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REDACTED
BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of:
The Voluntary Request of Rocky
Mountain Power for Approval of
Resource Decision to Construct
Selective Catalytic Reduction
Systems on Jim Bridger Units
3 and 4

Docket No. 12-035-92

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HEARING PROCEEDINGS  
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TAKEN AT: Public Service Commission
Hearing Room 403
160 East 300 South
Salt Lake City, Utah
DATE: Thursday, March 7, 2013
TIME: 9:03 a.m.
REPORTED BY: Scott M. Knight, RPR

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00004

	INDEX	
		Page
1		
2	WITNESS	
3	COMPANY WITNESSES	
4	CHAD TEPLY	
5	DIRECT EXAMINATION	29
6	BY-MR.MOSCON	
7	CROSS EXAMINATION	34
8	BY-MR.JENSEN	
9	CROSS EXAMINATION	36
10	BY-MR.RITCHIE	
11	CROSS EXAMINATION	57
12	BY-MR.MICHEL	
13	REDIRECT EXAMINATION	88
14	BY-MR.MOSCON	
15	RE CROSS EXAMINATION	92
16	BY-MR.RITCHIE	
17	CINDY CRANE	
18	DIRECT EXAMINATION	102
19	BY-MR.MOSCON	
20	CROSS EXAMINATION	105
21	BY-MR.RITCHIE	
22	REDIRECT EXAMINATION	108
23	BY-MR.MOSCON	
24	RICK LINK	
25	DIRECT EXAMINATION	110

00005

	INDEX (Continued)	
1		
2	BY-MR.MOSCON	
3	CROSS EXAMINATION	115
4	BY-MR.JENSEN	
5	CROSS EXAMINATION	117
6	BY-MR.RITCHIE	
7	CROSS EXAMINATION	134
8	BY-MR.MICHEL	
9	CATHY WOOLLUMS	
10	DIRECT EXAMINATION	153
11	BY-MR.MOSCON	
12	DIVISION OF PUBLIC UTILITIES WITNESSES	
13	MATTHEW CROFT	
14	DIRECT EXAMINATION	161
15	BY-MR.JETTER	
16	CROSS EXAMINATION	166
17	BY-MR.JENSEN	
18	CROSS EXAMINATION	168
19	BY-MR.MICHEL	
20	GEORGE EVANS	
21	DIRECT EXAMINATION	193
22	BY-MR.JETTER	
23	CROSS EXAMINATION	196
24	BY-MR.MICHEL	
25	MARK W. CRISP	

00006

	INDEX (Continued)	
1		
2	DIRECT EXAMINATION	199
3	BY-MR.JETTER	
4	CROSS EXAMINATION	203
5	BY-MR.MICHEL	
6	OFFICE OF CONSUMER SERVICES WITNESSES	
7	CHERYL MURRAY	
8	DIRECT EXAMINATION	209
9	BY-MR.JENSEN	
10	CROSS EXAMINATION	212
11	BY-MR.MOSCON	
12	CROSS EXAMINATION	214
13	BY-MR.RITCHIE	
14	CROSS EXAMINATION	217
15	BY-MR.MICHEL	
16	RANDALL J. FALKENBERG	
17	DIRECT EXAMINATION	220
18	BY-MR.JENSEN	
19	CROSS EXAMINATION	224
20	BY-MR.MICHEL	
21	SIERRA CLUB WITNESS	
22	JEREMY FISHER	
23	DIRECT EXAMINATION	229
24	BY-MR.RITCHIE	
25	CROSS EXAMINATION	236

00007

1		INDEX (Continued)	
2	BY-MR.JETTER		
3	REDIRECT EXAMINATION		242
4	BY-MR.RITCHIE		
5	WESTERN RESOURCE ADVOCATES WITNESSES		
6	STACY TELLINGHUISEN		
7	DIRECT EXAMINATION		243
8	BY-MR.MICHEL		
9	CROSS EXAMINATION		246
10	BY-MR.JETTER		
11	NANCY L. KELLY		
12	DIRECT EXAMINATION		248
13	BY-MR.MICHEL		
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

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Hearing Proceedings

March 7, 2013

PROCEEDINGS

THE HEARING OFFICER: On the record.

This is the time and place duly noticed for the hearing of the Public Service Commission of Utah in docket No. 12-035-92, In the Matter of the Voluntary Request of Rocky Mountain Power for Approval of Resource Decision to Construct Selective Catalytic Reduction Systems on Jim Bridger Units 3 and 4. I am commissioner David Clark. To my left is Chairman Ron Allen. To his left is Commissioner Thad LeVar. Chairman Allen has asked that I serve as the hearing officer this morning and for this proceeding, although naturally all of the commissioners will participate in due course.

We have some preliminary matters to discuss. Let's enter appearances of counsel first. And, then, we'll turn to the applicant for some preliminary matters. First, appearances.

MR. MOSCON: Matt Moscon and Daniel Solander for the Petitioner, Rocky Mountain Power.

MR. JETTER: Justin Jetter for the Division of Public Utilities.

MR. JENSEN: Jerrold Jensen for the Office of Consumer Services.

MR. MICHEL: Steven Michel and Rob Dubuc for Western Resource Advocates.

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1 MR. RITCHIE: Travis Ritchie for the Sierra Club.

2 THE HEARING OFFICER: Thank you. And
3 particularly for the last two that have spoken, you're a little
out

4 of my line of sight, so please speak up if I'm not seeing you and
5 there's--and you desire to participate or comment in some way.

6 We have no one on the telephone today. And, so,
7 the first preliminary matter we're going to address is the
8 confidentiality of much of the information that's been produced.

9 Mr. Moscon.

10 MR. MOSCON: Yes. As the Commission is aware,
11 almost every witness, if--there are a couple perhaps that do not
12 reference information in their testimony that has been filed as
13 confidential, I'll note that the parties have all been--had
access

14 to this information, but it's information that has been
designated

15 as confidential and filed under a standing protective order.

Rule

16 746-100-10E of this Commission's rules allows a hearing during
17 which confidential information will be presented to be run in a
18 confidential manner, meaning only those that have signed on to
19 the protective order be allowed to be present during the hearing
20 and that no public streaming occur during such a hearing. So,
21 on behalf of my client, I would move that this hearing be
22 designated as confidential so that there can be a free
23 discussion of those materials for the Commission today.

24 THE HEARING OFFICER: Is there any comment or
25 objection to this proposal?

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1 MR. RITCHIE: Commissioner, Travis Ritchie with
2 the Sierra Club. I do have one concern--holding the meeting,
3 there are several confidential points of information that I think
4 would come up. I would be fine with that. I would like if we
had
5 access to a nonconfidential transcript, you know, perhaps the
6 Company could redact, you know, the numbers or the
7 confidential information from the transcript so that we could
8 have a public version to work with.

9 MR. MOSCON: I suppose--if the question is will the
10 Company agree to take on a burden of going through an entire
11 transcript and highlighting any provision that it thinks is
12 confidential, I suppose the question would come up, when that's
13 required, "For what purpose?" I think that as far as today's
14 hearing goes, it's clearly going to be easiest for the parties,
the
15 Commission, and all if we designate today's hearing as--you
16 know, as a confidential proceeding. But my client has already
17 designated in its filing the items that are of concern and
18 confidential.

19 So, I guess I would like to--without knowing when
20 that would be required, you know, for what purpose, I guess I'm
21 a little bit of a loss how to respond. If there's a question
that
22 comes up where the Sierra Club has a portion of the transcript
23 that it wants to use at some point and wants to ask that it be
24 de-designated, I suppose we could do that. That might be
25 easier than having the Company go through every page and

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1 certifying whether every page is available for de-designation.

2 THE HEARING OFFICER: Mr. Ritchie.

3 MR. RITCHIE: My concern, sir, is that there are
4 several--as I think are apparent in this proceeding, there are
5 several dockets and separate proceedings where these issues
6 are--continue to evolve, continued to evolve yesterday with the
7 additional filings that the Company put in. Our--
8 you know, there's a hearing that's coming up in Wyoming at the
9 end of the month. There's a proposed EPA ruling coming out.
10 All the information that is discussed here is pertinent to these
11 other dockets. And my concern is that we'll have a transcript
12 that may have pertinent information in it but we would be
13 restricted from sharing that with your counterparts in Wyoming
14 or with other agencies.

15 MR. MOSCON: So, in response to that, I suppose
16 what I would go back to is my original suggestion, which is if
the

17 Sierra Club has need to use any portion of the transcript that's
18 been designated as confidential, it would be able to identify and
19 say, you know, going forward--in the Wyoming commission, for
20 instance, which also has a protective order, and the Company
21 may well not have an objection to that.

22 But again, the point made is, we may want to use
23 this in filings that are going on here in a couple of days, I
don't
24 know that the Company will have a transcript that it will be able
25 to go through and line by line determine what it can or cannot

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1 de-designate before any of these subsequent filings are going to
2 come up. So, I just don't know realistically how to proceed as
3 suggested, and would again recommend that the ruling be the
4 hearing is designated as confidential--the Sierra Club always
5 under this Commission's rules, and I'm certain in other
6 proceedings as well, have the opportunity to file and request
7 that something that is designated as confidential be
8 de-designated. So, this Commission has 100-16-2, which
9 governs that procedure. And I think that's the procedure we
10 should follow in this case.

11 MR. JETTER: For the Division--Justin Jetter for the
12 Division. It's generally our position and I believe it's been
the
13 history of the Commission, as well, that these hearings stay
14 open to the extent possible. We think it's generally in the
public

15 interest to allow members of the public to be present for these
16 hearings. And I understand that there's a lot of confidential
17 information that may come out. Depending on who's in the room
18 and who would like to participate, it may work to have them
19 open until we reach certain parts of witness's testimony that
20 need to be closed. I understand that may involve people going
21 in and out of the room, but generally the Division would favor
22 keeping the hearings open to the extent that we possibly can.

23 THE HEARING OFFICER: Mr. Moscon. Go ahead,
24 Mr. Moscon.

25 MR. MOSCON: To respond to the Division's point,

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1 my client is certainly not interested in just simply preserving
2 secrecy around any proceeding. However, I'll note that even in
3 the summaries of testimonies that will be provided, my
4 witnesses will be discussing facts, numbers, data that have
5 been designated as confidential. And I'm certain that in the
6 cross-examination that I anticipate almost any witness will be
7 asked to comment on numbers, projections, forecasts, etc., that
8 are designated as confidential.

9 The last thing I'll note is that this information was
10 filed as confidential information in the first instance. It's not
as

11 though we are now saying we want to designate as confidential
12 a proceeding that has otherwise heretofore been open to the
13 public. And the Commission does have a process whereby any
14 party thinking that information that is designated as
confidential

15 needs to be de-designated can so file. The timing to do that
16 would have passed. And there was no objection by any of the
17 parties about any of the information being inappropriately, you
18 know, over-designated.

19 So, I--it's not that we want to, you know, be
20 difficult. I just candidly don't know how the hearing will work
21 where not even a summary can be finished without asking other
22 members of the audience to leave and then come back in every
23 other sentence.

24 MR. MICHEL: Yes, Commissioner Clark. We
25 sympathize with what the Division has said. This is a matter of

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1 great public importance. And as much of the record as can be
2 public should be made public. That said, the things that are
3 designated confidential in this record are so fundamental to this
4 case--just about every number in this case has been designated
5 confidential. We think it's over-designated, but unless the
6 Commission wants to go through and determine whether these
7 things that have been claimed a need for
8 confidential--confidentiality are indeed confidential, I kind of
9 agree, I don't see how we can conduct this hearing in any
10 reasonable way with the things that have been designated as
11 confidential remaining confidential without closing the hearing.
12 It would just--it's just--there's just too much and it's too
central

13 to the case.

14 THE HEARING OFFICER: Thank you.

15 Is there any other discussion of this particular
16 issue?

17 MR. MOSCON: If the Commission is
18 concerned--just so the record's clear, my client's willing to,
you
19 know, have any discussion that's not, you know, involving the
20 facts, figures, data that were filed as confidential opened. So,
I
21 want to clear we're not trying to otherwise close off access to
22 that. And if the Commission wants to endeavor and--in that
23 exercise, we're not opposed. I believe I concur with what's been
24 stated, simply that the practicalities and function of that may
tax
25 the patience of some. But, I mean, my client's willing to do
that

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1 to the extent that no information is discussed that's been filed
2 as confidential without taking those steps.

3 MR. RITCHIE: Commissioner, if I may make one
4 more point on this issue. One of our primary concerns, I agree
5 with the practicality of going in and out of closed session is
6 difficult, you know, hence an interest in a redacted version. If
7 the Company would be willing to allow the transcript to go into
8 the Wyoming record--or to be discussed, if necessary, in the
9 Wyoming record and restricted to the parties who have signed
10 the Wyoming confidentiality agreement, I think that would
11 alleviate a lot of our timing concerns of the ability to see a
12 transcript, you know, pull out the confidential numbers and then
13 work with it.

14 The way the confidential provisions in Utah and
15 both Wyoming state right now, we would be prohibited from even
16 taking any of that information from one proceeding to the other
17 even if it's in confidential session in that other proceeding.

And

18 that's, I think, our biggest concern and the--and that's the
19 tightest turnaround we have the concern with.

20 MR. MOSCON: If it makes the proceeding easier
21 for the Commission, I think the Company's willing to stipulate to
22 that point. If the proceeding transcript remains confidential
23 under the Wyoming protective order, it can go straight across
24 and they can use it in confidential filings or hearings in
25 Wyoming, that may be a good compromise that helps alleviate

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1 the concerns.

2 THE HEARING OFFICER: Thank you.

3 Mr. Jetter.

4 MR. JETTER: I think the Division understands the
5 practicality issues of it. And it may be more convenient to
close

6 it. We just wanted to be--take the position to give the
7 opportunity to the Commission to consider whether the
8 practicality concerns outweigh the interest of having the public
9 access to these hearings.

10 THE HEARING OFFICER: Is there anyone in the
11 hearing room that, in order to proceed in--
12 with--or proceed in being present for a confidential hearing
13 would need to sign a nondisclosure agreement that has not
14 already signed one?

15 Would you mind identifying yourself and your--

16 MS. HAYES: Sophie Hayes, Utah Clean Energy.
17 We haven't intervened.

18 THE HEARING OFFICER: Anyone else?

19 MR. COX: Gary Cox, IBEW Local 57. We haven't
20 intervened either.

21 THE HEARING OFFICER: Let's move to any other
22 preliminary matters. Then, we'll be off the record for a few
23 minutes before we begin the evidentiary phase.

24 What other preliminary matters do we need to
25 address before we begin?

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1 MR. MICHEL: Commissioner Clark, I would guess
2 maybe witness order and order of cross-examination.

