysis, consider setting limits on the volume
8 of FOTs included in an ECAM. And establish a higher
9 evidentiary threshold for market purchases above the
10 limits until the Company's market reliance strategy is
11 consistent with least-cost-least-risk outcomes in
12 future IRPs.

13 In terms of our analysis presented in my
14 test -- the Office's analysis presented in my
15 testimony, I believe we demonstrate the following:
16 The Company's current resource strategy includes
17 significant reliance on market purchases, sometimes
18 referred to as FOTs, front office transactions.

19 Secondly, the Company has not supported its
20 market strategy with substantial evidence. And this
21 comes out in my third point, is that the Company's
22 market strategy -- or reliance strategy has not been
23 endorsed by the Commission in recent IRP orders.

24 Further, if costs associated with these
25 resource decisions were recovered in ECAM we believe

1 it would result in an assignment of risk directly
2 contrary to the Commission's 2007 IRP order, as
3 Mr. Duvall discussed a bit this morning.

4 Fourth, prior to the inclusion of the costs
5 associated with market purchases in any ECAM design a
6 focus proceeding is required to determine what limits
7 are reasonable and to avoid setting any arbitrary
8 restrictions.

9 Turning to some issues we responded to in
10 terms of the Company's rebuttal testimony. I won't
11 spend a lot of time but just hit a couple of them.
12 The Office assessed the Company's cost/benefit
13 analysis of deferring the Lakeside II resources. This
14 was the highly-confidential piece in Mr. Duvall's
15 testimony.

16 We believe the issue isn't whether that
17 single-resource decision turns out to be cost
18 effective. We think the issue is, if the Company
19 pursues resource, resource acquisition strategies that
20 are inconsistent with its IRP results then the Company
21 should bear those risks.

22 Secondly, the Office disputes the Company's
23 claim that the Commission acknowledged the higher
24 level of FOTs in all years but 2014 in comparing the
25 2008 IRP, per se, to the 2008 IRP update. I think

1 your order is pretty plain on this -- or plain
2 speaking on this.

3 You simply acknowledge that the Company's
4 resource plan generally complies with the IRP
5 guidelines. In fact, you explicitly stated that you
6 weren't convinced that the preferred portfolio was
7 optimal.

8 And you expressed concerns as to whether the
9 level of market purchases in that portfolio were
10 indeed in the public interest. That led you to direct
11 the Company to conduct further market analysis in the
12 four areas described in my direct testimony.

13 Third, the Office disagrees with the
14 Company's position that the IRP is the best venue, at
15 least at this time, for analyzing market reliance in
16 hedging issues.

17 Moving forward with an ECAM pilot without
18 first establishing appropriate baselines for market
19 purchases and hedging would not be in the public
20 interest because we believe it would shift certain
21 risks and cost responsibility to the customers without
22 adequate protections.

23 These issues cannot be designed around, nor
24 can they be appropriately remedied during a pilot
25 program. A baseline that maintains appropriate

1 consumer protections we believe must be in place
2 before considering an implementation of an ECAM.

3 We do agree with the Company that both
4 hedging and market reliance are dynamic issues.
5 They'll need ongoing review. It may be possible for
6 that review to occur within the IRP process. But we
7 think some changes to that process would also need to
8 be put in place since a review does not currently take
9 place.

10 Lastly, public interest? We continue to
11 recommend that the ECAM not be adopted, as the Company
12 hasn't met its evidentiary burden to show that an ECAM
13 would be in the public interest.

14 The Office -- we would further submit that
15 these threshold issues of market reliance and hedging
16 that you're considering right now must be resolved by
17 the Commission before any ECAM design can be in the
18 public interest.

19 And that concludes my summary, and thank you.

20 MR. PROCTOR: Mr. Gimble's available for
21 cross.

22 CHAIRMAN BOYER: Thank you.

23 Mr. Monson, will you be conducting the cross
24 examination?

25 MR. MONSON: I will, thank you.

CROSS EXAMINATION

BY MR. MONSON:

Q. Mr. Gimble, in your testimony you expressed a concern about the Company's level of reliance on the short-term power market to meet its needs; is that right?

A. That's correct.

Q. And you state that this market reliance exposes the customers to excessive risk?

A. It could potentially expose customers to, to risk, yes.

Q. Are you aware of any time that the Office has suggested in a general rate case to the Company that its net power costs should not be approved because the Company was relying too heavily on market purchases?

A. In the area of net power costs?

Q. Right.

A. I haven't been intimately involved in that area in the last two cases. I can't speak to those cases. Going back to prior cases, I know we had some concerns with the level of short-term purchases. And I can't give you the specific case.

Our witness in the -- in those cases proposed some specific adjustments on short-term firm.

Q. Your testimony says you joined the PSC staff

1 in 1987 and the Office in 1990; is that right?

2 A. That's correct.

3 Q. So you're familiar with Questar Gas's gas
4 balancing account, right?

5 A. Generally familiar.

6 Q. Do you recall in 1991 that the Office sought
7 a refund of approximately 97 -- \$77 million in
8 connection with gas acquisition costs in a gas
9 balancing account case for Questar Gas?

10 MR. PROCTOR: Objection, it's irrelevant to
11 the issue that's particularly before the Commission in
12 this particular case.

13 CHAIRMAN BOYER: Well, I, I don't remember
14 him testifying about this in his direct testimony or
15 surrebuttal.

16 MR. MONSON: No, he didn't testify about this
17 case. But I want to find out if he remembers the
18 Office taking the position that the Company ought to
19 refund \$77 million in a gas, in a gas balancing
20 account case.

21 MR. PROCTOR: There's foundational
22 questions -- problems as well with the question with
23 respect to -- because we don't know the circumstances
24 of that case, what was being asked, what was the
25 response.

1 We don't have the testimony. We don't even
2 have clear definition of what the issue was, other
3 than Mr. Monson's summary. It's -- in any event, it's
4 irrelevant.

5 MR. MONSON: I just asked him if he knew
6 about it.

7 CHAIRMAN BOYER: Well, let's see if he knows.

8 THE WITNESS: I didn't expressly work on that
9 case. I recall that the Committee, at the time,
10 challenged. I think it had to do with take or pay
11 contracts, if I recall.

12 Q. (By Mr. Monson) That's right.

13 A. And I don't remember if the 77 million was --

14 Q. Okay. That's what was throwing you?

15 A. It may be ball park, but I don't recall what
16 the amount was.

17 Q. But you are aware of the case?

18 A. I really didn't work on that case.

19 Q. And you were working for the Office at that
20 time, having just joined the Office from the
21 Commission staff, right?

22 A. Yes.

23 Q. Okay. Would you like to see a copy of the
24 Commission's order in the case? Would that help you?

25 MR. PROCTOR: I have to renew the objection

1 with respect to any further --

2 CHAIRMAN BOYER: Yeah, I don't see the
3 relevance of this line of questioning.

4 MR. MONSON: Can I proffer something?

5 CHAIRMAN BOYER: You may.

6 MR. MONSON: All right. I would, first of
7 all, ask the Commission to take notice of the order in
8 Docket No. 91-057-11 and Docket No. 91-057-17. It's
9 in the order issued September 10, 1993.

10 And in this order the Commission states that
11 the Committee of Consumer Services claimed that the
12 decreases were insufficient -- these are decreases in
13 the gas balancing account -- by \$76,617,835 because
14 Mountain Fuel should have purchased natural gas on the
15 spot market.

16 MR. PROCTOR: May I respond to the proffer?

17 CHAIRMAN BOYER: Sure.

18 MR. PROCTOR: The manner in which Questar Gas
19 purchases a commodity which is delivered directly to
20 the consumer is so far apart from the particular issue
21 that you have here before you, which is an
22 interdependent relationship between an ECAM and a gas
23 hedging program that's been in existence for four
24 years, that any questions pertaining to this at this
25 point forward are absolutely irrelevant.

1 CHAIRMAN BOYER: Well, I tend to agree with
2 Mr. Proctor. I'm not sure where this is going. Are
3 you trying to show some sort of inconsistency in the
4 positions taken by the Committee and the Office over
5 time?

6 MR. MONSON: Yes.

7 CHAIRMAN BOYER: Okay. Well, I don't --
8 let's not take the time to go there.

9 MR. MONSON: Okay.

10 CHAIRMAN BOYER: I don't think it's relevant.

11 Q. (By Mr. Monson) You're recommen -- excuse
12 me. You're recommending that the Commission not allow
13 front office transactions in the ECAM until it's
14 studied the issue and determined the appropriate level
15 of reliance on market purchases, including a
16 demonstration that the Western market is robust enough
17 to support that strategy; is that right?

18 A. That's correct. We're interested in getting
19 more information in terms of the depth and liquidity
20 of the various hubs that the -- where the Company does
21 business.

22 Q. You also recommend that the Commission not
23 allow any natural gas, fuel, or hedging costs in the
24 ECAM until it has comprehensively evaluated that
25 issue; is that right?

1 A. The hedging?

2 Q. Yes.

3 A. Yes.

4 Q. And you state, you state that both market
5 reliance and hedging issues require more near-term
6 analysis and specific guidance from the Commission on
7 market reliance, and specific changes in endorsements
8 from the Commission on hedging strategies and
9 practices; is that right?

10 A. That's correct.

11 Q. What do you mean by "specific changes in
12 endorsements"?

13 A. I, I think you've heard quite a bit of
14 testimony today that, that right now the Commission
15 doesn't have, effectively, a policy, for example on
16 hedging, in terms of establishing baseline
17 levels/ranges on hedging. That's what I mean. Same
18 thing with FOTs.

19 Q. Do you believe the Commission would be
20 willing to assume the responsibility of providing
21 specific changes in endorsements on hedge -- hedging
22 strategies and practices?

23 A. We think it's imperative that they take
24 additional information on this and make an informed
25 decision.

1 Q. So you think the Commission would, at the
2 conclusion of this proceeding, you envision start to
3 give specific guidance on the hedging practices of the
4 Company?

5 A. That, that's our recommendation.

6 Q. And you talk in your testimony about baseline
7 protections. Are they -- is that the same thing? Are
8 you talking about the same thing there? These -- this
9 guidance, these specific changes in endorsements?

10 A. I am.

11 Q. Didn't the Commission establish baselines in
12 the 2009 general rate case, with regard to net power
13 costs, based on a level of market reliance and hedging
14 costs in that case?