3 THE HEARING OFFICER: That would be helpful.
4 Let's do that. And the numbering of exhibits, if you could
5 include your--how you intend to proceed with identifying exhibits
6 would be helpful, as well.

7 Mr. Moscon, would you like to--

8 MR. MOSCON: Sure. I can identify that the
9 Company intends to introduce in this order: first, Mr. Chad
10 Teply; second, Ms. Cindy Crane; third, Mr. Rick Link; and fourth,
11 Ms. Cathy Woollums. And those are all of the Company's
12 witnesses. Their exhibits have all been filed with their
prefiled

13 testimony. The only exception that I'll note was, as indicated
14 earlier, there were two supplemental exhibits to be surrebuttal
15 of Cathy Woollums that was provided to the Commission and the
16 parties yesterday, the date upon which the Company received
17 that information, that annexed as Cathy Woollum Exhibits No. 4
18 and 5. And the remainder of the exhibits are as have previously
19 been filed.

20 THE HEARING OFFICER: Now, our intention would
21 be to hear next from the Division.

22 MR. JETTER: Thank you. The Division will call
23 witnesses Matthew Croft, George Evans, and Mark Crisp, in that
24 order. We have no new exhibits to introduce with those
25 witnesses. So, it will just be the ones that have been

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1 introduced already in the record. And we'll just ask at that
time

2 that we introduce those on to the record at this hearing.

3 THE HEARING OFFICER: Thank you.

4 MR. JENSEN: The office will call Cheryl Murray
5 and Randy Falkenberg. No new exhibits.

6 MR. RITCHIE: Sierra Club will call Dr. Jeremy
7 Fisher. All of his direct testimony and surrebuttal testimony
has

8 been prefiled and his exhibits Sierra Club Exhibits 1 through 40
9 to that testimony has all been prefiled. We have no additional
10 exhibits.

11 THE HEARING OFFICER: Thank you.

12 MR. MICHEL: WRA would call Stacy Tellinghuisen
13 and Nancy Kelly. They do have exhibits to their testimony,
14 which have been marked. We will likely have one
15 cross-examination exhibit, as well, which we can mark at that
16 time or designate as Cross Exhibit--WRA Cross Exhibit No. 1.

17 THE HEARING OFFICER: Thank you. Any other
18 preliminary matters?

19 We'll be off the record.

20 (Recess taken, 9:20-9:27 a.m.)

21 THE HEARING OFFICER: We'll be on the record.

22 For a variety of reasons, including the extensive
23 nature of the information that's been presented and represented
24 to be confidential by the Company and the practicalities
25 associated with conducting full examination of the testimony and

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1 under that restricted set of conditions, we are going to
2 designate this hearing as confidential and rely upon the
3 understanding that exists between the Company and Sierra Club
4 regarding use of the transcripts of a confidential hearing in the
5 Wyoming proceeding, subject to the rules of that commission
6 related to confidential information.

7 We're also mindful of the interests of others who
8 are present today who are not yet at least subject to the
9 requirements of a nondisclosure agreement and their interest in
10 the proceeding. So, we are going to require the Company to
11 produce a redacted transcript so that those who desire it will be
12 able to have full access to the unrestricted aspects of the
13 hearing. And would it be reasonable for the Company to
14 produce that within two weeks of receiving the transcripts?

15 MR. MOSCON: Agreed.

16 THE HEARING OFFICER: And for those who may
17 not know it, we generally receive our transcripts about two
18 weeks after the hearing date. So, the timing would--for the
19 availability of these redacted transcripts will be approximately
20 four weeks.

21 Are there any questions about this ruling? And with
22 that, then, if--I'm--the Commission has designated this a closed
23 proceeding at this stage. And those who have not entered into
24 nondisclosure agreements need to withdraw at this time. If that
25 condition changes, we'll welcome you back. Thank you.

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1 Any other preliminary matters?

2 MR. RITCHIE: Commissioner, I did want to raise
3 one question with respect to the Commission's preference for
4 briefing. I think we've discussed a little bit time for--

estimates

5 for cross exam. I may be able to shave and shorten my cross
6 exam questions if we do have the opportunity for briefing. I'm
7 not--I believe there have been a lot of issues that have been
8 kind of fast-moving targets in this proceedings. Some things
9 have come in very late, and some of them are still happening. I
10 think it would be very helpful for us, potentially very helpful

for

11 the Commission, if we had an opportunity to kind of pull it all
12 together in a brief at the end of this proceeding.

13 THE HEARING OFFICER: And you're speaking of
14 briefing of the general issues, not just comment on whatever the
15 EPA might do on March the 29th.

16 MR. RITCHIE: That is correct, Your Honor. I am
17 speaking of briefing of the general issues. I think the two are
18 related. Whatever the EPA does, I think that has to be looked
19 at in the context of the full proceeding. I think it would be

very

20 difficult to just simply restrict whatever that briefing is to
only

21 the EPA ruling. I think the whole forest should be looked at
22 when that change happens.

23 THE HEARING OFFICER: Comments from other
24 parties?

25 Mr. Moscon.

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1 MR. MOSCON: Sure. Thank you. As the
2 Commission is aware and is already on the record pursuant to
3 the motion to continue that was filed and ruled upon earlier, one
4 of the primary concerns of the Company is a deadline by which
5 it's fixed, you know, bid prices would expire and potentially
6 costs could arise. Therefore, it would concern the Company to
7 have, you know, prolonged briefing period, which frequently
8 results in someone--get a reply to that brief and the time
9 constraints that we have. I do note that at the conclusion of
the
10 motion to continue in that hearing there was an agreement that
11 today we would discuss what nature of response to the EPA
12 announcement on March 29 would be. And if the Commission
13 wants to discuss that now or wait until the conclusion of the
14 hearing, I'll take guidance from the Commission.

15 But as far as a standalone post-trial brief, if you
16 will, just because of the timing that we're facing, I think what
I
17 would suggest is that the Commission allow the parties at the
18 close of the case today, or whenever it is, to provide an oral
19 summation, if you will, where they can tie the bits and pieces of
20 what the Commission has heard today, you know, give each side
21 ten minutes, whatever you want, to make that kind of legal
22 argument. And that can be on the record.

23 And, then, we can have--you know, as the
24 Commission dictates timing-wise, a written response pertaining
25 to the EPA rule. I just am concerned if you go beyond that, it

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1 opens a couple of concerns. One is, lengthy briefs by multiple
2 parties will give the Commission an additional 10, 20, 30, 40,
3 50, 60--or more pages to digest within that limited time frame.
4 It requires parties to then want to say, Well, I have to respond
5 to that. So, I think I would encourage the Commission--I
6 understand the point, so I would say let's do an oral summation
7 at the end of evidence.

8 THE HEARING OFFICER: Any other comments
9 before I hear from Mr. Ritchie on that proposal?

10 MR. JETTER: Comments from the Division would
11 somewhat mirror that from the Company. And that-- we're
12 concerned that the scheduling of briefing would extend beyond
13 the times in which the contracts or SCRs need to be signed
14 under the current bid proposals, which could introduce greater
15 risk--cost risk to that choice if that is what the Division--
excuse

16 me--if that's what the Commission approves.

17 In addition, it starts to feel a little bit like we run
18 into the potential of another two or three rounds of something
19 sort of like testimony again when we add that on top of briefing
20 based on the EPA's re-proposal at the end of this month. I'm
21 not sure how that time frame works out to get all the parties an
22 opportunity to respond in ways that they might need to. I'm not
23 sure the Division would oppose a limited brief. Something that
24 stays within the bounds of new information that arises at this
25 hearing. But an open-ended briefing, I think, would add

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1 unnecessary time to the time frame of this docket.

2 Thank you.

3 MR. MICHEL: Commissioner.

4 THE HEARING OFFICER: Yes.

5 MR. MICHEL: We don't think there's any urgency
6 to deciding this case, because we don't think an approval should
7 come from the outcome of this case anyway. We think the
8 Company can go ahead and do whatever it needs to do whether
9 or not it has an approval. That said, as far as briefing or oral
10 statements at the end of the case, we just defer to what the
11 Commission feels like it needs or would be helpful to it in
12 making its decisions. So, whatever the Commission thinks
13 would be most helpful to it is what we would, you know, what
14 we'd go along with.

15 THE HEARING OFFICER: Mr. Ritchie.

16 MR. RITCHIE: To respond to the Company's
17 suggestion, first of all, I'm not envisioning a long briefing and
18 I'm not envisioning multiple rounds of briefing. I was thinking,
19 you know, a single round of simultaneous brief. I--not looking
20 for an opportunity to raise new issues or raise new arguments. I
21 think there's been quite a bit of back-and-forth and those issues
22 have been fairly well fleshed out. But I do think that, you
know,
23 providing--and these could be short. A ten-page limit is
24 something we probably wouldn't go over even if there wasn't a
25 page limit. So, we're not looking for an opportunity to file long

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1 brief or multiple briefs.

2 I do think, though, that the opportunity just to have
3 a clear written summary or roadmap of what's going on in this
4 testimony, I think, would be helpful. My own opinion is that a
5 written brief, counsel has the ability to organize their
thoughts,

6 to present those in an organized, clear manner. I think written
7 briefs are preferable to an oral statement at the end. I'd be
8 happy to give an oral statement and try to bring it all together.
9 But I think something in writing is easier for you all to
10 understand and follow. And this is also something timing wise
11 that has been contemplated with respect to the proposed EPA
12 rule that's coming out. This could simply be, you know,
13 broadening the scope of that. You wouldn't necessarily have to
14 broaden the page limits to burden the Commission with extra
15 reading on that.

16 THE HEARING OFFICER: Thank you. We'll come
17 back to this issue at the end of the first break. I recognize
that

18 your cross-examination, Mr. Ritchie, is somewhat related to this
19 opportunity, but we're only 45 minutes or so away from a break.
20 And we'll discuss it then and give you a ruling at that time.

21 MR. RITCHIE: Thanks, sir.

22 THE HEARING OFFICER: Thank you. Mr. Moscon,
23 I think it's--we're at the point of hearing from your first
witness,

24 unless there's anything else preliminary.

25 MR. MOSCON: Okay. In that regard, if it would

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1 please the Commission, the Company would call as its first
2 witness Mr. Chad Teply.

3 THE HEARING OFFICER: Do you solemnly swear
4 that the testimony you're about to give shall be the truth, the
5 whole truth, and nothing but the truth?

6 THE WITNESS: I do.

7 THE HEARING OFFICER: Thank you. Please be
8 seated.

9 CHAD TEPLY, being first duly sworn, was examined
10 and testified as follows:

11 DIRECT EXAMINATION

12 BY-MR.MOSCON:

13 Q. Good morning, Mr. Teply. Would you please state
14 and spell your name for the record?

15 A. Chad Teply. C-H-A-D. Last name is T-E-P-L-Y.

16 Q. And would you please identify by whom you're
17 employed and what your job title is?

18 A. I am the vice president of resource development
19 and construction for PacifiCorp Energy.

20 Q. And would you please identify any prefiled
21 testimony that you prepared in this matter.

22 A. Yes, I filed direct testimony, rebuttal testimony, as
23 well as surrebuttal testimony.

24 Q. Do you have any corrections or additions to your
25 prefiled testimony?

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1 A. I have one correction to my direct testimony.

2 Q. Would you please describe that to the Commission
3 and the parties?

4 A. Sure.

5 In my direct testimony, on page .11, there's a
6 footnote. And the footnote reads: On February 22, 2012, Unit 3
7 re-rating from 530 to 523 megawatts was executed. The
8 economic evaluation represented herein was based on an
9 assumed Unit 3 total net reliable capacity of 530 megawatts.

10 That number should be corrected to 523
11 megawatts.

12 In accounting for the incremental increase in
13 auxiliary power consumption by the addition of the SCR system
14 on each unit, that--the rest of that remains accurate. So, just
15 the correction of 530 to 523. And we believe that correction
16 should address Ms. Kelly's concerns regarding the unit capacity
17 question that she had stated had not been addressed.

18 Q. Thank you, Mr. Teply. If you were asked the same
19 questions contained in your testimony today, would your
20 answers remain the same as outlined in your prefiled testimony?

21 A. They would.

22 MR. MOSCON: At this time, if it please the
23 Commission, I would ask that Mr. Teply's direct, as modified, his
24 rebuttal, and surrebuttal be entered into the record and admitted
25 as evidence together with the exhibits attached thereto.

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1 THE HEARING OFFICER: Any objection?

2 They're received.

3 BY MR. MOSCON:

4 Q. Okay. Mr. Teply, have you prepared a summary of
5 your testimony that you can share with the Commission and
6 parties?

7 A. Yes, I've prepared a brief summary.

8 Q. Please proceed.

9 A. My testimony in this case provides information
10 supporting preapproval of the Company's proposed Jim Bridger
11 Units 3 and 4 selective catalytic reduction project required
12 under the Regional Haze Rules. There are three key points that
13 I believe that are important for the Commission to capture in
14 this proceeding today.

15 First, the Company has an obligation to comply with
16 the State of Wyoming's legally enforceable requirements
17 regarding Regional Haze Rules and has positioned the SCR
18 project to meet those obligations on time and in the most
19 cost-effective manner, presuming that this docket results in
20 timely preapproval.

21 The Company's procurement efforts, executed in
22 parallel with this ongoing docket, have allowed the Company to
23 assess, with its short-listed bidders, certain uncertainties

raised

24 by the parties such as the potential for more stringent emission
25 limits resulting from pending EPA action, as well as alternate

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1 project schedule and the associated costs which could be
2 realized with deferred action.

3 Secondly, the Company's analyses and various
4 sensitivities demonstrate clear benefit to the customers and
5 support investment in the Jim Bridger Units 3 and 4 SCR project
6 as a least-cost compliance alternative.

7 Finally, the Company is pursuing preapproval of
8 this investment under the terms and intent of Utah's voluntary
9 preapproval code to transparently and thoroughly assess with
10 stakeholders the best information available to the Company
11 prior to making a major investment decision. This opportunity is
12 precisely what the Utah's--what the Company's Utah
13 stakeholders and customers have been requesting. The review
14 of major investments prior to commitments being made and
15 preempting post-investment rate case arguments.

16 Notwithstanding the complexities and decision
17 making created by EPA's deferred action on the State of
18 Wyoming's Regional Haze State implementation plan, the
19 Company's compliance deadlines must be met.

20 Company understands that this SCR project
21 investment contemplated is significant and appreciates the
22 opportunity to present testimony to the Commission supporting
23 the benefits of this investment. Company requests that the
24 Commission approve the Jim Bridger Units 3 and 4 SCR project
25 preapproval request before them. Thank you.

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1 MR. MOSCON: Thank you, Mr. Teply.

2 Mr. Teply is available for cross-examination by the
3 parties and Commission.

4 THE HEARING OFFICER: Thank you.

5 Mr. Jetter.

6 MR. JETTER: I have no questions for Mr. Teply.

7 CROSS EXAMINATION

8 BY-MR.JENSEN:

9 Q. Mr. Teply, if the EPA were to require reduced
10 emission limits pursuant to its March 29 rule, what are the
11 possible impacts on the Company's plans?

12 A. As we provided testimony regard--
13 specifically with respect to answer surrebuttal testimony, the
14 Company has assessed a potential outcome of reduced
15 emission limit from EPA; namely, a 0.05 pounds per million Btu
16 emission limit, when is reduced from our existing requirement.
17 The Company has assessed that on both a capital and a run
18 rate cost impacts perspective. To provide indicative pricing or
19 cost impacts we think from a capital cost perspective as
20 provided in surrebuttal testimony, those cost increases
21 associated with that initial capital investment would be
22 encapsulated within the dollars for the project or the costs for
23 the project that we have analyzed to date. So, we don't see an
24 impact to the analyses that we've submitted for the
25 Commission's consideration here.

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1 And, then, on a run rate operating and maintenance
2 perspective--or operating and maintenance cost perspective,
3 we've provided testimony in a percentages range there. The
4 primary impacts that we see from an operating run rate costs
5 perspective are in additional chemical costs that we would incur
6 year to year due to this reduced emission rate as well as
7 incremental what we call catalyst replacement cost. And
8 catalyst is a commodity that is installed in an SCR that is
9 replaced on a regular cycle as it degrades--as its performance
10 degrades.

11 There again, the numbers that we reviewed
12 indicatively so far and submitted in testimony would not be
13 significant enough to change our decision making in this
14 proposal before you. So, we've looked at both capital and run
15 right OEM cost. And we don't see anything there that would
16 change our decision. Nonetheless, we would object to a
17 reduced emission rate should it being proposed by the EPA as
18 unnecessary--as an unnecessary set of costs that our customers
19 would be incurring.

20 MR. JENSEN: We have no further questions.

21 THE HEARING OFFICER: Thank you. Mr. Ritchie.

22 MR. RITCHIE: Yes, Commissioner. Travis Ritchie
23 with Sierra Club.

24 CROSS EXAMINATION

25 BY-MR.RITCHIE:

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1 Q. Mr. Teply, good morning. How are you? Mr. Teply,
2 I'd like to start off where you left off. You mentioned the
3 potential of a--

4 (Reporter/attorney discussion to clarify the record.)

5 BY MR. RITCHIE:

6 Q. And I'll try to speak slower. I apologize for that.
7 You were just discussing with counsel the cost
8 implications of having to meet a more stringent 0.05 pound per
9 mmBtu NOx emission limit--N-O-X, NOx. Could you provide a
10 summary of what those costs would be? You mentioned the
11 various things that you would do. Could you at least put dollar
12 values to it, to the extent you're able?

13 A. I don't know the best way to turn back and forth
14 here.

15 In surrebuttal testimony, we have provided dollar
16 values in a range. And I can pull that up if it's helpful to the
17 Commission, if we'd like to start there.

18 Q. We could. When I was reading through your
19 surrebuttal, there were kind of three categories that I saw. Just
20 to clarify, we are in confidential session, so I can speak freely
21 on these numbers.

22 A. I think so.

23 Q. I believe one--the first set of costs you had
24 mentioned could range up to [REDACTED] per units. There was
25 another set of costs, capital costs, that could range from [REDACTED]

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1 [REDACTED] up to [REDACTED] per unit.

2 A. Uh-huh (affirmative).

3 Q. And, then, there was final O&M, which you stated is
4 a percentage increase, but I don't know that there was
5 necessarily an annual dollar value increase associated with that.
6 So, by my count, it would be, you know, [REDACTED] for the first
7 issue, [REDACTED] for the second issue, which would be about [REDACTED]
8 [REDACTED] plus the additional O&M, annual O&M costs. Does that
9 sound about right?

10 A. Maybe most importantly the first two numbers, as I
11 might not have been clear on, the first two numbers of increased
12 cost--I'm going to try to split views here--but on the capital
13 perspective, those costs would be incorporated into the ultimate
14 EPC contract cost.

15 When we submitted our application and completed
16 our analyses for this project, we did have negotiating
17 contingencies built into those numbers initially submitted. The
18 costs that I've referenced here would be encapsulated within
19 that envelope. So, we wouldn't change our analysis outcomes
20 per se, just to kind of clarify the capital costs first.

21 But maybe to help--what are those types of costs
22 that we would incur, I think is where your question is headed.
23 The types of costs that we would see on a capital project
24 increase is with a reduced emission limit would be first and
25 foremost for us at this juncture in the project increased
catalyst

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1 in the initial fill. Basically to reduce your emission limit to-
-you
2 need to basically get more performance out of a piece of
3 equipment.

4 The real performer in a selective catalytic reduction
5 system is the catalyst and the chemical you inject into the flue
6 gas stream to make the chemical reaction. So, the cost would
7 be catalyst. And, then, when you insert additional catalyst into
8 a system like an SCR, what that does, it has carry-on effects
9 with respect to flue gas flow through the system. So, the other
10 types of costs would be flue gas fans; sizing, potentially;
11 motors, potentially; reagent injection system, piping, those
types

12 of things, maybe upsize to address the additional requirement to
13 inject additional chemical. So, it would be those types of
14 changes that would incur--that would occur.

15 The initial catalyst reactor is--has been designed to
16 accommodate the additional size and volume of catalyst. So,
17 typically, on other projects, positioned differently than ours,
you
18 would see an increase in construction costs such as structural
19 steel, concrete, and those types of items.

20 To shift gears to your O&M question, the types of
21 costs that we see on an O&M perspective, because we're in a
22 confidential setting, we refer to percentages. The designs for
23 either of my short-listed bidders at this point are not locked
24 down as far as catalyst volume, so we can't give you a firm
25 number. So, I gave percentages based on the differences I

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1 have on the table currently. Each of them performed a little
2 different as bid.

3 But, fundamentally, what we did there on a
4 percentage basis for catalyst replacement, you replace portions
5 of your catalyst likely every four years for a facility like in
6 Bridger. So, what you would see is your original catalyst
7 replacement plan would have included a certain volume of
8 catalyst to be replaced. Under a higher reduction limit, your
9 catalyst volume that gets replaced incrementally--is
10 incrementally higher each time, because you have larger volume
11 in the reactor.

12 So, the other cost, then, becomes the reagent, the
13 chemical that you're injecting. And there again, I think we
said,

14 subject to check here, I think we referenced the number like ■
15 percent of increased reagent cost per year.

16 We run rough numbers on those, because, there
17 again, we don't have firm bids for reagent or catalyst supplied
18 long-term yet. But rough numbers on a PVRR basis, those
19 numbers would total less than ■ a year--on a PVRR
20 less than two million. So, as we looked at the PVRR(d) that we
21 have in this project of ■, we take a look at
22 run rates impacts potentially there--and we're down there in at
23 least the ■ range, at least with the numbers we've
24 assumed to date.

25 Q. So, just to clarify, you say the O&M would be two

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1 million annually impact to the PVRR(d).

2 A. No. We--the number I just quoted is a PVRR
3 number.

4 Q. So, the net present value impact of all of the--

5 A. Over time.

6 Q. --O&M over time would be [REDACTED].

7 And I think you said more or less--and forgive me
8 for not getting the terms quite right, but that they--the other
9 capital costs were kind of based into your estimate already.

10 A. They can be absorbed by the numbers we've
11 analyzed to date.

12 Q. So, when you say "absorbed," does that mean that
13 your expected contractor costs without that change would be low
14 enough that there's that much contingency that you could
15 absorb all those costs?

16 A. When we submitted the initial application, because
17 we were at the stage of the process where we had just received
18 bids from multiple parties, I think we initially had--subject to
19 check, I think we initially had five bids. So, when we were
20 developing the initial analysis, what we did is we took a--what
21 we thought was a likely set of outcomes based on all of those
22 bids. We levelized that. And I discuss that in my--I think it's
in
23 my direct testimony. And we basically came up with a levelized
24 number, recognizing there were many exceptions, clarifications,
25 and scope items yet to be fully defined by the time you would

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1 reach a fully executable contract.

2 So, what we did there is we came up with what we
3 would assume to be an indicative EPC cost. We then layered in
4 what we called negotiating margins for various items. At that
5 time, obviously, we weren't thinking of 0.05 necessarily as a
line

6 item, but rather had a group of other clarifications and
7 exceptions, some of which we've already been able to address
8 in negotiations with our short-listed bidders. And by making
9 room with those, we can accommodate the 0.05.

10 So, back to your question, because the--of the
11 timing of the application, we didn't have one bid per se that we
12 were looking at. We were analyzing a representative EPC
13 contract cost with appropriate contingencies, recognizing we'd
14 need to fully negotiate final scope, costs, and terms.

15 Q. But at the end of the day, there is an additional
16 cost to customers if you have to meet the 0.05 limit as opposed
17 to the 0.07.

18 A. Absolutely. And that's why, you know, if--we have
19 an existing requirement with the State of Wyoming at 0.07. And
20 as I mentioned earlier, that's a reason why if a reduced limit
21 were proposed, the Company would object to that, obviously, for
22 that very reason, because it is an additional cost. We do think
23 we can accommodate it in the project. Nonetheless, it is a cost
24 to the customer. So, we would work to try to avoid that if we
25 could.

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1 Q. Thank you, Mr. Teply. I'd like to move a little bit
2 back out now. And I believe in your summary you mentioned
3 what the Company was asking for. I'd like to kind of go back
4 to--and discuss your understanding, the Company's
5 understanding, of what this docket means. What exactly is the
6 Company requesting in this proceeding?

7 A. The Company is requesting preapproval to proceed
8 with the investment in SCR at Jim Bridger Units 3 and 4.

9 Q. And is it your understanding that if the Commission
10 grants that request that there would be presumptions that would
11 go along with that preapproval that the Company would you be
12 able to carry into the next rate case?

13 A. Yes. There are certain statutory--I call them
14 presumptions--to use your word--regarding that. I think
15 we've--as I understand it, subject to legal check, my
16 understanding would be we--we've submitted a cost profile for
17 the project. My understanding would be that we would be held
18 to that cost profile subject to the provisions of the statute
that
19 allow for changes and other things to occur should conditions
20 change. So, that would be my general understanding of what
21 preapproval means in this docket.

22 Q. So, to simplify it, you wouldn't have to put these
23 costs--assuming they stayed within your limits, you wouldn't
24 have to put these costs at issue in your next rate case; it would
25 just be--there would be a presumption of prudence and you'd

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1 carry that into your rates without further review of prudence and
2 discussion. Is that correct?

3 A. The costs would still be included, obviously, in rate
4 base in the next rate case. But obviously with a preapproval,
5 yes, the arguments would be much reduced.

6 Q. So, if the Commission, on the other hand, denies
7 preapproval and the Company went ahead with the SCR
8 installations as described in this proceeding, you would still
9 have an opportunity to address those costs in a later
10 proceeding--in a later rate case proceeding. Is that correct?

11 A. Yes. Here again, from my understanding of the
12 provision, there is the opportunity for the Company, should the
13 preapproval request not be approved, to come back later.
14 Obviously, we would take the input from the Commission as to
15 why it wasn't approved into our decision making going forward.
16 If there's some key concern there, obviously we'd hope to
17 address it as best we could. But nonetheless, that is my
18 understanding, that there are future opportunities whether we
19 receive the preapproval here or not.

20 Q. And, so, I guess my question with this is, in my
21 view, and I think in the Company's view, from the way you've
22 stated it, the--this preapproval is really about the risk of
whether

23 or not you have to address these costs going forward. So, is it
24 fair to say that approval of this docket would shift the risk
25 burden away from the Company, assuming that you stay within

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1 the profile that's been addressed in this proceeding?

2 A. No, I don't think so. The information that we've
3 presented here in this case and that we'll be discussing today is
4 the best information the Company has to date to make its
5 decisions with. And in a future rate case proceeding, at least
6 the ones I've participated in to date, the question is always

what

7 did the Company know. And we have no clearer view of what
8 we know today than what--than today.

9 So, we're really not asking to shift risk. We are
10 asking, as I believe is intended by the code, to present the
facts

11 as we know them, to have the stakeholders and the Commission
12 review them and weigh in on that decision. And, then, the
13 Company is provided some certainty with respect to that
14 envision as long as the Company still manages within the
15 obligations that it's committed to in the application.

16 So, I don't know that we're shifting risk per se. I
17 wouldn't necessarily agree with that. I would say it's an
18 alternate approach that is provided by statute.

19 Q. Well, let me take a hypothetical on that. Your own
20 testimony, Mr. Link's testimony, I believe, showed that the
21 installation of the SCR projects is unfavorable under the low gas
22 scenarios. There are several low gas scenarios that resulted in
23 a negative PVR(d) result.

24 So, what that means is, if the gas prices are on the
25 low end of your forecast, not your base forecast, that this

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1 actually might not look like a good investment for the Company
2 ratepayers. Wouldn't the Company, if they were granted
3 approval in this rate case, preapproval in this
4 proceeding--wouldn't they still be able to carry a presumption of
5 prudence into the rate case even if low gas--even if the low gas
6 scenario comes to pass?

7 A. So, the Company would carry a presumption of
8 prudence--I assume--I think that's what you just said--
9 presumption of prudence. The Company would have--the risk is
10 the same. We have a compliance obligation today. We've laid
11 out the timing for the projects, when do we need to begin, what
12 is the information that we've assessed to make the proposal that
13 this is the least cost compliance alternative. If your question
is,
14 could market conditions change--market conditions could
15 change. That's--that is part of the risk with which electric
utility
16 operates.

17 However, from a factual basis, if we proceed today,
18 because we have a compliance obligation with preapproval or
19 without, we get to the rate case, at that time, market conditions
20 have changed, we still will go back to a rate case--the
21 information that we would have reasonably had available to us
22 at the time we made the decision to invest. So, there again, the
23 dynamic doesn't necessarily change, in my--from my
24 perspective.

25 Q. So, regardless of the uncertainties that may come

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1 to pass between now and the various points in time when you'll
2 be incurring costs, what you're saying is the information now,
3 today, is the relevant information and that any changes of that
4 future information wouldn't be relevant--well, they can't be
5 relevant here, because we don't know what they are. And they
6 wouldn't be relevant in a rate case anyway, because you have to
7 be making the decisions as of this moment. Was that what you
8 were saying?

9 MR. MOSCON: Could I just lay one quick
10 objection? I'll allow the witness to answer. To the extent it's
11 calling for a legal conclusion as to what is or is not admissible
12 evidence or burden of proof at a rate case, I would say, first,
it
13 goes beyond the scope of any testimony of Mr. Teply in this
14 proceeding. And, again, note that it calls for a lay witness to
15 provide a legal conclusion. But subject to that objection, if
the
16 Commission wants to hear his interpretation of what does or
17 doesn't happen in a rate case, he can answer.