15 A. Well, it set base rates. But we're dealing
16 with an ECAM proposal, where variations in
17 cost-related FOTs or hedging could potentially be
18 passed through the ECAM. We think there needs to be
19 some baseline protections set forth by the, by the
20 Commission related to those two areas.

21 Q. The Office has been okay with the level of
22 hedging and market reliance that was included in the
23 last rate case, wasn't it?

24 A. In terms of the last rate case, I don't think
25 we set -- I don't know if I can fully answer that,

1 because I was working on the other side of the case.
2 In terms of the cost of service part of the case. I
3 wasn't involved in the net power cost portion of the
4 case.

5 I know Mr. Falkenberg had various adjustments
6 to the Company's net power cost level.

7 Q. Do you know if any of his adjustments were to
8 either hedging costs or level of market reliance?

9 A. I don't know the answer to that.

10 Q. Okay. But the Company -- the Office does
11 object to inclusion of these amounts in an ECAM; is
12 that right?

13 A. We, we've, we think that there needs to be a
14 first step, in terms of additional information needs
15 to be presented and considered, analyzed by the
16 Commission, before -- in the process of setting some,
17 some -- making a baseline determination in the area of
18 hedging and FOTs before they move forward with an
19 ECAM.

20 Q. Well, assuming for a minute that the
21 Committee -- the Office did not object, or didn't
22 raise an issue with the level of hedging, or the cost
23 of hedging, or the level of market reliance in the
24 last rate case. What's different about not raising it
25 there but raising it here?

1 A. Well, I think in an ECAM what you have here
2 is the potential variability associated with what was
3 set, you know, in base rates versus what might get
4 passed through an ECAM. The risk gets shifted.

5 The Company -- the base rates get set. You
6 manage the risk associated, you know, with your --
7 with, you know, your market purchases, et cetera,
8 going forward. But with -- in an ECAM that, that
9 potentially changes.

10 Q. (By Mr. Monson) But let's suppose for a
11 minute the Company didn't -- let's suppose the Company
12 decided not to hedge, and prices went up. Especially
13 price of gas went up. Between, between now and the
14 next general rate case. Can you accept that
15 assumption for a minute?

16 A. I'll accept it.

17 Q. Okay. And then the Company came in in the
18 next rate case and they said, Price of gas went up, we
19 need higher rates, we need higher net power costs.
20 What would the Committee's position be? Or the
21 Office's position, I'm sorry.

22 A. So you're not doing any hedging, and then
23 basically prices go up?

24 Q. (Moves head up and down.)

25 A. I mean, if we didn't challenge the -- run

1 your scenario again. I want to make sure I've.

2 Q. Okay. We've got, we've got a general rate
3 case with rates set.

4 A. Right.

5 Q. Including hedging.

6 A. Right.

7 Q. And a level of market reliance. And then the
8 Company decides to stop hedging.

9 A. Okay.

10 Q. And then the price of gas and the price of
11 fuel goes up. So in the next general rate case filed
12 maybe a year later the Company comes in and asks for a
13 large rate increase. What would the Office's position
14 be?

15 A. I think we'd have a -- we'd want to analyze,
16 you know, your decision to stop hedging.

17 Q. Okay. And wouldn't the -- if we continued
18 to --

19 A. In terms of, you know, the reasonableness
20 and, you know, the information, the criteria you used.

21 Q. Okay. And if we continued hedging, would
22 that be a protection to the ratepayers from that
23 increase in price in the next rate case?

24 A. Re -- or state it again, please.

25 Q. Okay. We've got a hedging program. We've

1 got our rates set -- level of hedging costs, and then
2 we continue that program.

3 A. Okay.

4 Q. Doesn't that provide some protection to
5 customers that we're not gonna come in and ask for a
6 huge increase because the price of gas went up?

7 A. I think it, you know, it does afford
8 protections. What we're saying is that there needs to
9 be a closer, closer scrutiny of the hedging program.
10 Especially in the context of the ECAM.

11 Q. Okay. You state that customers need to have
12 input into the hedging strategy, right? In your
13 testimony?

14 A. I do. Or the Office does, yeah.

15 Q. And do you know how that was provided in the
16 case of Questar Gas's gas balancing account before the
17 Commission approved that account?

18 A. In terms of Questar Gas's risk management
19 program?

20 Q. Right.

21 A. There was a series of meetings over, I want
22 to say the better part of a year. Maybe around eight
23 months. A stipulation was -- a stipulation came out
24 of that that was presented to the Commission. Related
25 to Questar Gas's hedging program.

1 Q. Okay. And when did that take --

2 A. But that was 2002, roughly.

3 Q. Okay, so there was a proceeding. Was the gas
4 balancing account already in effect before that took
5 place?

6 A. It was.

7 Q. Been in effect for many years, hadn't it?

8 A. Well, it had been -- I know it had been in
9 effect since the '80s.

10 Q. Okay. You've also talked in your summary
11 about the Commission's order in the 2007 IRP, right?

12 A. Yes.

13 Q. And you quoted that piece that's found on
14 page -- lines 89 to 92 in your surrebuttal testimony?

15 A. Eighty-nine to 92?

16 Q. I think so. Yeah, page 4.

17 A. Yes.

18 Q. Okay. Now, doesn't this quote say that the
19 Company should bear the risk of unreasonable costs?

20 A. That's what it says.

21 Q. So doesn't this imply that the Company should
22 be able to include reasonable costs in the ECAM?

23 A. If -- with your assumption that if an ECAM
24 was in place and it was able to demonstrate to the
25 Commission, to its satisfaction, that the costs

1 associated with deviations from its optimal portfolio
2 were in the public interest, they could convince the
3 Commission of that.

4 Q. So the issue is whether the costs are
5 reasonable or not, right?

6 A. I'm just re -- I just put in what the
7 Commission, you know, specified in their order.

8 Q. Okay.

9 A. In terms of, you know, a concern that the,
10 that the selected portfolio might not be, you know,
11 the least-cost-least-risk portfolio. And any -- or
12 any changes from the portfolio identified as coming
13 out of the 2007 IRP, the Company bore the risk.

14 Q. So if -- whether or not costs are reasonable
15 can be examined in a general rate case, right?

16 A. That's typically where it occurs, yes.

17 Q. And in the last general rate case nobody
18 raised any question about the reasonableness of the
19 hedging costs or the market reliance; is that right?

20 A. I think I earlier said I couldn't speak to
21 that.

22 Q. Okay. And, and can't the reasonable --
23 reasonableness of those costs also be examined in a
24 pass through proceeding?

25 A. I think, I think they could if you met the

1 threshold issues in terms of what we're raising here,
2 is we need some Commission guidance in terms of
3 establishing baselines in the area of hedging and also
4 FOTs.

5 MR. MONSON: That's all.

6 CHAIRMAN BOYER: Okay, thank you Mr. Monson.

7 Ms. Schmid, are you going to have questions
8 of Mr. Gimble?

9 MS. SCHMID: No questions.

10 CHAIRMAN BOYER: Okay. Ms. Hayes?

11 MS. HAYES: No questions.

12 CHAIRMAN BOYER: Mr. Evans? We're gonna
13 break here in about two minutes. I don't want to --

14 MR. EVANS: I can do it in two.

15 CHAIRMAN BOYER: Let's see you do that.
16 Proceed, Mr. Evans.

17 CROSS EXAMINATION

18 BY MR. EVANS:

19 Q. Good afternoon Mr. Gimble.

20 A. Good afternoon.

21 Q. Referring to Mr. Monson's hypothetical where
22 he asked you if the Company quit hedging and gas
23 prices went up, what would you say? Do you recall
24 that hypothetical?

25 A. I do.

1 Q. Is it the Commission's proposal that no
2 hedging of natural gas should occur?

3 A. That's not our proposal. We think it needs
4 to be closely examined.

5 Q. Somewhat less than the Company is doing right
6 now but not nothing, right?

7 A. Yeah, not nothing.

8 Q. Okay. Question for you on cross as well.
9 How long do you con -- do you believe it might take
10 for the Commission to get -- well, let me ask you this
11 first.

12 Do you contend that this process ought to be
13 outside the IRP or within the IRP?

14 A. We -- our position is it should be outside
15 the IRP initially.

16 Q. And --

17 A. But possibly within the IRP going forward
18 after that.

19 Q. And does the Office contemplate that that
20 review could be done by the conclu -- let me back up.

21 If the Company were to file a general rate
22 case in January, is it the Office's view that this
23 Commission review of hedging practices could be done
24 by the completion of the general rate case?

25 A. By the completion of the general rate case?

1 Q. Yes.

2 A. Yeah, I think that's a fair assessment. I
3 think it could be.

4 Q. So that, so that maybe a January rate case --
5 a rate case filed in January might be an appropriate
6 time to reset hedging costs for the purposes of an
7 ECAM?

8 A. That, that time frame might work.

9 MR. EVANS: No further questions. Thank you.

10 CHAIRMAN BOYER: Actually, Commissioner Allen
11 has no questions. Commissioner Campbell?

12 COMMISSIONER CAMPBELL: Are you aware if the
13 Commission has provided guidelines to Questar as it
14 relates to their hedging program? I mean, has the
15 Commission dictated specifics about that program
16 before?

17 THE WITNESS: I think there are some general
18 guidelines.

19 COMMISSIONER CAMPBELL: So if we don't have
20 specific -- or I, I think some of the things that you
21 want the Commission to share with the Company,
22 wouldn't that kind of get over into that territory of
23 micromanaging?

24 I mean, how -- certainly generalities are
25 somewhat okay, but some of the issues that you've been

1 talking about seem quite specific to me. And I don't
2 know if we feel like we have the expertise to make
3 some of those decisions. And certainly not the record
4 before us right now.

5 THE WITNESS: And that's why we're -- you
6 know, our recommendation is to get, get the
7 information and create that record so you can make,
8 you know, an informed decision. And, you know. And
9 maybe we are just going to, you know, end up with
10 general guidelines.

11 But, you know, we, we do think there needs to
12 be baseline protections for customers in these areas
13 of, you know, market reliance and hedging. And so we
14 are looking for the Commission to give some...

15 COMMISSIONER CAMPBELL: I will confess, I've
16 done a sneak peak of your other testimony. And the
17 question is, is are there protections in the design of
18 the ECAM that can be put into place that address these
19 issues before we actually get into the weeds on these
20 issues?