18 MR. RITCHIE: Commissioners, I can withdraw and
19 restate. I am not seeking a legal conclusion.

20 BY MR. RITCHIE:

21 Q. Let me phrase it this way, Mr. Teply. At what
22 point--will the Company still have an opportunity to change its
23 mind if market conditions do change?

24 A. I would say if there was a material event--I mean, I
25 think the--a material market event--I think the intent of our

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1 filings today, in the information that you'll hear a lot from Mr.
2 Link when he testifies today, we've captured a myriad of
3 potential outcomes, to address I think where your concerns are
4 headed--various gas prices, various CO2 prices, etc. And at the
5 end of the day, that information is what we're presenting as
6 what's best available, what's been assessed by the Company, as
7 best we can, forward looking, for this major investment decision.

8 But back to my initial thought, when we come back
9 in for ratemaking at--if this was a nonapproved project today,
10 non-preapproved, we come back in for ratemaking, the
11 information that we will rely on, obviously, in our future rate
12 cases will be the fact that we did look at a myriad of then
13 reasonably forecasted outputs--or outcomes in the various
14 markets that we've assessed.

15 So, I don't know any other way to say that other
16 than that's exactly why we put the number of scenarios together
17 that we have. And there again, Rick can speak better on that
18 than I as to the assessments and sensitivities that we've
19 established there.

20 Q. Thank you, Mr. Teply. I'll move on. Dr. Fisher, in
21 his testimony, and several other parties, I think, raise the
issue
22 of avoidable transmission costs that were not analyzed by the
23 Company. I believe your response in your rebuttal testimony
24 was that you stated--I'm paraphrasing here-- but the outcome of
25 the SCR project at Jim Bridger 3 and 4 would not dictate the

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1 decision making for the Energy Gateway project. Is that a fair
2 assessment of your testimony?

3 A. Subject to check, that sounds correct.

4 Q. If you could turn to your rebuttal testimony, please,
5 page .5.

6 A. Just make sure, we have 12 lines on that page. Did
7 you say rebuttal or surrebuttal?

8 Q. Rebuttal.

9 A. Double-check.

10 Q. I was looking at page .5, lines 3 and 4.

11 A. Okay. I'm with you. Page .5.

12 Q. You stated that the future need and timing of the
13 Energy Gateway project will be driven by then-current
14 information. Is what you're saying here that--well, so the
15 Energy Gateway project has not been decided, correct? There's
16 no approval for going forward with all the segments of that
17 project. Is that correct?

18 A. Yes. To characterize, there are certain portions of
19 the Gateway project that have been completed. There are
20 certain portions that are under various stages of development
21 and some yet to be fully approved.

22 Q. And I took your statement to mean that as things
23 develop and as the time goes on and you're assessing that
24 project, that the then-current information--so, the information
25 that you'll have in the future--will be the information that's

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1 driving the decision making of the Energy Gateway, correct?

2 A. I think you--I think most of the parties in this
3 proceeding are participating in Company's IRP, integrated
4 resource planning process. For example, that process--in that
5 process--and here again, Rick Link, I believe, addresses
6 this--but a number of transmission Gateway planning scenarios
7 have been and are being assessed in that process, and will be,
8 going forward. So, that would be one example of a type of
9 review.

10 Obviously, depending on where the segment is,
11 individual States have individual requirements for certificates
of

12 public convenience and necessity. Other regulatory proceedings
13 are available to the transmission function as they proceed
14 through various stages of development and implementation of
15 that project. So, there's a number of upcoming, I'd say,
16 processes within which that project and its various subsegments
17 would be scrutinized.

18 Q. So, aside from this proceeding, if Jim Bridger
19 3--Units 3 and 4 were to shut down later this year--earthquake,
20 flood, something shut that unit down and it was not going to be
21 able to reopen, would that be relevant information for planning
22 the Energy Gateway project?

23 MR. MOSCON: Before Mr. Teply answers, I'd like
24 to object only on grounds that his testimony on this issue upon
25 which he's being cross-examined is simply that the Company's

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1 analysis for the Bridger units was not dependent on Gateway
2 and--and, so, I think it's fair to cross-examine him on that
point.

3 However, Mr. Teply may or may not be the witness the Company
4 would rely on about transmission planning. He has not been put
5 forward as a transmission expert. So, it goes beyond the scope.
6 And I'm not trying to prevent Mr. Teply from speaking to the
7 extent he knows. I'll simply note he has not been put forward as
8 a transmission expert, so his testimony should not be received
9 to represent, you know, complete statements on that point.

10 MR. RITCHIE: And Commissioners, if I may
11 respond to that. Sierra Club is not asking that the Commission
12 or Mr. Teply opine on whether there be approval or disapproval
13 of any subject or any aspect of the Energy Gateway project
14 should turn on this proceeding. But what Dr. Fisher and other
15 parties have testified to is there are relevant, avoidable
16 components of the Energy Gateway project that could have and
17 should have been analyzed in this proceeding as they relate to
18 Jim Bridger. And, so, that's the aspect of Mr. Teply's testimony
19 that I was going for.

20 THE HEARING OFFICER: You may answer the
21 question.

22 Do you recall the question, Mr. Teply? Do you
23 mind restating it, Mr.--

24 BY MR. RITCHIE:

25 Q. The question was, for whatever reason, if Jim

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1 Bridger Units 3 and 4 were to stop operating this year, would
2 that be relevant information in the transmission planning
3 process--

4 A. Yeah.

5 Q. --if those units were no longer available, for
6 whatever reason?

7 A. So, from my understanding--this is a
8 non-transmission expert's perspective. But, obviously, if a
9 major resource in any one--in any system was to disappear one
10 day, you would have effects across transmission system--from
11 my understanding, it's a very interwoven system. So, under that
12 hypothetical, obviously there would be impacts to a transmission
13 system if you lost 2,000 megawatts in a day.

14 Q. And, similarly, if you were building a new
15 generation resource--and this was a proceeding to look at a new
16 generation resource--
17 you would evaluate your transmission constraints and the
18 requirements for transmission for that resource, correct?

19 A. Yeah. When you build a new resource and plan to
20 attach it to the transmission system, there are very detailed
21 transmission interconnection requirements--transmission system
22 impact studies, facility siting studies--a myriad of activities
that
23 go on to assess the very issue that I think where you're headed
24 and alluding to. Adding a resource to a transmission system
25 doesn't just impact the line next door. It has potential

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1 implications across substations and more of a regional
2 assessment of a transmission from the system impact studies
3 that I've been exposed to in the various projects we've
4 completed.

5 Q. So, there are costs associated with adding that new
6 resource--transmission costs associated with adding that new
7 resource.

8 A. Potentially.

9 Q. But is it your testimony that there are no avoidable
10 costs if you were to remove a resource?

11 A. No, not necessarily. But what we've stated, and as
12 Mr. Link's sensitivities have demonstrated for the PVRR that
13 we've run for the Jim Bridger 3 and 4 SCR projects, whether we
14 have Gateway in or out--and here again, Mr. Link can testify to
15 the details here--but, nonetheless, there's no detriment to the
16 PVRR, the value of the benefit of the project as we assess it.

17 Q. I'm sorry. Could you repeat that? There's no
18 detriment--

19 A. We--with the sensitivity--and here again, it's more
20 of a question for Mr. Link. But with the sensitivities that we
run,

21 we did not see a detriment to the economics associated with Jim
22 Bridger 3 and 4 in the sensitivity that he ran with Bridger--with
23 Gateway in or out.

24 Q. And, so, you're referring there to the sensitivity
25 run--that Mr. Link discusses in his rebuttal testimony. I
believe

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1 it's page .37.

2 A. Subject to check on the page, but yes, that's the--

3 Q. My next question, and my final question, actually,
4 have to do with that sensitivity. Would you be the person to
5 discuss that with, or should I discuss it directly with Mr. Link?

6 A. I think it would be best to review that with Rick.

7 MR. RITCHIE: Mr. Teply, thank you very much for
8 your testimony.

9 Commissioners, I have no further questions.

10 THE HEARING OFFICER: Thank you.

11 CROSS EXAMINATION

12 BY-MR.MICHEL:

13 Q. Good morning, Mr. Teply. My name is Steve
14 Michel.

15 THE HEARING OFFICER: Mr. Michel, before you
16 begin, we're going to be taking a break about 10:30, just for
17 your planning purposes.

18 MR. MICHEL: Thank you.

19 BY MR. MICHEL:

20 Q. I'd like to start with the questions that were asked
21 of you related to your surrebuttal about the cost implications of
22 EPA changing the permitted emission rate from 0.07 pounds per
23 Btu to 0.05. And there were some numbers floating around. I
24 was trying to get a sense of what those numbers relate to. So,
25 if you could turn to page .3 of your surrebuttal, which is where

I

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1 believe you discuss those costs. And at line 15, the first item
2 you identify is initial capital costs that you say would be less
3 than [REDACTED] per unit. Do you see that?

4 A. Yes, I do.

5 Q. So, that would be less than [REDACTED] for the two
6 units, right?

7 A. If my math is correct, yes.

8 Q. Let's just assume it's [REDACTED] for purposes of
9 this discussion. Is that [REDACTED] a PVRR number?

10 A. No. The references I have here are simply an
11 initial contract cost adjustment-type number.

12 Q. Is that a rate base addition if you were to install
13 this project? Would it be [REDACTED] more rate base?

14 A. It would be included in the overall project cost as
15 an initial cost, yes. So, I believe, to answer your question,
yes,

16 it would be part of a rate base number.

17 Q. So, the impact to PVRR would be more than [REDACTED]
18 [REDACTED], in all likelihood.

19 A. Not necessarily, no. I mean, it's . . .

20 Q. Have you done that calculation?

21 A. I haven't done that calculation.

22 Q. Okay.

23 A. Yeah.

24 Q. And the second item you identify is the EETC
25 system--

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1 A. Correct.

2 Q. --that you say is between [REDACTED] per
3 unit--

4 A. Correct.

5 Q. --or [REDACTED] for the two units.

6 A. Uh-huh (affirmative).

7 Q. And, again, is that a capital number or is that an
8 expenditure?

9 A. That would be a contract cost number, initial
10 contract cost number.

11 Q. Would that be a rate based item, or would that be
12 something that would be expensed when you came in for rate
13 case?

14 A. No. That would be a cost that would be part of the
15 capital project.

16 Q. Okay. So, again, it would be an additional--an
17 addition to rate base with some PVRR impact that you have not
18 calculated.

19 A. It would have its--no, I--when you say PVRR
20 impact, I just want to make--

21 Q. Sure.

22 A. --I want to differentiate the two. You're talking rate
23 cases, I think, versus our analysis, I think. Clarify this if
I'm
24 wrong. But what I've stated earlier is these numbers are not
25 incremental to the analyses that we've already submitted in

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1 these case--in this case on a preapproval perspective. So, just
2 so you don't get an apple-and-orange going here. The capital
3 costs that I'm talking about here would not impact the PVRR(d)
4 number that we've submitted for parties and the Commission to
5 review in this docket.

6 Q. Would it have an impact to customers--

7 A. It would ultimately be a cost that did roll as a
8 project cost to a rate base or rate case.

9 Q. And that impact would be between [REDACTED]
10 [REDACTED] to rate base.

11 A. Yeah, potentially. Back to my argument on why we
12 would obviously attempt to avoid that cost.

13 Q. Okay. And are these numbers total numbers for the
14 facility, or are these Rocky Mountain Power's share of the cost?

15 A. Actually, these are actually--these numbers would
16 be a 100 percent number. So, we'd have reduced by the time
17 we took a share. These--
18 there again, these are ranges, but nonetheless it is 100 percent.

19 Q. And, finally, you identify an impact of--
20 looks like a total of about [REDACTED] percent associated with the run
21 rate costs. And that's on page .4 of your surrebuttal. [REDACTED]
22 percent and [REDACTED] percent.

23 A. Yeah, [REDACTED] percent for the catalyst replacement cost
24 increase and approximately [REDACTED] percent for the reagent cost.

25 Q. So, is that [REDACTED] percent of--

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1 A. That--

2 Q. --██████████, roughly, or--

3 A. No. That goes back to my earlier comment that
4 based on where we think those numbers would play out, that
5 PVRR number would be less than two million.

6 Q. So, you say it's █████ percent. My question is, █████
7 question of what?

8 A. Right. So, let's start with the █████ percent.

9 Q. Okay.

10 THE WITNESS: So, the █████ percent basically states
11 if you have--which we've included in our--we have a run rate
12 catalyst replacement cost. So, every four years, we replace a
13 portion of our catalyst. What that basically says is whatever
14 piece was going to come out before is now █████ percent larger.

15 BY MR. MICHEL:

16 Q. Okay.

17 A. So, we've taken that incremental every four years
18 and we've added a █████ percent.

19 Q. Okay.

20 A. In order of magnitude, those replacements every
21 four years, order of magnitude--don't hold me to this number--in
22 the three of four million--I'll say ████████████████████ dollar
23 range, for lack--

24 Q. So, █████ percent is █████ percent of a component of the
25 total cost--

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1 A. Yes.

2 Q. --not █ percent of the total cost.

3 A. █ percent of the--a component of the total cost.
4 Yes, it's just the █ percent applied only to that line item.

5 Q. Got it.

6 A. And the █ percent is the same. It's █ percent
7 applying to the line item of reagent purchased every year. So,
8 it's not . . .

9 Q. Thank you. I think I understand what you're saying
10 there.

11 So, let's go back to your direct testimony now, if we
12 could. And you--part of your testimony is--you indicate at page
13 .2 that one of the things you present the Commission is that
14 PacifiCorp has agreement--alternatives to SCR installation.

15 A. Try to catch up with you here. Okay.

16 Q. One of the things you address in your testimony--if
17 you want to refer to page .2, line 40, one of the things you
18 address are the alternatives the Company considered, right?

19 A. Correct.

20 Q. And on page .15, you identify and discuss some of
21 those alternatives, right? Line 334.

22 A. Yeah. The end of the discussion there looks like,
23 yes.

24 Q. Can you briefly describe for the Commission--well,
25 what does "SCR" stand for?

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1 A. "SCR" stands for "selective catalytic reduction."

2 Q. Okay. And another technology that's often
3 discussed with respect to Regional Haze is what's called SNCR.
4 Are you familiar with that technology?

5 A. Yes.

6 Q. And that is basically the same thing, just selective
7 non-catalytic, right?

8 A. I don't know that I'd say basically the same thing,
9 but--

10 Q. Well, I mean the acronym.

11 A. Yeah, selective non-catalytic reduction.

12 Q. And it is quite a bit less costly than SCR, typically,
13 right?

14 A. Quite a bit less costly, in a completely different
15 performance perspective with respect to NOx reduction.

16 Q. Right. And has a much lower performance as far
17 as reducing NOx emissions.

18 A. When you say lower performance, it's less capable
19 of removing NOx.

20 Q. So, there would be a higher NOx emission rate if
21 you deploy SNCR technology instead of SCR technology.

22 A. Correct.

23 Q. Did the Company consider SNCR technology for
24 any of those units--either of those units?

25 A. Yeah, if you go all the way back in history to the

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1 best available retrotech--best available retrofit technology
2 reviews that we were required to complete for the State of
3 Wyoming, those reviews, which are--were required by the State
4 to basically allow them to administer their Regional Haze
5 program, required the Company to evaluate all NOx
6 technologies, whether it be--well, I shouldn't say all, but
several

7 viable NOx technologies, including low NOx burners; low NOx
8 burners with rotating overfire air, which is another technology
9 that's typically commercially available; selective catalytic
10 reduction; selective non-catalytic reduction; and combinations
11 thereof.

12 So, there's a very detailed process that was used
13 by the Company and the State of Wyoming to assess the best
14 available retrofit technologies that would be applied to Jim
15 Bridgers Units 3 and 4 in that program.

16 Q. In that analysis, did the Company evaluate a
17 conversion of one of the units, either 3 or 4, and installing
that
18 SNCR technology on the remaining unit as a compliance
19 alternative?

20 A. The best available retrofit technology process--gas
21 conversion isn't a retrofit technology that would be typically
22 reviewed in a BART process. That's something that would be
23 looked at, like, externally. That's not a retrofit per se--

24 Q. So--

25 A. --in the context of BART.

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1 Q. So, the Company did not explore converting one
2 unit and putting a lesser control, an SNCR control, on the
3 remaining unit.

4 A. Not that I'm aware of, in the history that I've seen.

5 Q. Okay. Do you follow regional haze issues in the
6 West, the treatment that EPA allows or doesn't allow?

7 A. I attempt to. I think our witness Ms. Woollums is
8 probably better suited than--she's probably our tracker, more so
9 than I, so . . .

10 Q. Do you have a sense for how much less expensive
11 an SNCR deployment would be than an SCR deployment on
12 either of those units?

13 A. Without having numbers in front of me, the issue
14 there would be obviously performance and other things. But just
15 from a capital cost perspective, I'd say SCR is probably seven
16 to ten times more expensive, just off the top of my head.

17 Q. It's very significant, cost-wise.

18 A. Yeah, significant cost. Completely different
19 operational profile, yeah.

20 Q. Are you familiar with the recent announcement by
21 EPA, State of New Mexico, and Public Service Company of New
22 Mexico about an agreement in principle, if you will, related to
23 San Juan Generating Station?

24 A. I'd say only from a headlines perspective.

25 Q. Are you aware that EPA has at least tentatively

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1 accepted, subject to all the approvals that need to go forward,
2 an outcome there that would have half of that facility shut down
3 and half of it controlled with SNCR technology?

4 A. I really haven't reviewed that subject.

5 Q. But that's nothing that Rocky Mountain Power ever
6 explored or suggested as a compliance alternative?

7 A. I think in our reviews in our assessments of the
8 SCR technology that we've proposed, we've found those
9 investments to be most beneficial to customers. We have
10 reviewed other alternatives, including natural gas conversion,
11 allowing the units to be retired.

12 So, fundamentally, our analyses that we've
13 submitted here we went through, obviously, the BART
14 assessments initially--the BART assessments resulted in SCR
15 as the requirement as a cost effective solution from an
16 environmental perspective in that process. And, then, in this
17 docket, we've added to that review the gas conversion and the
18 retirement optionality. So, we've done a number of
19 assessments, not the particular assessment I believe that you
20 asked about.

21 THE HEARING OFFICER: Is it a good place to
22 stop, Mr. Michel?

23 MR. MICHEL: It is. Thank you.

24 THE HEARING OFFICER: We'll be in recess until--
25 ten-minute recess. We'll convene at 20 till 11:00.

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1 We're off the record.

2 (Recess taken, 10:28-10:41 a.m.)

3 THE HEARING OFFICER: On the record.

4 Addressing the question of briefs, we are going to
5 allow the parties to file a ten-page brief, one round by March
the

6 27th. Is that reasonable? You'll have the transcripts for at
7 least three or four days. And these will be voluntary
8 submissions. And we're leaving the issue of response to the
9 potential EPA action as a separate discussion to be conducted
10 at the conclusion of the hearings today, unless parties would
11 like to address that differently.

12 MR. MOSCON: If it please the Commission, one of
13 the compromise points that we were going to suggest--and,
14 obviously, we'll respond however the Commission directs--I note
15 the date selected is two days before the EPA announcement
16 comes out.

17 For ease of the Commission and for the parties,
18 what I was going to recommend is to pick a date that's
19 approximately ten days from the date that the EPA announces
20 its re-proposal, and allow the parties ten day--or, you know, 10
21 pages or 12 or whatever the Commission thinks is appropriate to
22 respond, and in that, respond and say here's what the EPA has
23 done, here's what we think the impact is, and tie that back into
24 any legal argument that is done.

25 I fear that if there are separate briefs what will end

00059

1 up happening is we'll end up with two legal briefs, because if
2 the Commission allows briefing on the impact of the EPA
3 announcement, I don't know that the parties will be able to help
4 themselves but to say here's what that does to BART or SIP or
5 anything else. And, so, you end up with two legal briefs. So, I
6 would recommend, again, just consideration that those two get
7 folded into one brief.

8 THE HEARING OFFICER: Mr. Ritchie, does that
9 meet your needs, desires?

10 MR. RITCHIE: Either option, either the
11 Commission--or the option that you recommended or the option
12 by counsel would, I think, be acceptable for Sierra Club.

13 MR. MICHEL: Commissioner, that's fine with WRA,
14 as well. The only thing I'd suggest is that the Commission not
15 have the briefs triggered by the EPA action but set a date
16 certain for those briefs.

17 THE HEARING OFFICER: Is there any other
18 comment on this question? Seems like there may be enough
19 consensus we can address both issues now. So, give us your
20 full response to the matter of briefs, both addressing the
21 hearings and the March 29 potential EPA action.

22 Mr. Jetter.

23 MR. JETTER: The Division is fine with, I suppose,
24 mixing the two, to just having one briefing set after the EPA
25 ruling. At least from the Division's perspective, we would like

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1 an opportunity for a round of data requests depending on the
2 outcome of the EPA ruling--or re-proposal--
3 excuse me. We don't know what the re-proposal will include.
4 But if it includes things outside of the information we have, we
5 may need to ask some information from the Company.

6 In light of that, our suggestion was going to be
7 potential for possibly a two-round briefing, with a fairly short
8 turnaround, and a fairly short turnaround for data request from
9 the Company in between those two sets of post-EPA re-proposal
10 briefing.

11 MR. JENSEN: If I can speak.

12 THE HEARING OFFICER: Mr. Jensen.

13 MR. JENSEN: The Office would seriously object to
14 the combining of these two issues. The--frankly, the brief on
15 these hearings we probably wouldn't even participate in, so
16 that's not material to us. But the EPA ruling is very critical

to

17 us. And we would like to be able to respond to what the
18 Company has to say rather than just file simultaneously brief.
19 We would like to be able to see it, know what their analysis is,
20 and be able to respond to it. We may agree; we may not agree.
21 But a simultaneous brief does not work.

22 THE HEARING OFFICER: Any other thoughts,
23 positions?

24 MR. MOSCON: If I could, again, go to the--a
25 compromise suggestion, if the Commission were to consider

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1 something along the lines of the following: If the Commission
2 would tell parties that by April 8, which is, you know, ten day-
ish

3 from the date of the announced EPA proposal, the parties could
4 file whatever statement they wanted that reacts to the EPA rule
5 and/or any legal analysis pertaining to this proceeding, with a
6 limitation of ten pages or less, recognizing parties that don't
7 want to make legal argument and only want to react to the
8 EPA--it's up to them; do what you want with your ten pages--and
9 then have all parties that want to--again, it's not required--
10 submit a response to each other's position by April 15, which is
11 one week later. Again, it wouldn't be required. And that should
12 be limited to maybe a five-page reply.

13 If it were closed at that point, that would give the
14 Commission exactly one month to have everything in to reach
15 and draft an order recognizing that based at the motion to
16 continue hearing, kind of the cutoff was to have a decision for
17 the Company to react to by May 14 so that they can hit their
18 May 15 deadline.

19 That seems to encapsule all the things we've heard.
20 So, there's an opportunity to react to what someone else has
21 said and say they've overstated. Somebody may, in their initial
22 filings, say here's this missing data. And if the Company
23 responds to this, it would be satisfied. And, then, that could
go

24 into that April 15 filing if, you know, it seemed like a
responsible

25 thing to do. And it seemed like that those two rounds should

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1 answer all questions and give the Commission a month to do its
2 work. So, I guess I'd ask the Commission to consider that type
3 of a proposal.

4 THE HEARING OFFICER: Any other positions?

5 Mr. Jetter, do you . . .

6 One question this raises for me is the Company's
7 commitment to respond to discovery requests in that very tight
8 interval so that parties would have the benefit of . . .

9 MR. MOSCON: Sure. And keeping in mind I'm not
10 able to see how red the faces of the people behind me are at
11 this point in time, but I suppose that in the initial filing of
any

12 party on April 8 saying what the EPA has done raises these
13 questions and we--these answers, the Company would just
14 respond on its--on the 15th--I guess it would govern itself
15 accordingly as far as what data it thought it needed to produce
16 to answer those questions.

17 And--you know, and--so, I guess time being what it
18 is, there is the realistic expectation of what it could do in
that

19 time frame. I simply don't know how better to answer the
20 question. I recognize the Commission can't issue an order in
21 four days. And, so, it seems like we need to have a cutoff time
22 when the matter is fully submitted to the Commission. And
23 there's nothing that I or any of us can do to change that May 14
24 deadline. So, imperfect as that may be, I think that's probably
25 as close as we're going to get. And the Company can explain in

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1 its filing this is all we could put together in that time frame.
If
2 there's a--you know, complicated data request. But I think
that's
3 what we'd have in any event.

4 MR. MICHEL: Commissioner.

5 THE HEARING OFFICER: Mr. Michel.

6 MR. MICHEL: Commissioners, I'm getting very
7 concerned that this is getting very, very speculative and very,
8 very unwieldy. We're talking now about discovery briefs, more
9 evidence based on something that EPA may or may not do, and,
10 you know--and we don't know when they will do it. There is
11 certainly a date out there, but EPA is not always the most
12 punctual agency in the Federal government. And I think trying to
13 anticipate all these future events that may or may not occur and
14 not knowing how they will occur, I think, is making this very
15 difficult and unwieldy.

16 And what I would suggest is simply have a brief
17 date for this case. It's fine if we do it April 8 or sometime
after

18 when we think EPA might issue its ruling. And parties can go
19 ahead and address what they think should be done with this
20 case based on whatever EPA does or doesn't do at that time if
21 they choose to. But to try and anticipate all these different
22 future events and deal with those now, I think is going to be
23 difficult, and we may end up getting it wrong anyway. So, I just
24 suggest--have our briefs filed no more than ten pages, do it
25 April 8. And if EPA has done anything in the interim, can

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1 address that at that time and how they think the Commission
2 should handle that.

3 THE HEARING OFFICER: Any other statements?

4 Thank you.

5 Mr. Ritchie, you have an assurance that there'll be
6 some briefing opportunity. I hope that's enough to address your
7 cross-examination concerns. And we'll consider the nuances
8 that have been presented to us in the last few minutes and
9 provide some more specific direction before we conclude the
10 hearing. Is that adequate for your purposes?

11 MR. RITCHIE: Absolutely, sir. Thank you.

12 THE HEARING OFFICER: Is there anything further
13 before we begin--or recommence cross-examination? All right.

14 Mr. Michel.

15 MR. MOSCON: Before we proceed, I just want to
16 make one procedural housekeeping note. I note that the
17 speaker apparently is on out in the hallway. And to the extent
18 there is confidential information, I don't know there's a way we
19 can turn that down.

20 THE HEARING OFFICER: I know that that's being
21 addressed--

22 MR. MOSCON: Okay.

23 THE HEARING OFFICER: --because it was--the
24 last instruction we gave before we came back into the hearing
25 room. And there must be some technical obstruction is all I can

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1 believe. Perhaps someone could tend to that for us. And thank
2 you for bringing that to our attention.

3 MR. MOSCON: Thank you.

4 THE HEARING OFFICER: Okay. Mr. Michel.

5 MR. MICHEL: Thank you.

6 BY MR. MICHEL:

7 Q. Mr. Teply, in response to a question from Mr.
8 Ritchie, you responded that what's important in cost recovery
9 decisions is what the Company knew. And I believe, you know,
10 to summarize what you said was basically we know what we
11 know today when the decision needs to be made and that's
12 what's relevant. Is that kind of a fair characterization of your
13 response to Mr. Ritchie?

14 A. I believe so, yes.

15 Q. Okay. Would you agree, though, that it's also
16 important to understand what the Company--
17 I'm going to sound like Mr. Rumsfeld--it's important to know
18 what the Company didn't know or should have known at the time
19 these decisions were made?

20 MR. MOSCON: Could I ask for a clarifying thing?
21 Is the question in this proceeding? in a rate case? I think it's

an

22 ambiguous question.

23 MR. MICHEL: In a case where cost recovery is
24 being determined, be it this case or a rate case.

25 MR. MOSCON: Lastly, again, I'll object to the

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1 extent it calls for a legal conclusion of the witness. If the
2 question is what do you think is a good policy, I suppose that's
3 a different story.

4 THE HEARING OFFICER: You can answer the
5 question, Mr. Teply, if you recall it.

6 THE WITNESS: Yeah, I think I do.

7 Ultimately, I think the real answer there is that with
8 the analyses that we've put forth, and recognizing that the
9 Company has the burden of proof in its rate case proceedings,
10 that is precisely why we've taken the efforts that we have to
11 analyze a spectrum of gas costs or price curve information, CO2
12 costs, etc., which Mr. Link will testify to. But fundamentally,

I

13 think that is the Company's approach, to try to put forth the
14 myriad of potential outcomes and information that obviously
15 stakeholders and the Commission need to weigh in hindsight,
16 potentially, in a rate case setting.

17 But fundamentally, that is what we're attempting to
18 do by running multiple scenarios, and not just providing a one
19 run, here's the base case set of information. So, I think to
20 address--you know, there are always unknowns as to what will
21 happen in the market. The Company's attempted to capture,
22 with an envelope, potential outcomes in that regard.