21 THE WITNESS: And I'm not -- our testimony in
22 this phase, phase is you can't deal with these
23 threshold issues in market reliance and hedging
24 through design. We think there needs to be a separate
25 process. A separate, you know, focus proceeding to

1 deal with it.

2 CHAIRMAN BOYER: Well, Commissioner Campbell
3 asked my questions, so I have none.

4 Mr. Proctor, are you gonna have any redirect?

5 MR. PROCTOR: Nope.

6 CHAIRMAN BOYER: Okay, very well. You are
7 excused, Mr. Gimble.

8 THE WITNESS: Thank you.

9 CHAIRMAN BOYER: Thank you. We're hopeful
10 that we can conclude this telephone conference in
11 15 minutes or so, so we'll take a recess until then.

12 We're also hopeful that we can conclude this
13 hearing today. I know we have at least a couple of
14 witnesses from out of town. I don't know where
15 Ms. Kelly lives these days.

16 MS. KELLY: I live in Pocatello.

17 CHAIRMAN BOYER: Okay.

18 MS. KELLY: My daughter's birthday is
19 tomorrow. So if I could get home tonight, that would
20 really be wonderful.

21 CHAIRMAN BOYER: We will not be having
22 hearings tomorrow. We are 110 percent committed
23 tomorrow ourselves.

24 MS. KELLY: Okay.

25 COMMISSIONER BOYER: Okay, very well. We'll

1 see you back here within 15 minutes or so.

2 (A recess was taken from 2:57 to 3:18 p.m.)

3 CHAIRMAN BOYER: We're back on the record.
4 Thanks for your patience. We were able to -- we're
5 not very smart but we are fast, as I told Mr. Evans in
6 the hallway.

7 All right. Mr. Wielgus?

8 MR. WIELGUS: Yes.

9 CHAIRMAN BOYER: You have not been sworn in
10 this matter.

11 MR. WIELGUS: Not yet.

12 (Mr. Wielgus was sworn.)

13 CHAIRMAN BOYER: Thank you. Please be
14 seated.

15 PAUL WIELGUS,
16 called as a witness, having been duly sworn,
17 was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. PROCTOR:

20 Q. Mr. Wielgus, would you state your name, spell
21 it for the reporter please, and describe the nature of
22 your business, your occupation?

23 A. Sure. My name is Paul Wielgus,
24 W-i-e-l-g-u-s. I'm the managing director with GDS
25 Associates, which is an energy consulting firm with --

1 headquartered in Marietta, Georgia.

2 Q. And how long have you been engaged in the
3 consulting business?

4 A. Off and on for about six years.

5 Q. Are utilities a general focus of your
6 particular consulting work?

7 A. Utilities, municipal, some industrials, and
8 some other private clients.

9 Q. And in this particular matter you were
10 retained by the Utah Office of Consumer Services; is
11 that correct?

12 A. Yes.

13 Q. And generally what was the description of
14 your duties?

15 A. To generally discuss natural gas hedging
16 costs and related matters.

17 Q. And in -- and you prepared testimony in this
18 matter that's been prefiled with the Commission,
19 correct?

20 A. Yes.

21 Q. And did you have an opportunity and did you
22 take the opportunity to review the filing that had
23 been made by Rocky Mountain Power?

24 A. Yes.

25 Q. And the testimony that had been supplied --

1 or submitted in connection with that application?

2 A. Yes.

3 Q. Did that include also Phase I of the -- this
4 proceeding, that was resolved by an order in February?

5 A. Yes. From what I recall, yes.

6 Q. There is an exhibit list that has been
7 circulated that contains the exhibits of your
8 testimony. Did you prepare or cause to be prepared
9 that prefiled written testimony?

10 A. Yes.

11 Q. Do you have any corrections to the testimony?

12 A. Yes, I do. On Page 7 of the direct
13 testimony, line 143, "uncertainties" is misspelled.
14 It should be spelled as in line 144.

15 Q. If I were to ask you, then, the questions
16 that were put to you in the written question --
17 written testimony would your answers today remain the
18 same?

19 A. Yes.

20 MR. PROCTOR: The Office would offer the
21 admission -- or ask that you admit the testimony as
22 listed on the exhibit list pertaining to Mr. Wielgus's
23 testimony.

24 CHAIRMAN BOYER: Are there objections to the
25 admission of Mr. Wielgus's direct and surrebuttal

1 testimony, together with exhibits?

2 They are admitted.

3 (Exhibit Nos. OCS-4D Wielgus, OCS-4.1,
4 Appendix, OCS-4SR Wielgus, and OCS-4.1SR were
5 admitted.)

6 Q. (By Mr. Proctor) Mr. Wielgus, have you
7 prepared a brief summary of that testimony?

8 A. Yes, I have.

9 Q. Would you provide it, please, to the
10 Commission and the parties?

11 A. Yes. The purpose of my testimony was to
12 generally discuss natural gas hedging costs and
13 related matters. My conclusions, based on my review
14 and experiences, are:

15 One, to sufficiently evaluate the result of
16 natural gas hedging there needs to be a thorough
17 analysis of the associated transaction costs.

18 Two, the benefits of partial levelling of
19 rates based on natural gas hedging should be valued
20 and compared to other rate stability options and the
21 cost of stability.

22 Three, the use of natural gas price options
23 by the Company should be evaluated for implementation.

24 Four, the purpose of the Company's hedging
25 activities should be decided.

1 And five, the policy formulation regarding
2 hedging and the ECAM should be made after the
3 necessary input on these issues and others is received
4 and the analysis is complete.

5 Until the above is accomplished, a decision
6 on whether the Company's natural gas hedging and ECAM
7 are consistent with the public interest is precluded.

8 A statement by one of the Company's
9 witnesses, Mr. Graves, supports this when he states
10 that one of the practical consequences of the proposed
11 ECAM is that the right amount of risk management
12 should become a policy that is decided with input and
13 guidance from the Commissioners and the customers.

14 Q. Does that conclude your summary?

15 A. Yes.

16 MR. PROCTOR: Mr. Wielgus is available for
17 cross.

18 CHAIRMAN BOYER: Thank you Mr. Proctor.
19 Mr. Monson?

20 MR. MONSON: Thank you.

21 CROSS EXAMINATION

22 BY MR. MONSON:

23 Q. Mr. Wielgus, just to pick up on what you just
24 said in your summary, you quoted something from
25 Mr. Graves' testimony?

1 A. Yes.

2 Q. Mr. Graves acknowledged that with an ECAM in
3 place it was important to find out what level of risk
4 tolerance the customers would have, right?

5 A. I don't recall, but I'll take your word for
6 it.

7 Q. And -- but he did not recommend that that
8 needed to be done before inclusion of hedging costs
9 and market reliance in the ECAM, did he?

10 A. I don't recall, but I think that's the case
11 that he did not recommend that.

12 Q. Okay, thank you. Rocky Mountain Power sent a
13 data request to the Office asking for prior
14 testimony -- testimony by you on hedging. Did you --
15 did the Office consult with you on a response to that
16 request?

17 A. Yes.

18 Q. And the response was that prior to this
19 docket you hadn't submitted any testimony on hedging;
20 is that right?

21 A. I hadn't submitted any testimony I think on
22 point was the question that was asked.

23 Q. Okay. And so I was looking for what
24 experience you would have with the issues related to
25 hedging. And I noticed that you, from 1991 to 1997,

1 were a director at Enron Capital and Trade. Is that
2 with -- in that job did you have experience with
3 hedging?

4 A. Yes.

5 Q. And could you tell us a little bit about what
6 you did?

7 A. A number of different responsibilities, from
8 origination to short-term marketing of various energy
9 projects and energy supply. Also some capital
10 projects as it related to power project gas pipelines
11 and electric-drive gas compression services.

12 Q. Okay. But with regard to trading in the gas
13 market?

14 A. No, I was not a trader, but worked very
15 closely with traders and with the pricing lists to
16 price the products -- both short and long-term
17 origination products -- on the supply -- on the power
18 supply and on the gas supply.

19 Q. So both gas and electric?

20 A. Yes.

21 Q. And did you have any responsibility for
22 developing the strategy followed by Enron in its
23 trading strategies?

24 A. No.

25 Q. Okay. In, in your testimony you say that

1 there's some indication, based on Mr. Duvall's
2 rebuttal testimony, that the Company's changing its
3 position with regard to the objective of the hedging
4 program; is that right?

5 A. Yes.

6 Q. You attach -- as one of the bases for that
7 you attached, as an exhibit to your surrebuttal
8 testimony, a data request; is that right?

9 A. Yes.

10 Q. Can you please explain to me how this
11 response to this data request indicates that the
12 Company is not still hedging to reduce the risk of --
13 the adverse risk of market prices changing?

14 A. Up until this point it was clear to me that
15 the Company's position was that it was minimizing the
16 volatility associated with those prices.

17 Q. Okay. And isn't that what this answer says:
18 Hedges, whether fixed price for -- physical or
19 fixed-for-floating financial swap transactions, are
20 executed to reduce the risk of adverse market prices
21 sometime in the future?

22 A. An adverse market price is different than
23 fixing the volatility of a price.

24 Q. In your mind, it's different?

25 A. In my mind it's different, yes.

1 Q. How?

2 A. In my mind it's different in that if you, if
3 you are taking on and managing the volatility of that
4 price you've accepted that market -- risk of that
5 particular market. And here you're talking about the
6 adverse market positions or prices in that market
7 versus just fixing the volatility of that, that
8 market.

9 Q. Okay.

10 BEGIN STRICKEN PORTION

11 ***

12 ***

13 ***

14 ***

15 ***

16 END STRICKEN PORTION

17 Q. (By Mr. Monson) You also discuss enterprise
18 risk management in your testimony, right?

19 A. Yes.

20 Q. And you discuss the various risks the Company
21 is attempting to manage. And suggest that if the
22 risks were applied at the enterprise level, from the
23 ratepayer perspective, in addition to being applied at
24 the policy level, the process could produce the best
25 results; is that right?

1 A. I don't recall if I say the best results, but
2 it could result in better, better results.

3 Q. If you'd turn to line 81 of your surrebuttal?

4 A. Oh, "the best results."

5 Q. Okay. What do you mean by "the best
6 results"?

7 A. The best results would be results that not
8 only took into consideration how that resource might
9 be spent to whether it's fixing the volatility of the
10 price, managing the market risk of that market.