23 BY MR. MICHEL:

24 Q. Well, my question is if there is a compliance path
25 that would have a better outcome for the Company and its

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1 customers that the Company did not consider, would you agree
2 that that's relevant in the Commission's determination of
3 whether or not the Company has been acting prudently?

4 A. I think that depends on--when you say "a better
5 outcome," obviously there's political motivated outcomes.
6 There's a number of better outcomes that can be quantified as
7 such, so I'd have to understand better what you mean by "better
8 outcome."

9 We've put forth an economically based assessment
10 of this project. And in other rate case proceedings, when we
11 make other investments, the burden of proof is generally based
12 on what are the economics associated with the decision making
13 in the project that you've put forth at that given time. So, I'm
14 not sure, when you say there's a better outcome, what that
15 really means.

16 Q. I'll tell you what I mean is a better economic
17 outcome with an environmental impact that's acceptable or an
18 environmental benefit that's acceptable to EPA and the State of
19 Wyoming.

20 A. I think my answer still stands. I'm not sure that I--

21 Q. Would you agree that if there was such a
22 compliance path and the Company did not consider that, that
23 that would be relevant in the Commission's determination of
24 cost recovery and prudence?

25 A. There again, I'd say not necessarily. I think the

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1 Company is weighed in the rate case setting based on was it
2 prudent in its decision making, did it use--make reasonable
3 decisions with reasonably understood information. There will
4 always be other ways to get to a solution. So, I'm not sure--I
5 think what you're trying to characterize is, there's one best
6 solution. And I would say, depending on the circumstances--this
7 is kind of a hypothetical anyway--but I would say, depending on
8 the circumstance, there may be more than one best solution.

9 Q. You submitted your rebuttal testimony about--a
10 little over three weeks ago.

11 A. I don't recall the date, but I did submit rebuttal
12 testimony, yes.

13 Q. February 11, subject to check.

14 A. Subject to check, sure.

15 Q. And that testimony contained a number of updates
16 to the Company's modeling, analyses, and assumptions.

17 A. Actually, Mr. Link's testimony in rebuttal would
18 have been the testimony that incorporated updates from a
19 modeling assessment.

20 Q. When I said "you," I meant the Company's rebuttal.

21 A. Oh. Yeah, in that regard, yes, the Company did
22 incorporate those things--

23 Q. Okay.

24 A. --updates.

25 Q. And in your testimony at page .8, it indicates that

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1 the Company updated information modeling and analyses as
2 part of its rebuttal that was filed three weeks ago. I'm looking
3 at lines--

4 A. Yes, I see the reference there, bottom of page .8.

5 Q. Okay. And as a result of those updates and
6 changes, there were hundreds of millions of dollars swung in
7 PVRR calculations or results that the Company provided. Is that
8 right?

9 A. Yes. I believe Mr. Link testifies to the differences
10 in the rebuttal.

11 Q. And, so, the parties to this case have had all of
12 three weeks to essentially analyze a very different presentation
13 by the Company; is that right; and the Commission, as well?

14 A. I wouldn't characterize it as a different
15 presentation. The modeling effort, the inputs, the assumptions,
16 etc., have been under scrutiny from the initial filing. The
17 number, the end result numbers are different. But I wouldn't
18 characterize it as you did, no.

19 Q. Well, there were multiple changes and many
20 moving pieces from the Company's original filing to the filing it
21 made in its rebuttal, right?

22 A. Many of which were addressed via stakeholder
23 interaction, so I wouldn't say any of it is really a surprise.

It's in

24 response to updates and requests that were made in discovery
25 and the various filings, etc.

00070

1 Q. On page--if the Commission--let me go at it this
2 way. If the Commission were to deny the Company's request for
3 prior approval in this docket, what would the Company do
4 differently as far as developing its SCR alternative?

5 A. I think maybe most importantly there's two key
6 regulatory proceedings ongoing: obviously, this proceeding, as
7 well as our filings for certificate of public convenience and
8 necessity in the State of Wyoming, whereas we made the same
9 proposal for the same project.

10 Ultimately, from a legality perspective, first and
11 foremost, the Company needs to receive a certificate to build in
12 the State that the project is being proposed for construction in.
13 So, obviously, that becomes a very key component of answering
14 that question that you've just posed.

15 But, fundamentally, we--the Company will have a
16 compliance obligation regardless of what outcome we receive
17 likely in the State--within this docket. So, fundamentally, I
think

18 the answer depends on a couple of outcomes. If we receive a
19 certificate in Wyoming, we have a compliance--
20 binding compliance obligation with the State of Wyoming.
21 Likely, we then are in a difficult position as in the State of
Utah

22 if we do not receive preapproval here, recognizing that there are
23 other mechanisms that we've discussed today, we proceed
24 through the typical ratemaking process.

25 I think our--I think if we were to receive the

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1 certificate in Wyoming and if we were to not receive the
2 certificate here, we'd likely be in that--a position of
continuing

3 down a path with the project, recognizing that we're in an
4 interesting position in the State of Utah. Particularly, it would
5 depend upon the Commission's guidance and/or information in
6 the order included regarding their inability to approve the
7 project. I think we have to understand what were the drivers in
8 Utah, because obviously Utah is a very significant component of
9 our service territory, very important to us from an ability to
10 present what we consider a very key project. And the question
11 then would become, have we put the Company at risk somehow
12 of cost recovery.

13 So, we'll just need to--I don't know that there's a
14 clear answer until we see that outcome. But, fundamentally, I
15 think there are different provisions within the State of Utah
than
16 there are with respect to the--kind of the cut-and-dried nature
of
17 the CPCN in the State of Wyoming.

18 Q. The Company doesn't believe it needs a CPCN in
19 Utah, does it?

20 A. No.

21 Q. And regardless of the outcome of this proceeding,
22 there's nothing in Utah that would prevent the Company from
23 continuing to develop this project.

24 A. We would not be prevented, no.

25 Q. And, in fact, it's the Company's position that it has

00072

1 to do this project regardless of what the Commission does here,
2 right?

3 A. It's the Company's position that we have a
4 compliance--binding compliance obligation in the State of
5 Wyoming currently.

6 Q. And on page .3 of your rebuttal, if you could turn
7 there, you--at lines, I believe 9 through 14, you discuss the
8 implications of not getting approval in this case, right?

9 A. Correct.

10 Q. And you say that it would--the Company would be
11 left with the possibility of significant risk and uncertainty
12 regarding future recovery of costs associated with--major
13 investment decision, right?

14 A. Yes. As it pertains to this proceeding, yes.

15 Q. What you're describing there is pretty much
16 traditional ratemaking, right?

17 A. It's traditional ratemaking influenced by the fact
18 that we--we've in good faith participated, as have the parties in
19 this process. So, I think it is different than traditional
20 ratemaking in that we've prior to making the investment set forth
21 all of the information that we have available to us. We have
22 received feedback at that point from the Commission, either
23 approving or disapproving, so I think it is different potentially
24 than just standard ratemaking action.

25 Q. Well, if you don't get approval here, you construct

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1 the project, you'll come in for a rate case and seek cost
2 recovery just like you would any other--

3 A. Yeah, that portion of the process is the same. I
4 think the fact we participate in this process makes--if you look
5 at that question globally, does make it somewhat different.

6 Q. Okay. And you've described the risk that the
7 Company would be exposed to if it did not get approval in this
8 case. The Company's compensated for that type of risk through
9 its ROE, right?

10 A. Not that I'm aware of, no.

11 Q. You don't believe the ROE is set in a manner to
12 recognize the risks that the Company faces in its business
13 operations.

14 MR. MOSCON: I'd like to object to this line of
15 questioning on a couple of grounds. One, it certainly goes
16 beyond the scope of the testimony filed by Mr. Teply in the
17 proceeding. And second, again, this really goes to very broad
18 legal conclusions about what is recovery in rate proceeding, etc.
19 Essentially, he's cross-examining the witness on what would be
20 like a legal briefing. So, I'd simply say there's no foundation
21 and it's beyond the scope.

22 MR. MICHEL: Commissioner, may I respond? The
23 witness has testified that if this approval is not granted,
24 Company would be left with significant risk and uncertainty
25 regarding future recovery of costs. He's expressed an opinion

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1 on recovery of costs. So, I think this is certainly within the
2 scope of his testimony.

3 That said, I recognize it is as much a legal issue as
4 anything else. I'll go ahead and withdraw the question. Thank
5 you very much, Mr. Teply. That's all the questions I have.

6 THE HEARING OFFICER: Thank you.

7 Redirect? Oh. Have we missed any cross?

8 MR. JETTER: No.

9 THE HEARING OFFICER: I think we're--

10 MR. MOSCON: Okay.

11 THE HEARING OFFICER: --to the point of redirect.

12 MR. MOSCON: Thank you.

13 REDIRECT EXAMINATION

14 BY-MR.MOSCON:

15 Q. Very briefly, Mr. Teply, just like to clarify topically

a

16 couple of points from the questions you had. There was a line of
17 questioning you had this morning regarding if the EPA required
18 the Company to go to a 0.05 rather than a 0.07 stringent rating
19 and what the cost implications would be and how that implicates
20 PVRR. So, I'll simply ask this: If the EPA did make the
21 Company go to a 0.05 compliance level, would that change the
22 PVRR(d) of this capital project?

23 A. Not associated with the capital component of that
24 question. And from an O&M perspective, as we've discussed,
25 there is a nominal impact. It would likely have a nominal impact

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1 on the PVRR(d) that we've submitted. But there again, as I've
2 discussed earlier, that was--in my rough numbers, in discussion
3 with less than [REDACTED] on the PVRR perspective, which would
4 be less than [REDACTED] percent of the total benefit that we--we've
talked

5 about and filed in our files so far. So, I'd say nominally
6 adjusted.

7 Q. Okay. You had a series of questions that were
8 asking you to essentially interpret statutes and ratemaking.
9 And--so subject, again, to my own acknowledgment that you're
10 not an attorney, do you have an understanding if there was--if
11 the Commission did issue a preapproval in this docket and then
12 subsequently there was some major change of fact or
13 requirement that impacted the units at issue, what process
14 would the Company have, based on your understanding, to react
15 to that?

16 A. My understanding is, there is a provision in the
17 statute that allows the Company to come back with updated
18 information should there be a material change in the
19 preapproved project to present that updated information to the
20 Commission for them to make a decision as to whether they
21 continued to support or not that project.

22 Q. Is there a compliance obligation, at least in
23 Wyoming, that is known by the Company today?

24 A. Yes, there is.

25 Q. And, again, based on your understanding, but this

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1 was a line of questioning you had--if the Bridger SCRs in this
2 proceeding were kicked to a rate case two years down the road,
3 would--is it your understanding that the Commission then would
4 be reviewing different information than what is known to the
5 Company and the Commission today?

6 A. No. My understanding is that the same information
7 would be reviewed.

8 Q. You had some questions about different
9 technologies that--whether they were or weren't considered.
10 Could you briefly explain, how was SCR arrived at as the BART
11 technology for the Bridger units at issue?

12 A. So as part of the BART analyses that were
13 administrated by the State of Wyoming, the Company did
14 detailed cost and scoping reviews, submitted that cost
15 information and performance information to the State of
16 Wyoming for the various technologies that were deemed
17 appropriate to review.

18 The State of Wyoming then assesses that
19 information. Fundamentally, within the parameters of the
20 Regional Haze Rules, and overly simplified, but ultimately
21 assessed that information on a dollars-per-ton-removed
22 perspective, technology by technology by technology, to
23 determine what they would propose as a reasonable dollars-
24 per-ton-removed performance. In that regard, SCR at Jim
25 Bridger 3 and 4 was selected as the preferred NOx technology.

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1 MR. MOSCON: Thank you. No further questions.

2 THE HEARING OFFICER: Thank you.

3 MR. RITCHIE: Commissioners, I'm sorry. This is a
4 little odd, but if I can ask one follow-up on that separate
5 question just for a clarification point of what Mr. Teply just
said.

6 RECROSS EXAMINATION

7 BY-MR.RITCHIE:

8 Q. Mr. Teply--

9 THE HEARING OFFICER: Go ahead.

10 BY MR. RITCHIE:

11 Q. --isn't it true that the Wyoming BART determination
12 determined that low NOx burners with overfire air was BART for
13 Jim Bridger Units 3 and 4?

14 A. From a BART perspective, ultimately--
15 subject to check, the SCR ultimately became a long-term
16 strategy requirement for the State of Wyoming.

17 MR. RITCHIE: Thank you, Commissioners. That's
18 the only question I had.

19 THE HEARING OFFICER: Any redirect, Mr.
20 Moscon?

21 MR. MOSCON: No.

22 THE HEARING OFFICER: Have a couple of
23 questions for you, Mr. Teply. I believe you presented the
24 project to the Commission as the lowest cost risk adjusted
25 alternative. Could you describe or explain how the Company

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1 evaluated risk in its analytical approach--

2 THE WITNESS: Sure.

3 THE HEARING OFFICER: --to identifying the
4 solution.

5 THE WITNESS: Sure. And I think Mr. Link might
6 be a little better as far as the logistics of the model and so
7 forth. But from a risk perspective, I would go back to the
8 sensitivities that are run around the various drivers for cost
9 assessment: gas risks, CO2, other risk, you know, from a
10 selection-of-technology perspective proceeding through the
11 State of Wyoming's review of the technologies that we've
12 selected.

13 But fundamentally, the SO model, which Mr. Link
14 will testify to you, was our primary tool for evaluating
alternate

15 compliance options and the costs and impacts of changing
16 market conditions on those alternates, such as the--refueling
17 the unit on natural gas, for example, was a selectable outcome
18 from the model. Retirement of the unit was a selectable
19 outcome from the model--all under the premise of various
20 runs--and here again, this would be better responded to by
21 Rick--but various runs being adjusted by CO2 price, gas price,
22 etc.

23 THE HEARING OFFICER: So, I have some
24 follow-up questions related to comparing risk evaluation in this
25 setting with risk evaluation in IRP setting. Would I be--would
it

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1 be best for me to address those to Mr. Link?

2 THE WITNESS: I think so. Mr. Link assesses both
3 the System Optimizer, and he's integrally involved in the IRP
4 process, so you'll benefit from his answers there, I think.

5 THE HEARING OFFICER: And I have some
6 questions about the revenue requirement impact as its
7 presented and as identified in our rules. Would I be--would I
8 best address those to--

9 THE WITNESS: Likely.

10 THE HEARING OFFICER: --Mr. Link, as well?

11 THE WITNESS: The numbers, yes.

12 THE HEARING OFFICER: Thank you.

13 Whoever?

14 CHAIRMAN ALLEN: Thank you.

15 You're heavily involved with contracts for
16 construction, and on these contracts, the RFPs specifically. Is
17 that correct?