11 Or perhaps there's better ways to spend
12 that -- those additional resources in other areas,
13 from the ratepayers' perspective, as it relates to the
14 limited amount of resources, just like the Company
15 has, that the ratepayer may have.

16 That -- other options in -- perhaps labelled
17 as investing those dollars, perhaps there may be a
18 better or best place for that, other than the
19 current managing the volatility. After that analysis
20 it may come back, but that is the answer.

21 Q. And so is there any way the Commission could
22 measure, quantitatively, whether the Company had
23 achieved the best result?

24 A. I think there can be an opinion as far as one
25 result is better than the other. And the options that

1 are available, one isn't the best result.

2 Q. Are you suggesting by this testimony that the
3 measure would be the lowest cost for NPC? For net,
4 for net power costs?

5 A. No.

6 Q. Okay. Would you agree with me that natural
7 gas and electricity are now commodities?

8 A. Yes.

9 Q. And any company that trades in commodities
10 should have a front office, a mid office, and a back
11 office?

12 A. Yes.

13 Q. And you agree that even if the Company did
14 not do physical or financial hedges, it would still be
15 required to have these front office, mid office, and
16 back office, right?

17 A. To some degree.

18 Q. But you disagree with Mr. Duvall's testimony
19 that the costs associated with these offices would
20 largely be incurred even if the Company did not have a
21 hedging program?

22 A. Yes.

23 Q. Okay. And you said there was -- you said
24 there would be a measurable reduction in IT systems,
25 reporting, accounting, legal, and risk management

1 compliance resources if the Company didn't have a
2 hedging program?

3 A. Yes.

4 Q. When you say "measurable," what do you mean?

5 A. That it would be something that would be
6 noticed as far as the expenses from the Company's
7 perspective, and ultimately the ratepayers'
8 perspective, of what those costs would be to not only
9 manage the physical transactions, but on top of that
10 the financial transactions.

11 Q. Did you, did you do any kind of analysis or
12 study of the Company's risk management personnel, or
13 office, or the hedging group in the Company?

14 A. We asked a data request, I think. But I
15 honestly don't recall whether we divided -- or looked
16 at allocating or estimating costs of hedging versus
17 physical.

18 Q. Do you have any idea what percentage of the
19 trades that the front office does at PacifiCorp are
20 for hedging, versus simply cash purchases to meet
21 daily needs?

22 A. No, I don't.

23 Q. Would you accept, subject to check, that it's
24 less than 5 percent?

25 A. Could you re-ask that question?

1 Q. Would you accept that the amount of trades
2 for hedging is less than 5 percent of the total number
3 of trades?

4 A. I guess it would depend on how you, how you
5 valued that percentage. It's 5 percent of?

6 Q. Number of trades.

7 A. If -- subject to check, sure. That's fine.

8 Q. I mean, does it seem reasonable, based on
9 your experience?

10 A. That could be reasonable, sure.

11 Q. Okay. So -- and I -- and did you read
12 Ms. Schell's testimony?

13 A. Yes.

14 Q. She says in there there's one gas trader,
15 right?

16 A. Yes.

17 Q. Now, at the time she checked there was an
18 opening, so there's really two gas traders. But if
19 the Company were to reduce its number of trades by
20 5 percent could it eliminate either of those two
21 positions, do you think?

22 A. I don't know the answer to that. But there's
23 a lot of spun-off activities as a result of that
24 hedging. One of the reasons we're here today.

25 Q. If -- do you -- you don't know how many

1 traders the Company has for electricity?

2 A. No, I don't know.

3 Q. Let me ask you to assume that there's six
4 traders on, on the job at any given time. Two of whom
5 are buying and selling electricity realtime. One is a
6 forward trader and also engages in cash trades. And
7 the other three are cash traders who deal with
8 near-term trades in the balance of the current month
9 and the next month. Does that sound reasonable?

10 A. I don't, I don't know the answer if that's
11 reasonable or not based on, based on your description.
12 But I assume it is.

13 Q. Do you know how many of those individuals
14 could be let go if the Company were to reduce its
15 number of trades by 5 percent?

16 A. No, I don't. And, you know, you make some
17 descriptive terms there, whether it's cash traders,
18 when we talk about front office transactions. I think
19 that's one of the issues that we have, is what -- for
20 all of us to properly and appropriately understand,
21 when we say these different terms, exactly what they
22 mean.

23 And I'm not sure that's the case. So that's
24 part of the issue in trying to answer your questions.

25 Q. Do you know what IT systems the Company could

1 eliminate if it reduced its number of trades by
2 5 percent?

3 A. No. But they, they recently I, guess, either
4 have implemented, or proposed, or have approved a new
5 system to track some of their trades. Or to track
6 their trading.

7 Q. Do you know whether or not that was caused by
8 hedging, or was it caused by the number of trades?

9 A. I would assume that hedging drives a
10 considerable amount of that.

11 Q. Even is hedging is only five percent of the
12 number of trades?

13 A. Sure, yes. Yes.

14 Q. Why would that be?

15 A. Because of the complexity and the, and the
16 financial exposure associated with putting on
17 expositions.

18 Q. Are you aware that none of the costs of the
19 traders, the IT systems, the reporting, accounting, or
20 legal are included in net power costs?

21 A. I'm not aware of that.

22 Q. And if they aren't included in net power
23 costs they wouldn't be recovered through an ECAM
24 either; is that right?

25 A. But they would be paid by the ratepayer in

1 some form or fashion, I assume.

2 Q. Would they be included in a general rate case
3 under O&M expenses?

4 A. I don't know the answer to that, but perhaps.

5 Q. Okay. And if they were, then they'd be
6 examined whether they were reasonable or not in a
7 general rate case?

8 A. I would assume so.

9 Q. So they wouldn't impact the ECAM?

10 A. They would impact the cost to the ratepayers.

11 Q. Okay. And -- but you say the more important
12 issue with regard to hedging is the, is the
13 transaction cost relating to credit and -- which can
14 be very material, right?

15 A. Yes.

16 Q. Okay. Do you understand how the costs
17 relating to credit are incurred in hedging
18 transactions?

19 A. Yes.

20 Q. Can you explain that?

21 A. It could be a number of different ways. One
22 could be -- it's dependant upon the transaction that
23 the Company has entered into and what the counterparty
24 on the other side of that transaction requires. It
25 can be in a form of a letter of credit. It can be

1 form of posting cash. It can be in the form of
2 actually making payments to that, to that
3 counterparty.

4 There's a number of different structures that
5 can be put together. And that's negotiable between
6 the two counterparties, the Company and the other
7 counterparty.

8 Q. Okay. So let's suppose the Company is on the
9 wrong side of the hedge and it has to post cash
10 collateral, say, to the counterparty. Is that a -- is
11 that something that can happen?

12 A. Could happen.

13 Q. Do you understand what accounting takes place
14 if the Company is required to post, post cash
15 collateral?

16 A. No, I'm not familiar with the exact
17 accounting of that.

18 Q. Would you accept that it reduces the working
19 capital available to the Company?

20 A. Probably.

21 Q. Is working capital included in net power
22 costs?

23 A. I don't know the answer to that.

24 Q. Do you know how working capital is determined
25 in a rate case?

1 A. I don't know the answer to that.

2 Q. Assuming that working capital is determined
3 in a rate case based upon a lead/lag study -- are you
4 familiar with lead/lag studies?

5 A. No.

6 Q. Okay.

7 MR. MONSON: That's all my questions.

8 CHAIRMAN BOYER: Thank you Mr. Monson.

9 Ms. Schmid, have you questions of Mr.
10 Wielgus?

11 MS. SCHMID: No questions.

12 CHAIRMAN BOYER: Okay.

13 Okay, turning now to Ms. Hayes. Questions
14 for Mr. Wielgus?

15 MS. HAYES: No questions.

16 CHAIRMAN BOYER: Mr. Evans?

17 MR. EVANS: Just, just a very short one,
18 Mr. Chairman.

19 CROSS EXAMINATION

20 BY MR. EVANS:

21 Q. Mr. Wielgus, I have a, I have a question
22 about your testimony online 107 of your direct,
23 beginning there?

24 THE REPORTER: Can you speak up, Counsel,
25 please?

1 MR. EVANS: Yeah. The light's on, that's
2 usually the problem.

3 Q. (By Mr. Evans) Beginning with line 107 on
4 your direct testimony you discuss -- and there's some
5 confidential text in here as well. But the discussion
6 is how one might estimate the value that ratepayers
7 receive from the Company's incurred hedging costs.

8 Is that -- have I got that right?

9 A. Repeat that again, please?

10 Q. Well, how you might value the benefit that
11 ratepayers receive from the Company's incurred costs
12 of hedging.

13 I'm looking at line 113 specifically in that
14 paragraph. The value of the Company's energy hedging
15 program can be looked at by comparing?

16 A. Yes.

17 Q. And, and to rephrase, maybe. What I think
18 you're saying is that you can somehow value the
19 benefit of the partial levelling of rates.

20 How would, how would one go about doing that?
21 I'm just -- I'm curious.

22 A. There would have to be some exercise to, to
23 try to calculate how valuable -- what is the value
24 that the ratepayer would be willing to pay for the,
25 for the level of price stability that the natural gas

1 hedges provide.

2 Q. This is Commissioner Campbell's question,
3 essentially, isn't it?

4 A. Yes.

5 Q. And are you saying that there's a way to
6 monetize that value?

7 A. There may not be a way to monetize it, but
8 there's a way to calc -- try to calculate that. To --
9 it would be an estimate, but it would be, it would be
10 an estimate of that value to the customer.

11 Q. Would that estimate be in dollars?

12 A. Yes.

13 Q. Okay. So, so you believe that's an estimate
14 that ought to occur before these costs go into ECAM;
15 am I correct in assuming that?

16 A. Yes.

17 Q. And that could occur in some other
18 proceeding, not this one, is how I understand the
19 Office's position?

20 A. It should, it should occur in the proceeding
21 as it relates to the hedging practices and, and the
22 ECAM.

23 Q. Thank you.

24 MR. EVANS: No more questions.

25 CHAIRMAN BOYER: Thank you Mr. Evans.

1 Commissioner Allen?

2 COMMISSIONER ALLEN: No.

3 CHAIRMAN BOYER: Commissioner Campbell?

4 COMMISSIONER CAMPBELL: On page 10 of your
5 direct testimony you list five recommendations. And I
6 guess my question to you is, are those recommendations
7 related to hedging as, as they would be used in an
8 ECAM, or are they related to hedging as it is used
9 today?

10 THE WITNESS: As it would be in ECAM.

11 COMMISSIONER CAMPBELL: And I think I
12 heard -- when you talked about the partial levelling
13 of rates I think I heard, in Mr. Gimble's cross
14 examination, a hypothetical where, where there would
15 be some customer rate stability if you had a second
16 rate case involved.

17 And I think the hypothetical went that if
18 you, you hedge natural gas costs in Rate Case 1, and
19 then in Rate Case 2 you continue to hedge, there might
20 be some, some degree of levelling of rates there.

21 In that situation, I mean, what -- once
22 again, I'm not sure how you value that. Maybe it's
23 back to Mr. Evans' question. Is that worth
24 \$200 million to ratepayers? Or how, how do you
25 assign -- I still -- for Mr. Evans' question I didn't

1 hear how you assign dollar numbers to benefit of
2 stability.

3 THE WITNESS: I think that's two different
4 questions if you're asking it from the way the net
5 power costs are recovered today, versus the way
6 perhaps they would be under an ECAM. Today I agree
7 with your comment that the protection is for the
8 Company.

9 And the Company is making those decisions for
10 its protection. And the Company has designed its
11 program, and its risk management policy, and its risk
12 tolerance is all designed to address the risks that it
13 has under the current design.

14 They've basically constructed their book --
15 they've constructed their policies to manage their
16 book. And if an ECAM were implemented today,
17 basically what the Company would be doing would be
18 transferring that book to the ratepayers.

19 Which the ratepayers don't have a clear
20 understanding -- as was, I think, exemplified today
21 in, in the testimony -- don't have a clear
22 understanding of exactly what's in that book. They
23 didn't design the program. And they have no idea what
24 the value of that book is.

25 And I think until the parties have, have done

1 the necessary work to value what's in that book so
2 that when that book is basically transferred from the
3 Company's side to the ratepayers' side they fully
4 understand the value of that book, I, I can't think of
5 a situation where any trader, any originator, anybody
6 who is looking at a trading book would, would agree
7 with the Company and transfer that book, say
8 overnight, to the other side of the business, to the
9 ratepayers.

10 And as Mr. Duvall recommended, not to change
11 anything that's in there as a result of that transfer,
12 that just -- I just can't envision where someone would
13 recommend to the Company, without having the
14 necessary -- having done the necessary due diligence,
15 that they would accept that book, as is, with no
16 changes, and to continue to do the same activity.

17 COMMISSIONER CAMPBELL: So it's a fair
18 assumption that, that Company incentives and motives
19 as it relates to hedging might be different than what
20 customers would expect or want?

21 THE WITNESS: Under its current design and
22 proposed design, very much so. Yes.

23 CHAIRMAN BOYER: Mr. Evans asked my question,
24 and Commissioner Campbell followed up with my second
25 question. But I, I mean, I -- based on my own

1 experience I know that ratepayers do not like volatile
2 prices.

3 They don't like increasing prices, but they
4 dislike even more volatile prices, I think. Prices
5 that go up and down. But I'm still not clear as to
6 how one monetizes the benefit of rate stability
7 between case, to case, to case.

8 THE WITNESS: No, no system will be perfect.
9 No -- at some point the ratepayers will accept some of
10 that risk, some of that price change risk, regardless
11 of whatever type of program design. At the very -- at
12 the, at the very forward years there is that -- the
13 ultimate risk to the ratepayers.

14 One way to, to put a value on that stability
15 is one of the things has been mentioned, one of the
16 options that the Company hasn't taken on yet, is the
17 implementation of price options. They're very
18 definable. They have a, they have a very defined
19 time.

20 You can either do them on the exchange or you
21 can do them readily over the counter -- over the
22 counter. They're very liquid. And they have a very
23 set price.

24 So the customer could see, If I want this
25 stability -- basically a cap -- and if the price falls

1 below that cap I get the benefits, they can then
2 measure for this stability it's this price, for this
3 stability it's that price.

4 So the customers can then make a decision,
5 the ratepayers can then make a decision, based on the
6 price of that certainty that they want, is it worth
7 that premium? Or is a lesser premium more -- so that
8 is one way to be able to -- the term earlier was
9 "monetize." That is one way to be able to monetize
10 the value of that stability. Especially the downward
11 stability.

12 There's no better price protection from a
13 buyer perspective -- which the ratepayer is -- there's
14 no better buyer protection than a price option.
15 Because they get the, the benefit of the price
16 protection, but they also share in the downside of the
17 market, which is important to them. Or should be
18 important to them.

19 CHAIRMAN BOYER: Is it fair to say that the
20 Office believes that ratepayers should have some
21 involvement in at least defining hedging practices?
22 Some kind of input into that process?

23 THE WITNESS: Absolutely.

24 CHAIRMAN BOYER: And there's a concept in the
25 law dealing with risk allocations, especially among

1 tort lawyers. And the general rule of thumb is that
2 risk should be placed on those best able to mitigate
3 that risk. Or those who caused the risk.

4 How, how would you envision ratepayers
5 actually weighing in on hedging practices with, you
6 know, the level of hedging? The, you know, whether
7 you hedge one year out or two years out, or whether
8 you hedge 50 percent, or 80 percent, or 100 percent.
9 How, how do customers weigh in on that?

10 THE WITNESS: I think they weigh in through a
11 process like this. I think, unlike the IRP -- I'm not
12 an expert in the, in the, in the legal weight of the
13 IRP, but it seems to be more of, of a process that it
14 is actually something that is more binding.

15 And the purpose of an IRP is least cost
16 objective. Hedging isn't necessarily least cost. So
17 there should be a separate proceeding where it is
18 litigated in a setting like this. The evidence is
19 presented. Each gets -- each ratepayer interest gets
20 to, to weigh in on that, and the Commission decides.

21 CHAIRMAN BOYER: Okay, thank you Mr. Wielgus.
22 Redirect, Mr. Proctor?

23 MR. PROCTOR: No, thank you.

24 CHAIRMAN BOYER: You are excused. Thank you
25 very much.

1 THE WITNESS: Thank you.

2 CHAIRMAN BOYER: We'll hear now from
3 Dr. Schell.

4 (Dr. Lori Smith Schell was sworn.)

5 CHAIRMAN BOYER: Thank you. Please be
6 seated.

7 DR. LORI SMITH SCHELL,
8 called as a witness, having been duly sworn,
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. PROCTOR:

12 Q. Dr. Schell, would you state your name, spell
13 it for the reporter of course, and describe in general
14 your occupation and your interest?

15 A. Okay. My name is Lori Schell, S-c-h-e-l-l.
16 I am the founder and owner of Empowered Energy, a
17 small independent consulting company in Colorado.

18 Q. How long have you been engaged in consulting?

19 A. On my own, for eight years. And much earlier
20 in my career for another five years.

21 Q. Was there a CV attached to your testimony?

22 A. Yes, there was.

23 Q. You are here testifying on behalf of the Utah
24 Office of Consumer Services. Could you describe what
25 the Office's direction to you was?

1 A. Was to look at the hedging policies of the
2 Company. And to determine whether they were
3 reasonable and represented the interests of the
4 ratepayers.

5 Q. You are a Ph -- hold a Ph.D.?

6 A. Yes.

7 Q. And what -- in what field?

8 A. In mineral economics and operations research.

9 Q. And have you been engaged in consulting in
10 connection with utility programs and utility policies?

11 A. I have done some consulting for utilities.

12 Q. Have you ever been involved in a subject
13 matter such as the one that's in this particular case,
14 and that's hedging?

15 A. In -- with respect to utilities?

16 Q. In any hedging.

17 A. In any hedging? I've been very actively
18 involved in hedging as a professional in one of my
19 corporate positions.

20 Q. And which one was that?

21 A. That was at Trigen Energy Corporation, where
22 I was the director of energy risk management.

23 Q. And is Trigen a public utility?

24 A. It is not. It is a combined heat and power
25 company, so has both the electric and the natural gas

1 interests.

2 Q. As part of your -- the request from the
3 Office you have prepared testimony that is listed on
4 the exhibit list; is that correct?

5 A. Yes.

6 Q. And this was prepared under your direction or
7 by you?

8 A. Yes.

9 Q. Do you have any corrections to make to any
10 portion of that testimony?

11 A. Yes, I do. On the Exhibit OCS-2.2, on
12 page 1, I incorrectly referred to the docket number in
13 the first column of numbers. The correct docket
14 number should be "03-2035-02." And the same
15 correction applies for Exhibit OCS-2.3 Schell, where
16 the first column should have that same label,
17 "03-2035-02."

18 Q. And with those corrections, if I were to ask
19 you the questions that you answered in your prefiled
20 written testimony would your answers today be the
21 same?

22 A. Yes, they would.

23 MR. PROCTOR: The Office would move for
24 admission of the testimony of Dr. Schell, as listed
25 and as numbered on the exhibit list which you have

1 before you.

2 CHAIRMAN BOYER: Is there any objection to
3 the admission of Dr. Schell's direct and surrebuttal
4 testimony, together with exhibits?

5 They are admitted.

6 (Exhibit Nos. OCS-2D Schell, OCS-2.1, OCS-2.2,
7 OCS-2.3, OCS-2SR Schell, and OCS-2.1SR were
8 admitted.)

9 Q. (By Mr. Proctor) Dr. Schell, do you have a
10 summary of your testimony that you could provide?

11 A. Yes, I do. So in Phase I of this docket I
12 testified that PacifiCorp Energy was generally in
13 compliance with its volume-based hedge targets with
14 respect to natural gas.

15 With respect to its year one hedge targets
16 this meant that PacifiCorp Energy had hedged up to and
17 in excess of 100 percent of its forecast natural gas
18 requirements, effectively reducing the volatility of
19 the natural gas price component of PacifiCorp's net
20 power costs.

21 In Phase II of this docket I testified that
22 PacifiCorp Energy's volume-based hedge targets should
23 be reduced across the board. And that its year one
24 maximum hedge target should be reduced by up to
25 15 percent of PacifiCorp's total megawatt hour

1 requirements.