18 THE WITNESS: Yes, sir.

19 CHAIRMAN ALLEN: Okay. Question about
20 developing these construction contracts. I only have a limited
21 amount of experience in this area, but are there certain
22 contingencies that are often built into these large-scale
23 contracts, such as contingencies for weather, inflation, those
24 kinds of things?

25 THE WITNESS: Those contingencies are

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1 typically--in a--in the engineering procurement construction
2 contract is what the industry would call a lump-sum contract for
3 a project like these, SCRs, which is what we've requested bids
4 for. We've requested bids for a lump-sum deal.

5 So, as part of that request for proposals process,
6 we also submit a contract which has been provided--a template
7 has been provided in the filings in this docket that address
8 issues such as risk for schedule, performance guarantees, kind
9 of the uncertainties on contract or performance--how are those
10 mitigated and/or liquidated should a contractor not perform.

11 So, from an EPC bidder perspective, they do, as
12 they price their project, understand the terms we submitted and
13 that they are bidding against as far as performance guarantees,
14 schedule guarantees, liquidated damages, etc. And they will
15 then, as part of that review of that overall project schedule,
16 typically build in certain contingencies, not to be shared with
the
17 owner per se, but certain contingencies that they would feel, as
18 part of their competitive market price, allow them to cover off
on
19 those risks while recognizing that they have certain performance
20 guarantees at the end of the day, as well. So, it's--there are
21 contingencies, I would say, built in from an EPC contractor
22 perspective--overall, the EPC contract on a project like this,

Jim

23 Bridger 3 and 4 SCRs.

24 There are also smaller ancillary projects that the
25 Company will have to complete that are included in the overall

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1 assessment that we completed today, but I'll call them sub-line
2 item projects: boiler--pressure part reinforcement, things
3 that--scope that is created by the installation of the SCR but
4 is--affects systems surrounding the SCR. So, the Company is
5 responsible for completing those projects, as well.

6 And in that regard, the Company would typically
7 then carry a contingency not only for those smaller projects but
8 for any contingencies risk-wise that aren't captured in the
9 lump-sum EPC contract. So, there's kind of a--I'll call it two
10 stages of potential contingencies in a project like this--one
kind

11 of an owner's contingency; two, the EPC contract contingency,
12 which we don't have any control over other than competitive
13 market bidding.

14 CHAIRMAN ALLEN: I see. So, if I were--say I'm
15 interested in knowing how much of this dollar amount, [REDACTED]
16 [REDACTED], containing contingencies, what I'm hearing is the answer
17 is--the bidders have a lot of that information themselves and
18 they bid that into the process and for the projects that you
19 control and that you've got contingencies on, would you
20 consider that a material amount? Is it a percentage that you
21 throw what those projects or--I'm just curious.

22 THE WITNESS: Yep. It really depends upon the
23 scope and the complexity of the project. Because these are
24 retrofit projects, there are certain--I'm going to call it
boundary

25 limits that we define in a EPC contract. Say, for example,

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1 where we tie into existing structural steel to install this new
2 equipment, we may get into some location where that existing
3 structural steel needs reinforcement. It has otherwise
4 weathered, aged, corroded, whatever. Those types of
5 contingencies--excuse me--those types of contingencies would
6 be costs that ultimately were not in the EPC scope, so they fall
7 to the owner.

8 So, what we typically do--a project like a retrofit,
9 we typically carry between [REDACTED] percent on an EPC project,
10 sometimes up to [REDACTED] if it's a highly complex project and there are
11 a lot of owner activities. Some of that, in this instance, are--
12 some of those interfaces are yet to be fully defined until we get
13 all the way through our negotiating processes. But that
14 contingency, that typical amount, has also been incorporated
15 into the numbers that we filed in this case. So, we have--
16 there's no add or contingency number that you would expect to
17 see. It's all incorporated into the numbers we've built to date.

18 CHAIRMAN ALLEN: Great. That's helpful. Thank
19 you.

20 COMMISSIONER LEVAR: Nothing.

21 THE HEARING OFFICER: I'm going to ask the
22 chairman if he'll allow me to ask a couple other questions.

23 Thank you. I know you've addressed this in your
24 prefiled testimony, Mr. Teply, but can you tell us anything more
25 today about--that quantifies the cost consequences to the

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1 Company or to the rate pairs of the Company of delaying until,
2 say, the fall of this year a decision in this matter or
3 commencement of the project?

4 THE WITNESS: Sure. We've had preliminary
5 discussions with our short-listed bidders on a potential to, if
that

6 was to become a reality, a deferred release to begin all
7 activities. And really we only received what I would call
8 indicative pricing at this point for that type of an approach.

9 What that would do likely with a deferred release to
10 proceed for the EPC, what that--
11 if it was the end of 2013, just for the sake of discussion,
likely

12 means that we would be forced into a--for the Jim Bridger 3
13 tie-in, which is the first of the units that gets tied in and
placed

14 in service at the end of 2015 is the compliance deadline. We've
15 currently scheduled that for a [REDACTED] outage in 2015 to allow us
16 to install the equipment, bring it online. Should any major
issues

17 arise--equipment performance, initial operation, equipment
18 failure occur--it gives you some time to remedy that issue before
19 you have to demonstrate compliance by year end.

20 Under the--to respond to your request, indicatively
21 we've heard numbers in the range of [REDACTED] percent of add or--to
22 the base proposals, depending on which bidder you talk to, with
23 respect to a compressed/accelerated--excuse me--construction
24 schedule.

25 So, those numbers--I apologize that they're just

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1 percentages, but that's kind of the level of discussion we've had
2 with short-listed bidders. You know, and if you were to apply
3 that to an EPC contract price per se, I think, in general terms,
4 you're probably in the [REDACTED]-dollar range for a
5 compressed schedule like that.

6 Now, that's the first look at it. We haven't
7 negotiated that number. We haven't taken a--we haven't
8 pressed real hard on that number yet. But just to give you an
9 order of magnitude, that's probably the order of magnitude from
10 a delayed start to still hit our compliance deadlines. Yet to be
11 firmed up being a firm offering in any way.

12 THE HEARING OFFICER: And that addresses Jim
13 Bridger 3.

14 THE WITNESS: That would ultimately address
15 both. Jim Bridger 3 ultimately becomes, then, the constraint or
16 the critical path, because it's first in queue. That cost
17 ultimately would be allocated across the project, because we're
18 building both concurrently. Fundamentally, what--the reason for
19 those costs is that construction sequences that would have
20 otherwise occurred sequentially, some will be completed in
21 parallel to get that first unit done quicker.

22 THE HEARING OFFICER: Thank you.

23 Any questions based on those of the
24 commissioners?

25 You're excused, Mr. Teply. Thank you for your

00085

1 testimony.

2 You may call your next witness, Mr. Moscon.

3 MR. MOSCON: Thank you. The Company calls Ms.

4 Cindy Crane as its second witness.

5 THE HEARING OFFICER: Do you solemnly swear

6 that the testimony you're about to give shall be the truth, the whole

7 truth, and nothing but the truth?

8 THE WITNESS: Yes, I do.

9 THE HEARING OFFICER: Thank you. Please be
10 seated.

11 CINDY CRANE, being first duly sworn, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 BY-MR.MOSCON:

15 Q. Good morning, Cindy.

16 A. Good morning.

17 Q. Would you please state and spell your name for the
18 record.

19 A. Cindy Crane. C-I-N-D-Y, C-R-A-N-E.

20 Q. And would you please identify by whom you're
21 employed and what your job title or titles are?

22 A. Yes. I'm the vice president of Interwest Mining
23 Company in PacifiCorp's Fuel Resources Group. I have
24 responsibility for the fine mining operations as well as the
25 overall coal fueling for the PacifiCorp coal generation fleet.

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1 Q. Thank you. And did you file rebuttal testimony in
2 this proceeding?

3 A. Yes, I did.

4 Q. Did you file any other testimony in this proceeding?

5 A. No, I did not.

6 Q. Do you have any corrections or additions to that
7 testimony?

8 A. No, I do not.

9 Q. If I today asked you the same questions that are
10 outlined in your prefiled testimony, would your answers be the
11 same as they are in your written submissions?

12 A. Yes, they would.

13 MR. MOSCON: At this the time, I would ask that
14 Cindy Crane's testimony and all exhibits attached thereto be
15 entered into the record and admitted as evidence.

16 THE HEARING OFFICER: Any objection?

17 They're received.

18 MR. MOSCON: Thank you.

19 BY MR. MOSCON:

20 Q. Ms. Crane, do you have a summary of your
21 testimony that you could share with the Commission and
22 parties?

23 A. Yes, I do.

24 Q. Please do so.

25 A. Thank you. Mr. Chairman, Commissioners, my

00087

1 testimony in this case covers the updated coal costs that were
2 utilized in rebuttal filing. As part of its coal supply
agreement,

3 the Bridger Mine has a contractual obligation with Idaho Power
4 and PacifiCorp to update its full life of mine plans as well as
5 reclamation plans every three years, which was last done in
6 2009. The Company utilized the mine's 2011 business plan for
7 the Bridger plant base case in the original filing which did not
8 have updated reclamation trust contribution retails in it.

9 Subsequent to the original filing, the mine did
10 complete its regularly scheduled life of mine planning. The
11 Company then used this more detailed and current updated
12 mine planning information for the rebuttal filing.

13 Additionally in my rebuttal testimony, I rebut Dr.
14 Fisher's contention that the Company could market Bridger's
15 coal or otherwise send Bridger's coal to other Company plants.
16 My testimony lays out the flaws in Dr. Fisher's contention.

17 That's the summary. Thank you.

18 MR. MOSCON: Thank you.

19 Ms. Crane is available for cross-examination by the
20 parties and the Commission.

21 MR. JETTER: I have no questions for you at this
22 time.

23 MR. JENSEN: No questions.

24 MR. RITCHIE: A few questions.

25 CROSS EXAMINATION

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1 BY-MR.RITCHIE:

2 Q. Ms. Crane, I'm Travis Ritchie, counsel for the
3 Sierra Club. How do you do?

4 A. Great. Thank you.

5 Q. I have a few questions for you, Ms. Crane.

6 THE HEARING OFFICER: Ms. Crane, just for your
7 comfort, I think the most important thing is for you to keep the
8 microphone close to you.

9 THE WITNESS: Thank you.

10 THE HEARING OFFICER: I know it's awkward the
11 way we're spread out in this room, but we want to make sure we
12 hear you.

13 THE WITNESS: Appreciate that. Thank you.

14 BY MR. RITCHIE:

15 Q. And I promise I will not be offended if you turn your
16 back to me.

17 A. Thanks.

18 Q. Ms. Crane, do you think that it's appropriate for the
19 Company to consider the costs of the Jim Bridger coal mine
20 remediation when considering the operation of the Jim Bridger
21 Generating Station?

22 A. Yes, I do.

23 Q. And, Ms. Crane, do you agree that the Bridger Coal
24 Company is a separate entity than the Bridger Generating
25 Station?

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1 A. Yes, it's a joint venture with Idaho Power.

2 Q. And, so, costs or subsequent recovery of those
3 costs are dealt with in--separately from the costs that we've
4 talked about today.

5 A. The costs associated with the Bridger Coal Mine
6 are dealt with through regular regulatory proceedings, just as
all
7 other Company costs are.

8 Q. Ms. Crane, did you review Dr. Fisher's surrebuttal
9 testimony?

10 A. Yes, I did.

11 Q. And I believe, working off some of the work papers
12 you provided, Dr. Fisher points out that your analysis and
13 remediation costs in the two and three-unit scenarios assume
14 that remediation expenses begin five years prior to the
15 scheduled [REDACTED] mine closure in those scenarios and continue
16 for a total of nine years. Do you agree with Dr. Fisher's
17 assessment of that timing?

18 A. Could you repeat your question, please?

19 Q. Sure. We're talking here about the two and
20 three-unit scenarios, or just the three-unit scenario if you
21 wanted to simplify. And Dr. Fisher's testimony--and this was on
22 page--he provided several graphs, but page .5 of his surrebuttal,
23 Dr. Fisher characterized that the analysis of remediation
24 costs--analysis of remediation expenses begin five years prior to
25 the scheduled [REDACTED] mine closure and continue for a total of nine

00090

1 years. So, that's the timing I'm asking you to verify.

2 A. Yes. In his rebuttal filing on page .4, that is
3 specific to the three-unit case.

4 Q. Thank you. And, similarly, Dr. Fisher points out in
5 your analysis of the four unit scenario the remediation expenses
6 begin two years prior to the expected mine closure of [REDACTED] and
7 continue for a total of 12 years.

8 A. That is correct.

9 MR. RITCHIE: If I could have just one moment,
10 please.

11 THE HEARING OFFICER: Off the record.

12 (Recess taken.)

13 MR. RITCHIE: Thank you, Commissioner. Are we
14 back on the record?

15 THE HEARING OFFICER: On the record.

16 BY MR. RITCHIE:

17 Q. So, Ms. Crane, is it correct to say, then, your
18 analysis allows for a much longer period of time to remediate in
19 the four-unit scenario than in the three-unit scenario?

20 A. It's correct to state that there are different mining
21 plans that underpin each of those scenarios and that the
22 reclamation begins based on the mining plans that support
23 those scenarios.

24 MR. RITCHIE: Thank you, Ms. Crane. I have no
25 further questions.

00091

1 THE HEARING OFFICER: Mr. Michel.

2 MR. MICHEL: I don't have any questions, Ms.

3 Crane. Thank you.

4 THE HEARING OFFICER: Redirect?

5 MR. MOSCON: One follow-up.

6 REDIRECT EXAMINATION

7 BY-MR.MOSCON:

8 Q. Ms. Crane, you were asked a series of questions
9 about Dr. Fisher's contentions about how you may delay--or
10 maybe better stated, resequence reclamation. Do you agree
11 that the Company could alter its reclamation schedule as
12 proposed by Dr. Fisher in his testimony?

13 A. No, I do not.

14 Q. Why not?

15 A. Dr. Fisher, in his testimony, in his surrebuttal,
16 essentially has done a paper exercise and has moved
17 reclamation in time without correlating it back to any associated
18 mining operation reality. And has not taken into consideration
19 several aspects of--beyond just the compliance obligation with
20 the Wyoming DEQ, but also the aspects of equipment
21 availability, the efficiency of that equipment, how it's utilized
in
22 the sequence of the reclamation process, as well as the skilled
23 resources and when they become available.

24 MR. MOSCON: Thank you. No further questions.

25 THE HEARING OFFICER: Thank you. You're

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1 excused.