2 This conclusion was based on an analysis of
3 PacifiCorp's total system balancing sales and
4 purchases. System balancing requirements occur due to
5 the short-term interim month changes in load and
6 generation, which reduce the ability to effectively
7 hedge the associated volumes.

8 Transaction costs could be avoided by not
9 hedging volumes associated with this inherent
10 frothiness in PacifiCorp's operation.

11 Based on my recommendation to reduce the
12 volume based hedge targets I also recommended that the
13 range associated with the new To-Expiry Value-at-Risk,
14 or TEVaR Metric, should be reexamined. This was based
15 on the fact that the TEVaR metric was designed to
16 provide "reasonable continuity" with the volume based
17 hedge targets that it has now replaced.

18 Reducing the volume based hedge targets could
19 increase the target range of those TEVaR values,
20 providing increased hedging latitude to PacifiCorp
21 Energy.

22 Q. Does that conclude your summary?

23 A. Yes, it does.

24 MR. PROCTOR: Dr. Schell is available for
25 cross.

1 CHAIRMAN BOYER: Okay, thank you.

2 Mr. Monson?

3 MR. MONSON: Thank you.

4 CROSS EXAMINATION

5 BY MR. MONSON:

6 Q. Dr. Schell, Rocky Mountain Power sent a data
7 request to the Office requesting information about
8 prior testimony you had filed on hedging. Were you
9 consulted about the answer to that question?

10 A. Yes, I was.

11 Q. And isn't it correct that the response said
12 that prior to this case you hadn't filed testimony on
13 hedging?

14 A. That is correct.

15 Q. Okay. But you're -- you mentioned you had
16 experience at Trigen Energy?

17 A. Yes.

18 Q. And I think I maybe didn't hear correctly,
19 but what kind of company is Trigen Energy?

20 A. It's a combined heat and power company. A
21 cogeneration, or in their case tri-generation company.

22 Q. Okay.

23 A. That --

24 Q. Is it a regulated public utility?

25 A. In certain jurisdictions it was.

1 Q. Okay. And what jurisdictions did it operate
2 in?

3 A. The main electric power RTOs that it got
4 rated in were the PJM, the New York ISO, focus in
5 synergy and (the witness is speaking too softly.)

6 THE REPORTER: I'm sorry, I didn't hear the
7 end of the answer.

8 THE WITNESS: Synergy and Entergy.

9 Q. (By Ms. Schmid) So it was a generator that
10 would sell power to other -- to utilities; is that
11 right?

12 A. It was a generator of electricity as well as
13 co-generated steam, hot water. But yes, the main
14 product it sold was electricity.

15 Q. Okay, thank you. Your -- as you said in your
16 summary, one of your, one of your two recommendations
17 is that the company should lower its volume based
18 hedge targets based on system balancing; is that
19 right?

20 A. That's correct.

21 Q. And you acknowledge there will always be a
22 need for system balancing, but that the magnitude and
23 duration of that activity cannot be determined until
24 realtime load and generation conditions make
25 themselves manifest?

1 A. Yes.

2 Q. So you, you state that Exhibit 2.2 of your
3 testimony contains summary data related to
4 PacifiCorp's reported net power costs over time; is
5 that right?

6 A. Yes.

7 Q. And in your exhibit you've compared the level
8 of system balancing activity with the total energy
9 requirements, based on net power cost studies used in
10 six rate cases?

11 A. That's correct.

12 Q. And on the basis of these studies you
13 conclude that the average volume weighted level of
14 historical total system balancing activity as a
15 percentage of total energy requirements is 14 percent?

16 A. Yes.

17 Q. On that basis you recommend that the Company
18 should lower its first-year volume based hedge targets
19 to no more than 85 percent of its forecast total
20 energy requirements?

21 A. That's correct.

22 Q. You acknowledge an implementation of your
23 proposal would increase the Company's rate volatility;
24 is that right?

25 A. Yes.

1 Q. Have you obtained any input from customers as
2 to whether or not they would mind that increase in
3 rate volatility?

4 A. I think that's one of the main issues of this
5 proceeding, is that to my knowledge there has been no
6 input from the ratepayers. And so we don't know how
7 much they value the rate stability.

8 Q. Okay. Now, are you aware that the net power
9 cost studies that were used in the six rate cases are
10 the result of grid model runs?

11 A. Yes.

12 Q. So they're not actual historical results?

13 A. That's correct.

14 Q. And in fact when actual historical results
15 are reported they don't show purchases or sales for
16 system balancing, they just show short-term, firm, and
17 non-firm purchases and sales; is that right?

18 A. That is correct. So I was unable to confirm
19 whether, in reality, the same results would occur.

20 Q. And a short-term purchase or sale can
21 actually be a sale that's made months or even years in
22 advance, it just happens to be short-term in that it's
23 only 30 days or less, right?

24 A. I didn't focus on the short-term sales, I
25 just focussed on the system balancing category.

1 Q. Okay. But, I mean, my point is that your
2 focus then was on model runs, not on actual results?

3 A. Yes.

4 Q. So we don't really know at the end of the
5 day, because -- because we can't predict in advance,
6 as you said, the magnitude and duration of the
7 balancing until realtime load and generation
8 conditions make themselves manifest, we don't actually
9 know the actual purchase and sales that work for
10 system balancing, do we?

11 A. We do not. And apparently that data is not
12 available from the Company.

13 MR. MONSON: That's all I have. Thank you.

14 CHAIRMAN BOYER: Thank you Mr. Monson.

15 Ms. Schmid?

16 MS. SCHMID: No questions.

17 CHAIRMAN BOYER: Ms. Hayes.

18 MS. HAYES: No questions.

19 CHAIRMAN BOYER: Mr. Evans?

20 MR. EVANS: None here, thank you.

21 CHAIRMAN BOYER: Commissioner Allen?

22 COMMISSIONER CAMPBELL: No.

23 CHAIRMAN BOYER: Nor do I. You may be
24 excused. Thank you, Dr. Schell, for participating.

25 Okay. Now we will hear from Ms. Kelly in

1 time to get her home for her birthday festivities
2 tomorrow, it looks like.

3 Ms. Kelly, have you been sworn in this
4 proceeding?

5 MS. KELLY: Yes, I was.

6 CHAIRMAN BOYER: In Phase I? Okay. The
7 floor is yours, Ms. Hayes.

8 MS. HAYES: Thank you.

9 NANCY L. KELLY,
10 called as a witness,
11 having previously been duly sworn,
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. HAYES:

15 Q. Ms. Kelly, please state your name for the
16 record?

17 A. Nancy L. Kelly. Oops, sorry. Nancy L.
18 Kelly.

19 Q. By whom are you employed and in what
20 capacity?

21 A. Western Resource Advocates. I'm a senior
22 policy adviser.

23 Q. On whose behalf are you testifying today?

24 A. Today I'm testifying on behalf of Western
25 Resource Advocates and Utah Clean Energy.

1 Q. Have you participated in this docket for
2 Western Resource Advocates and Utah Clean Energy?

3 A. Yes, I have.

4 Q. Did you file direct testimony marked for
5 identification on the exhibit list as WRA & UCE
6 Exhibit II.1-1.0D, along with accompanying exhibits
7 marked for identification as WRA & UCE
8 Exhibits II.1-1.1D and II.1-1.2D?

9 A. I did.

10 Q. Do you have any changes or corrections to
11 that testimony?

12 A. Yes.

13 Q. Would you walk us through those?

14 A. Yes.

15 Q. Thanks.

16 A. Beginning with my direct. On page 3,
17 line 51, that should say "IRP 2007."

18 And then surrebuttal. On page 2 I have two
19 corrections. At very end of line 29, the word "is"
20 should be struck. And be replaced with the word "as."
21 On line 40, the last sentence, "it also" should be
22 struck and replaced with "the order further."

23 MR. MONSON: I didn't understand. Excuse me,
24 I didn't understand that change. Could you -- what
25 should be stricken?

1 THE WITNESS: Instead of, instead of saying
2 "It also states," it should say "The order further
3 states."

4 MR. MONSON: Thank you.

5 THE WITNESS: Certainly.

6 On page 13, row 272, there should be the word
7 "and" inserted after "in," so that it says "the IRP
8 process has not resulted in an optimal mix of
9 resources...."

10 On page 18. On -- this one's a little bit
11 longer. At row 364, the sen -- there's a sentence
12 that begins "The purpose of integrated resource
13 planning is not to identify...." Strike the word
14 "the." Replace the word "the" with "a portfolio that
15 will be."

16 Then it would say "least cost." Strike the
17 word "portfolio." Insert "if the set of assumptions
18 underlying the construction of the portfolio comes
19 about."

20 And I will read that sentence the way it
21 should, should look. And if anyone would like, I --
22 we have copies of what I did, so. So it should now
23 read:

24 "The purpose of integrated resource
25 planning is not to identify a portfolio

1 that will be least cost if the set of
2 assumptions underlying the construction
3 of the portfolio comes about, but to
4 identify a portfolio that balances cost
5 and risk over a range of possible
6 futures."

7 On same page, line 382. In the middle of the
8 line is the word "no." That should be capitalized and
9 a period should be put after it so that it references
10 number.

11 Page 19, row 400. There are two words there
12 that need to be combined. Instead of saying "to ward"
13 the market it should say "toward" the market.

14 And finally on page 20, footnote 42 needs to
15 be moved from line 417 to line 427. Thank you.

16 Q. Thank you.

17 A. That completes my corrections.

18 Q. And I just want to mention that your
19 surrebuttal testimony is marked as Exhibit 2.1-1.OSR.

20 So given these corrections, if you were asked
21 the same questions today as set forth in your prefled
22 testimony would your answers be the same today?

23 A. They would.

24 MS. HAYES: Western resource advocates and
25 Utah Clean Energy then move to admit the testimony of

1 Nancy Kelly as marked.

2 CHAIRMAN BOYER: Are there any objections to
3 the admission of Ms. Kelly's direct and surrebuttal
4 testimony, as corrected, and together with exhibits?
5 They are admitted.

6 (Exhibit Nos. WRA & UCE II.1-1.0D, WRA & UCE
7 II.1-1.1D, WRA & UCE-II.1-1.2D, and WRA & UCE
8 II.1-1.0SR were admitted.)

9 Q. (By Ms. Hayes) Ms. Kelly, do you have a
10 summary of your testimony that you would like to
11 present to the Commission?

12 A. Yes, I do have a summary.

13 Q. Please proceed.

14 A. In Part I of this proceeding I sponsored
15 testimony on behalf of Western Resource Advocates. I
16 recommended to the Commission that it deny
17 PacifiCorp's application for an ECAM as not in the
18 public interest.

19 I understood the burden of proof in
20 establishing the need for an ECAM to lie with the
21 Company, which I did not believe it had met. And I
22 was concerned with the effect of an ECAM on manage --
23 management incentives to operate efficiently.

24 Further, I considered it unfair to shift the
25 risk of past planning decisions to customers, who are

1 least able to manage the risk. However, my
2 fundamental objection to any ECAM design, then and
3 now, is with its effect on long-run planning and
4 acquisition.

5 By treating operating expenses differently
6 from other costs, an ECAM biases resource acquisition
7 to those resources whose costs are recovered through
8 the ECAM. Primarily wholesale power and natural gas
9 resources.

10 This bias is contrary to the public interest
11 because the Company's planning studies have shown that
12 portfolios heavy in market purchases and natural gas
13 resources are risky. Meaning that the actual cost may
14 far exceed the forecast cost at the time a decision is
15 made.

16 Significantly, at the same time that an ECAM
17 biases resource acquisition toward natural gas
18 resources and market purchases, it create a bias
19 against demand side management and renewable
20 resources.

21 The very resources shown through the
22 Company's planning studies to best protect customers
23 from the multiple risks facing the industry today,
24 including wholesale power and natural gas costs and
25 the cost of complying with potential regulation of CO₂

1 emissions.

2 I therefore recommended that the Commission
3 deny PacifiCorp's application as not in the public
4 interest.

5 At the conclusion of Phase I, the Commission
6 decided that it did not have enough information
7 regarding alternative ECAM designs and how they might
8 address issues that were raised in Phase I to reach a
9 final conclusion regarding the public interest aspect
10 of an ECAM.

11 The Commission determined to proceed to a
12 second phase to further explore alternative ECAM
13 designs, or other means or methods, to address the
14 Company's claims of difficulty in recovering its net
15 power cost.

16 It also requested that the two issues
17 identified by the Office of Consumer Services as
18 threshold issues be further explored with all relevant
19 areas of inquiry.

20 As a result of compromise among the parties,
21 a schedule was set to first address the Office's
22 threshold issues and then all other design issues. As
23 I understand it, the purpose of this part of the
24 proceeding is to seek a ruling and direction from the
25 Commission regarding these threshold issues.

1 It is the position of WRA and Utah Clean
2 Energy, whose testimony I have sponsored in this phase
3 of the proceeding, that not only must market reliance
4 and natural gas hedging be addressed prior to, or in
5 conjunction with, the adoption of an ECAM before an
6 ECAM could be found in the public interest, integrated
7 resource planning and resource acquisition generally
8 must be addressed.

9 A primary reason for singling out the
10 wholesale market purchases and natural gas fuel cost
11 components of net power cost in this part of the
12 proceeding is because meeting load requirements with
13 short-term wholesale market purchases and natural gas
14 resources is particularly risky, as identified in
15 PacifiCorp's integrated resource planning processes,
16 and the Company's resource plans have included more
17 market and natural gas resources than planning studies
18 indicate is optimal.

19 If an ECAM is implemented, the actual net
20 power costs of these resources will be immediately
21 assigned to customers instead of being shared by the
22 Company and its shareholders between rate cases, as is
23 currently done.

24 Because integrated resource planning has not
25 resulted in the set of resources shown to best protect

1 customers given the expected combination of costs,
2 risk, and uncertainty, it is unfair to require that
3 customers assume the risk of this planning strategy
4 without a mechanism in place to correct this in the
5 future.

6 Utah customers should not assume the net
7 power cost risk of resources that are not supported
8 through integrated resource planning.

9 Therefore, WRA and UCE, UCE recommend that if
10 the Commission decides to move forward with an ECAM,
11 the adoption of any ECAM design hinge on the
12 implementation of an IRP compliance mechanism to be
13 implemented in conjunction with the adoption of an
14 ECAM.

15 In order to implement the ECAM the Company
16 must demonstrate that it has adhered to the action
17 plan of the portfolio that best manages risk and
18 uncertainty, as demonstrated through the integrated
19 resource planning process using the Commission's
20 suggested three-step approach for evaluating risk and
21 uncertainty.

22 And that three-step approach has been spelled
23 out in both of the last two IRP orders. And also in
24 the RFP order on modeling.

25 Assuring that customers receive the benefits

1 of integrated resource planning is a longstanding
2 objective of this regulatory community and this
3 Commission, as evidenced by its many IRP orders, RFP
4 orders, and its December 2004 MSP order.

5 Before moving forward with an ECAM, we
6 request that the Commission carefully evaluate the
7 effect of an ECAM on long-run planning and assure the
8 public interest is met. Our recommendation is that
9 you take the following actions in this part of the
10 ECAM proceeding:

11 First, identify market reliance and natural
12 gas hedging as threshold issues to be addressed prior
13 to the implementation of any ECAM design.

14 Two, identify market reliance and natural gas
15 hedging as fundamental -- fundamentally integrated
16 resource planning issues.

17 Three, identify resource acquisition as a
18 threshold issue.

19 Four, rule that customers should not assume
20 the net power risk through an ECAM of resources that
21 are not supported by integrated resource planning
22 studies without providing an ER -- IRP compliance
23 mechanism to assure that customers receive the benefit
24 of integrated resource planning over the long run.

25 And five, rule that the long-run resource

1 acquisition biases introduced by an ECAM must be
2 mitigated through an IRP compliance mechanism in order
3 for any ECAM design to be considered in the public
4 interest.

5 WRA and UCE are indifferent as to whether the
6 IRP compliance mechanism is developed in this docket
7 or in another. However, without some type of IRP
8 compliance mechanism in place, as well as strong
9 sharing bands, WRA and UCE maintain that no ECAM
10 design can be, can be demonstrated to be in the public
11 interest.

12 That concludes my summary.

13 MS. HAYES: Ms. Kelly is now available for
14 cross examination.

15 CHAIRMAN BOYER: Thank you Ms. Kelly.

16 Mr. Monson?

17 MR. MONSON: Thank you.

18 CROSS EXAMINATION

19 BY MR. MONSON:

20 Q. Ms. Kelly --

21 MR. PROCTOR: Mr. Monson -- I'm sorry, may I?

22 MR. MONSON: Oh.

23 MR. PROCTOR: I'm sorry, excuse me.

24 Mr. Chairman, for reasons that really are
25 important, I need to be excused. If that would be

1 acceptable to the parties and to the Commission.

2 CHAIRMAN BOYER: It is. And you don't have
3 to explain why.

4 MR. PROCTOR: We have no questions of
5 Ms. Kelly.

6 CHAIRMAN BOYER: And you don't have to
7 explain why.

8 MR. PROCTOR: Thank you.

9 CHAIRMAN BOYER: Thank you for your
10 participation up to this point.

11 MR. PROCTOR: Thank you.

12 CHAIRMAN BOYER: Mr. Monson?

13 MR. MONSON: Thank you.

14 Q. (By Mr. Monson) You state that your
15 June 16th testimony attempts to bolster the record, as
16 requested by the Commission, regarding the need for an
17 IRP compliance mechanism to be in place before
18 shifting the full risk of PacifiCorp's past and future
19 resource acquisitions to customers; is that right?

20 A. Yes. That was in response to Mr. Duvall's
21 stating the issue as the effect -- can you direct me
22 to where it is, and I can tell you what I was
23 responding to?

24 Q. Yeah. It's in your surrebuttal, lines 51 to
25 54.

1 A. Okay. So it was in response to Mr. Duvall's
2 narrowing the issue to how -- to the effect of an
3 ECAM. And so I was introducing further information to
4 bolster the record regarding input bias. Because as I
5 understand it, the effect of an in -- of an ECAM
6 promotes input bias.

7 Q. Okay. And you also state, at lines 55 to 57,
8 that your testimony proposes other measures or means
9 that the Commission can use to mitigate your primary
10 concern with adoption of an ECAM, right?

11 A. Yes.

12 Q. And then in your surrebuttal testimony you
13 provide additional information, as you characterize
14 it, to develop the record; is that right?

15 A. Yes.

16 Q. Okay. And this amounts to a discussion of
17 four articles claiming that adoption of a fuel cost
18 adjustment mechanism creates an input bias; is that
19 right?

20 A. Yes.

21 Q. Now, are these the same articles that you
22 mentioned in your direct testimony filed on ECAM
23 design on August 4th?

24 A. No.

25 Q. Now, in that testimony you didn't identify

1 the specific articles, did you? You just said
2 academic literature, or something to that effect?

3 A. Right. I was referring at that time to the
4 articles that Mr. Paul Chernick had introduced into
5 the record. And then your witness, Mr. McDermott I
6 believe, had responded. And they had an exchange on
7 that.

8 Q. Okay. And then you summarize your June 16th
9 testimony; is that right?

10 A. Where are you now?

11 Q. After you finish the discussion of those
12 articles. You summarize your --

13 A. Can you direct me to the page and line,
14 please?

15 Q. Yeah. Well, let's see. I can if I count
16 them up. You spent seven pages discussing those
17 articles. So we can go to the end of those. And then
18 you go: "Response to Mr. Duvall's critique of
19 testimony." That's on page 10.

20 A. Okay.

21 Q. And then you summarize your testimony, right?
22 Your June 16th testimony?

23 A. Yes, okay.

24 Q. And then you again discuss your IRP
25 compliance mechanism; is that right?

1 A. Yes.

2 Q. Is that the same mechanism that you proposed
3 in your direct testimony filed on August 4, 2010?

4 A. Yes. I, I first introduced it in my
5 June 16th testimony. And I modified it in my
6 August 4th testimony. And I referenced the changes in
7 my surrebuttal testimony on August 10th.

8 Q. And they all deal with this IRP compliance
9 mechanism?

10 A. Correct.

11 Q. Okay.

12 MR. MONSON: Commissioners, I think that we
13 could save some time and get Ms. Kelly on her way if
14 we could reserve cross of those areas of her testimony
15 dealing with the IRP compliance mechanism for Phase
16 II, Part 2, which she's directly addressing in her
17 testimony -- direct testimony in that.

18 CHAIRMAN BOYER: That would be totally
19 acceptable to us.

20 THE WITNESS: Acceptable to me.

21 MR. MONSON: Okay. Then we're done. I'm
22 done.

23 CHAIRMAN BOYER: Okay. Thank you Mr. Monson.
24 Ms. Schmid, any questions of Ms. Kelly?

25 MS. SCHMID: No questions.

1 CHAIRMAN BOYER: Ms. Hayes? Well, that's
2 your witness. You probably do.

3 Mr. Evans?

4 MR. EVANS: No, I have none. Thank you.

5 CHAIRMAN BOYER: Okay. And nothing from you,
6 Commissioner Allen?

7 Commissioner Campbell.

8 COMMISSIONER CAMPBELL: Maybe I should
9 reserve my questions if they deal -- if I get into the
10 compliance issues in your August 4th testimony, let me
11 know, and maybe I'll reserve my questions till then as
12 well.

13 But you state that, you state that they need
14 to comply with the, with the portfolio in the last
15 IRP. In your opinion did they choose the right
16 portfolio in the last IRP?

17 THE WITNESS: No. I have an attachment to my
18 surrebuttal from Phase I that shows -- compares
19 Portfolio 5 with Portfolio 8. And Portfolio 8 would
20 have been the portfolio that was -- that would have
21 been identified as what I'm calling the, I think the
22 step-three portfolio.

23 So I'm making a distinction. The
24 Commission's orders in the past two IRP have
25 recommended approach -- an approach for evaluating

1 risk and uncertainty that starts with looking at the
2 range of potential futures.

3 Finding an optimized portfolio for each of
4 those futures. Subjecting them to stochastic risk
5 analysis. Which means, in this case, running 100 --
6 doing 100 stochastic runs with each of the portfolios
7 to get an number of performance metrics for those
8 portfolios.

9 And on that surrebuttal testimony -- I, I
10 could pull it up if you would like -- there, there are
11 a number of performance metrics.

12 The third step is then to take the portfolios
13 that performed well in the stochastic analysis and
14 re-subject them to the same conditions that created
15 the original portfolios to measure the scenario risk.

16 In that third step, Portfolio 8 was the
17 portfolio that was identified. So in our, in our
18 comments to the Commission on the IRP, and in my
19 surrebuttal attachment, and then in my testimony here
20 we're saying that, that Portfolio 8 was the portfolio
21 that best balanced cost and risk.

22 And that the portfolio that the Company chose
23 didn't perform as well, particularly on the risk
24 metrics. It had -- it, it was riskier.

25 And so, so the answer to your -- the very

1 long answer to your short question was -- is, is no.
2 The, the portfolio that the Company has chosen is not
3 the portfolio that balances cost and risk.

4 COMMISSIONER CAMPBELL: I think I'm gonna try
5 one more question, then maybe we'll be done today.

6 THE WITNESS: Okay.

7 COMMISSIONER CAMPBELL: Why do you think the
8 Commission acknowledges IRPs and does not approve
9 them?

10 THE WITNESS: Because the Commission does not
11 want to micromanage the Company. Has been one reason.
12 And also because the Commission has not wanted to get
13 into a fully-litigated proceeding over IRP. And so
14 IRP has been an information-sharing procedure.

15 But the -- but always the -- but the
16 determination of the resource acquisition plan is the
17 Company's. They, they determine which resources they
18 will acquire.

19 And I am not challenging that on its own.
20 What I'm suggesting is that if an ECAM is going to be
21 put into place, which shifts the full risk of past,
22 past planning decisions to customers so that they --
23 so that shareholders are no longer sharing in that
24 risk, then the resource acquisition should reflect the
25 Company's planning studies.

1 And should, in fact, be the resource
2 acquisition strategy that balances cost and risk for
3 customers.

4 CHAIRMAN BOYER: Just a couple of questions,
5 Ms. Kelly. You've heard -- we've all heard ample
6 testimony this morning on -- for the proposition that
7 hedging, and front office transactions, market
8 reliance, and so on promotes rate stability, or
9 reduces rate volatility, if you will.

10 Are you, are you suggesting that another --
11 an alternate way to achieve those same ends is by
12 increasing the proportion of renewable energy in the
13 portfolio? Inasmuch as fuel costs are free?

14 THE WITNESS: Indirectly, that was the
15 results of the last planning studies. The last
16 planning studies showed that the resources that had
17 the additional capital expenses, and the wind, wind
18 resource, and had the DSM, reduced upper-till risks.
19 They were less risky.

20 And that it was a minimal expected cost at a
21 zero carbon level. As the carbon level went up, that
22 resource portfolio not only lowered the upper-till
23 risk, the riskiness, but it also lowered the expected
24 cost, the average, over the hundred stochastic runs.

25 And -- but no, I, I -- what I am saying is

1 that the resource acquisition strategy should be in
2 alignment with the action plan that would come from
3 the portfolio that would be identified using the
4 Commission's three-step approach.

5 CHAIRMAN BOYER: Do you agree that rate
6 stability provides value to customers?

7 THE WITNESS: Yes.

8 CHAIRMAN BOYER: And would you have any idea
9 on how to monetize that value? How to measure that
10 value?

11 THE WITNESS: Well, in terms of -- I -- my
12 focus is on long-run planning, not on the hedging
13 part. In terms of long-run planning, if, if the
14 Company's resource acquisition plan is in alignment
15 with the portfolio that best manages upper-tail risks,
16 you're gonna get greater rate stability.

17 CHAIRMAN BOYER: Is -- and I don't want to
18 get into, you know, jump the gun here and start
19 talking about design issues. But is your objection to
20 an ECAM an objection to an ECAM in any form, or in the
21 present form without the sharing bands you've talked
22 about?

23 THE WITNESS: My, my main concern with an
24 ECAM is on long-run planning bias. That, that an ECAM
25 biases resource acquisition to front -- towards front

1 office transactions in natural gas resources.

2 Now, if those resources weren't risky, if
3 those resources were stable -- stably priced, well,
4 this incentive effect of an ECAM could be in the
5 public interest. But it's just the opposite.

6 My concern with an ECAM is that it incents
7 further acquisition of the very resources that are
8 most risky, and it shifts the risk of those resources
9 to customers. And I have not been able to figure out
10 how to address that through design, and so that was
11 why I initially objected.

12 And during, during the last hearing I -- in
13 response to Commissioner Campbell's question regarding
14 putting teeth in the IRP, I started thinking about
15 that a lot. And determined that if, in fact, the
16 resource acquisition strategy was in line with the
17 Company's planning studies that balance cost and risk,
18 I wouldn't have a problem -- I would have much less of
19 a problem with that component of an ECAM.

20 The fundamental flaw, for me, would be
21 removed, and other aspects could be addressed through
22 design. But it was -- it is this fundamental flaw of
23 the, of the bias towards risky resources that is my
24 objection to an ECAM.

25 CHAIRMAN BOYER: So asked a different way, if

1 the benefits and costs of hedging in front office
2 transactions, if they were included in an ECAM, were
3 shared, that would, at least in part, mitigate your
4 concern about the resource procurement bias, would it
5 not?

6 If the, if the shareholders were --

7 THE WITNESS: I think share -- sharing
8 addresses operational inefficiency. I don't think it
9 gets at this resource acquisition bias.

10 CHAIRMAN BOYER: Commissioner Campbell has a
11 follow-up question.

12 COMMISSIONER CAMPBELL: Since my name was
13 used in vain.

14 THE WITNESS: I'm sorry.

15 COMMISSIONER CAMPBELL: No, I mean, can you
16 really put teeth into a plan? I mean, how many plans
17 have you made that you have a hundred percent
18 followed? I mean, isn't a plan kind of directional
19 rather than specific?

20 THE WITNESS: I agree with that. But there
21 is an action -- with each, with each portfolio, if one
22 were gonna -- one were to proceed with that actual
23 portfolio you would need to take particular actions to
24 implement it. And so every portfolio would have an
25 action plan if the Company specified it.

1 So all I'm suggesting -- the only change that
2 I'm anticipating to IRP would be that when -- that the
3 Company would identify the Step 3 portfolio and create
4 an action plan for it. That's all it would have to
5 do.

6 And then, if it had taken the actions in --
7 that were in that action plan in the two previous
8 years, it would be considered in compliance. Now, I
9 understand that -- we understand that things are
10 dynamic, and fluid, and always changing.

11 And there would be every opportunity to, if
12 there was a, you know, a substantial change in
13 circumstances, to come in and make a filing to change
14 things. Just like was done with -- in the recent
15 situation.

16 So I, I'm not saying lock in no matter what.
17 I'm, I'm, I think, wanting the strategic business plan
18 to better align with the IRP modeling results.
19 That's, that's what I'm recommending.

20 CHAIRMAN BOYER: Ms. Hayes, any redirect for
21 Ms. Kelly?

22 MS. HAYES: No, thank you.

23 CHAIRMAN BOYER: Okay. Well, thank you
24 Ms. Kelly, you may be excused --

25 THE WITNESS: Thank you.

1 CHAIRMAN BOYER: -- to attend your birthday
2 festivities.

3 We very much appreciate everyone's
4 participation. We especially appreciate the Committee
5 for raising these issues earlier and giving us an
6 opportunity to discuss these issues and how they
7 interact with the further discussion of ECAM design.

8 We don't envision issuing an order on this --
9 Part 1 of this Phase II at this point in time. If, if
10 after we sleep on it and think about it and need to
11 get further guidance for the next proceeding in Part 2
12 of Phase II, we will certainly let the parties know by
13 scheduling order or otherwise.

14 Is there anything further we need to discuss?

15 MR. MONSON: I just want to note on the
16 record that we did pass out a complete copy of the --
17 of our cross exhibit --

18 CHAIRMAN BOYER: Yes. And let's make a note
19 that the complete copy of the -- what was it? I can't
20 remember we called that. The Pace report has been
21 admitted into evidence then. There was an objection
22 to it, but with the offer of the entire document I
23 believe it's in.

24 And I guess I should mention, Ms. Hogle
25 offered to provide additional testimony on

1 Commissioner Campbell's questions earlier, and we
2 won't require that or accept that testimony at this
3 time. But we appreciate the offer.

4 So thank you all for your participation. And
5 safe travels. That will conclude this hearing.

6 (The hearing was concluded at 4:31 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 266, 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 **24th** DAY OF **August**, 2010.

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

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