2 THE WITNESS: Thank you.

3 THE HEARING OFFICER: Please call your next
4 witness.

5 MR. MOSCON: Thank you. The Company calls Mr.
6 Rick Link to the stand.

7 THE HEARING OFFICER: Do you solemnly swear
8 that the testimony you're about to give shall be the truth, the
9 whole truth, and nothing but the truth?

10 THE WITNESS: I do.

11 THE HEARING OFFICER: Thank you. Please be
12 seated.

13 RICK LINK, being first duly sworn, was examined
14 and testified as follows:

15 DIRECT EXAMINATION

16 BY-MR.MOSCON:

17 Q. Still morning, so I'll say good morning, Mr. Link.
18 Would you please state and spell your name for the record?

19 A. Rick Link. R-I-C-K, L-I-N-K.

20 Q. And would you please identify by whom you are
21 employed and in what capacity?

22 A. I am director of structuring and pricing for
23 PacifiCorp Energy.

24 Q. Would you please identify for us testimony that you
25 filed in this proceeding?

00093

1 A. I have filed both direct and rebuttal testimony in
2 this case.

3 Q. Do you have any corrections or additions to your
4 testimony or exhibits?

5 A. I do. In my rebuttal testimony, I filed an Exhibit 7R.
6 With that exhibit, there are three pages included. The last two
7 pages of Exhibit 7R were a carryover from the same exhibit filed
8 in my direct testimony and should be--or not part of the rebuttal
9 filing.

10 Q. Thank you. Mr. Link--

11 THE HEARING OFFICER: Can we go on--

12 I'm not sure I'm clear what--exactly what's being referred to.

13 BY MR. MOSCON:

14 Q. Could you, Mr. Link, pull--identify the exhibit to
15 your filing and walk the Commission parties through which
16 pages should remain in the exhibit and which pages should be
17 pulled from the binders?

18 Is that--

19 THE HEARING OFFICER: That would help, or the
20 precise description of what's redundant or--

21 THE WITNESS: Yes. In Exhibit RTL-7R, there are
22 three figures, three pages. The first one says "page .1 of 3."
23 That is the appropriate figure for this exhibit. The second two
24 figures labeled "pages 2 of 3" and "3 of 3" should--are the
25 identical to those that are redundant to my direct testimony.

00094

1 THE HEARING OFFICER: I'm with you now.

2 MR. MOSCON: Thank you.

3 BY MR. MOSCON:

4 Q. So, Mr. Link, if you were asked the same questions
5 outlined in your direct and rebuttal testimony today, would each
6 of your answers be the same as that reported in your prefile
7 testimony?

8 A. Yes.

9 MR. MOSCON: At this time, if it please the
10 Commission, I would ask Mr. Rick Link's testimony and exhibits
11 annexed thereto be admitted as received in evidence.

12 THE HEARING OFFICER: Any objection?

13 They're received in evidence.

14 BY MR. MOSCON:

15 Q. Mr. Link, have you prepared a summary of your
16 testimony that you could share with the Commission and
17 parties?

18 A. I have.

19 Q. Please do so.

20 A. Good morning. My testimony in this case covers
21 the financial analysis that's used to support the SCR
22 investments required at Jim Bridger Units 3 and 4. Specifically,
I
23 address three items in my testimony.

24 First, I describe the methodology used by the
25 Company in performing its financial analysis. Second, I

00095

1 describe the assumptions and results associated with our base
2 case analysis of these investments. And, finally, I describe the
3 assumptions and associated results from a number of
4 sensitivities and scenarios that we performed for these SCR
5 investments.

6 In my direct testimony, I describe the System
7 Optimizer model as the appropriate tool to use when analyzing
8 gas conversion or early retirement as potential alternatives to
9 making investments in emission control technology such as the
10 SCRs required on these units.

11 My direct testimony shows that the original base
12 case analysis has a present value benefit that's favorable to the
13 SCRs as opposed to the next-best alternative, which in this case
14 is natural gas conversion. And the PVRR(d) was [REDACTED].

15 I also explain in my direct testimony that there were
16 various natural gas and CO2 price scenarios that we performed
17 and that the investments continued to be favorable to the SCR
18 investments when we assumed base gas or high gas price
19 assumptions when compared with either the base case or zero
20 CO2 price data.

21 I present in my rebuttal testimony the Company's
22 updated analysis that reflects a couple of corrections and some
23 updated assumptions. In the updated base case, the present
24 value benefits associated with the SCR were retained and the
25 results of that study indicated [REDACTED] benefit of the SCR

00096

1 investments as compared to, again, the gas conversion
2 alternative.

3 In the updated scenario analysis that I covered in
4 my rebuttal testimony, I described that the SCRs remain
5 favorable to gas conversion, again, when base and high gas
6 assumptions are assumed.

7 I also described in my rebuttal testimony a couple
8 of sensitivities, one in which rather than looking at gas
9 conversion, we forced an analysis to look at an early retirement
10 alternative to the SCRs. The results of that sensitivity
indicated

11 that the benefit to the SCR is [REDACTED], as compared to early
12 retirement, as opposed to a gas conversion alternative.

13 And I also did a sensitivity and described a
14 scenario where we removed Energy Gateway investments and
15 showed that that did not have an impact on deteriorating
16 favorable economics of this equipment in this case. And,
17 therefore, I believe the Company's robust analysis supports the
18 investments in this case, as the Company has requested in this
19 proceeding.

20 MR. MOSCON: Thank you.

21 Mr. Link is available for cross-examination.

22 THE HEARING OFFICER: Mr. Jetter.

23 MR. JETTER: I have no questions.

24 THE HEARING OFFICER: Mr. Jensen.

25 MR. JENSEN: I have a question.

00097

1 CROSS EXAMINATION

2 BY-MR.JENSEN:

3 Q. You used the figure of [REDACTED]. And I missed
4 what that was for. Would you just clarify that for me?

5 A. Sure. Absolutely. [REDACTED] was the original
6 base case result as filed and described in my direct testimony.

7 Q. Now, you coupled that with natural gas. Just
8 expand on that a bit. Or am I confusing--or am I confusing the
9 whole thing?

10 A. Yeah, we have gas price and CO2 price
11 assumptions for all cases.

12 Q. Okay.

13 A. Our base case is one of--if you consider that a
14 scenario in and of itself, we've done a base case analysis with
15 our base view of natural gas prices and our base view of CO2
16 price assumptions. The result of that analysis was [REDACTED]
17 benefit to the SCR in my direct testimony.

18 Q. What is the cost to convert to natural gas?

19 A. There's a number of cost elements associated with
20 converting to natural gas. Capital is but one of them. A
21 converted unit has, again, operating cost just like any other
22 generating asset would have, run rate expenses.

23 What I am describing is the difference between two
24 model runs. And perhaps that's the best way to help clarify
this.

25 When we calculate a present value revenue requirement

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1 differential, or the PVRR(d), the "d" is essentially getting at
the
2 difference between two different runs.

3 In one case, we've done a model that analyzes the
4 installation of the SCRs on Jim Bridger Unit 3 inclusive of all
of
5 the costs of those investments.

6 In the second run, we analyze what would occur if
7 those investments were not made and gas conversion pursued
8 as an alternative. And the difference between those runs derive
9 that [REDACTED]. So, in other words, the case in which the units
10 were assumed to install SCRs was lower cost, on a present
11 value basis, by [REDACTED] as compared to the case where gas
12 conversion was completed.

13 MR. JENSEN: Thank you. That concludes my
14 questions.

15 THE HEARING OFFICER: Mr. Ritchie.

16 CROSS EXAMINATION

17 BY-MR.RITCHIE:

18 Q. Mr. Link, good morning. Travis Ritchie with the
19 Sierra Club. Mr. Link, I'm going to start off with a question I
20 offered to your colleague, Mr. Teply. And he kindly passed it to
21 you. I believe you mention in your summary that you did--you
22 ran a sensitivity about the removal of the Energy Gateway. Is
23 that correct?

24 A. Correct.

25 Q. And you also removed all of the incremental wind in

00099

1 that scenario, correct?

2 A. Yes, we did.

3 Q. Is the removal of all of the incremental wind
4 consistent with your baseline assumptions in this proceeding?

5 A. No, it's not. In our base case, we do have wind
6 included in the resource portfolio.

7 Q. And, similarly, is the removal of all the Energy
8 Gateway West and Gateway South transmission segments
9 consistent with your baseline assumptions in this proceeding?

10 A. No. It was a sensitivity. And in the base case,
11 obviously, our assumptions were different.

12 Q. And is it also correct that you did not run any
13 analysis or sensitivity that looked at avoiding or deferring
14 transmission costs on only the Bridger or the Anticline-to-
15 Populus segment of the Energy Gateway?

16 A. Correct. We did not pull out different segments of
17 the Energy Gateway transmission project and analyze every
18 combination or permutation of potential future transmission
19 investments.

20 The sensitivity that we performed essentially was a
21 case where one could assume what if Gateway never were to
22 proceed incremental beyond things that have already occurred.
23 So, if we remove all Energy Gateway assumptions from our
24 analysis, how does that affect the present value results that we
25 received. And the sensitivity we did showed that it had no

00100

1 negative impact to the base case results that we--to our base
2 case present value revenue requirement outcome.

3 Q. But that conclusion also includes the inclusion of
4 all the incremental wind, as well, and any other adjustments that
5 removing all of Energy Gateway would result in.

6 A. That's correct. In response to concerns raised by
7 other parties in the proceeding, we wanted to address the
8 sensitivity in which long-term resource additions--with wind
9 resources located in Wyoming, there was questions about
10 whether that was--how that might influence the economics of the
11 SCR equipment in this case. And in response to those
12 concerns, we also excluded the wind resource assumptions in
13 that sensitivity analysis.

14 Q. And, Mr. Link, I believe Mr. Teply stated earlier that
15 the IRP also--

16 THE REPORTER: I'm sorry. Once again on that.

17 BY MR. RITCHIE:

18 Q. Mr. Teply stated earlier that the IRP looks at
19 transmission planning issues. Do you agree with that?

20 A. The IRP looks at different transmission outcomes or
21 scenarios. It's not to be confused with, I would say, detailed
22 transmission planning analysis on path flow models or things of
23 that nature.

24 Q. To your knowledge, has the 2013 IRP reviewed the
25 option of retiring Jim Bridger Units 3 and 4 and avoiding or

00101

1 deferring the Anticline-to-Populus link of Gateway West?

2 A. The 2013 IRP process is ongoing. We have not
3 completed or filed the 2013 IRP at this time. We have shared
4 with stakeholders--as you are aware, there's a public process
5 involved with the IRP--and have been communicating with those
6 stakeholders all along. And in our IRP development this cycle,
7 we are allowing investments-- emission control technology
8 investments to be analyzed as part of this 2013 IRP. And, so,
9 we are actively in the process of looking at those technologies
10 and analyzing those currently.

11 Q. That's helpful. But I want to get back to one of the
12 points in my question that I asked. Has the 2013 IRP thus far,
13 or do you plan to, look at avoiding or deferring any costs of the
14 Anticline-to-
15 Populus link of the Gateway West transmission?

16 A. No.

17 Q. Thank you. I'll move on.

18 Mr. Link, if you could refer to page .28 of your
19 rebuttal testimony, please. In response to Dr. Fisher's--some of
20 Dr. Fisher's points regarding your CO2 price estimates, I believe
21 you responded that reviewing price forecasts used by others for
22 planning purposes dating back to 2009 is not a reasonable
23 means to establish a range of CO2 price assumptions. Is that a
24 correct assessment of your testimony there?

25 A. Yes.

00102

1 Q. And did you review Dr. Fisher's surrebuttal
2 testimony in this proceeding?

3 A. I had an opportunity to look at it, yes.

4 Q. Do you recall at page .22 or thereabouts of Dr.
5 Fisher's surrebuttal where he explained that all but one of the
6 IRPs reviewed for purposes of his direct testimony were from
7 2010 through 2012?

8 A. Yes, I did see that.

9 Q. Do you also recall that Dr. Fisher testified that his
10 firm Synapse has collected IRP filings from another 20 utilities
11 all filed in 2012?

12 A. I did read that, yes.

13 Q. Does this alleviate your concern that Dr. Fisher's
14 estimates are stale?

15 A. No, it does not.

16 Q. Had you collected and reviewed CO2 forecasts from
17 different IRP filings in 2012?

18 A. No, I haven't. And I wouldn't--I don't believe that
19 that approach is that meaningful to trying to conceptualize what
20 the current state of conditions might be in trying to assess
21 long-term assumptions for different ranges of potential CO2
22 outcomes.

23 Q. So, you had relied on the consultants that you
24 identify in your rebuttal testimony, correct?

25 A. I do.

00103

1 Q. But at any time isn't it true that of the 91 forecasts
2 from public IRP filings between 2011, 2012 that Dr. Fisher
3 identified that the PacifiCorp base case was in the 22d
4 percentile of those forecasts?

5 A. I don't recall the specific numbers, but subject to
6 check.

7 Q. You do recall that Dr. Fisher did provide work
8 papers along with his surrebuttal.

9 A. Sure.

10 Q. So, similarly, those consultants are recommending
11 that PacifiCorp make a CO2 estimate that's in the 22d percentile
12 of public IRP filings.

13 A. Correct. And you know, just to clarify, despite the
14 fact that these IRP filings may have been made in 2010, 2011,
15 or 2012, it is extremely difficult if not--highly uncertain as to
16 know when those forecasts were developed. Dates that IRPs are
17 produced or published or otherwise extracted publicly, there can
18 be a year or two or more. It depends, I'm sure, on every
19 process in terms of the IRP cycle. So, the fact that they are
20 available in 2010 or even 2012 does not necessarily mean that
21 the forecasts that were produced and included in those IRPs are
22 up to date with current, again, policy developments and market
23 assumptions.

24 Q. And you think that the consultant reports that you
25 relied on are more accurate in that regard.

00104

1 A. I do believe they are more current.

2 Q. Did you present the methodology of these
3 third-party consultants in this proceeding?

4 A. I'm not sure--if you could explain a little bit more.
5 I'm not sure what you mean by "methodology."

6 Q. Well, you said they're more accurate, they look at
7 more things. Is there anywhere in this record where you explain
8 what those third-party consultants looked at and how they made
9 the determinations?

10 A. I believe I stated, subject to check, that they're
11 more current, did not imply that they were more accurate.
12 Fundamentally, there is--you know, worth noting there are no
13 Federal policies in place today that would impose a direct price
14 or cost on CO2 emissions in the electric sector. And, so,
15 implying that there's any level of accuracy associated with any
16 forecast when it comes to CO2 is not a statement I think I want
17 to make.

18 Q. Well, perhaps the word "accurate" is not the right
19 word. But you did say that you put more faith in your
20 consultants' estimates that are in the 22d percentile of this
wide

21 range of IRP filings than in that range of IRP filings.

22 A. I do. One of the reasons--precise reason they may
23 be in a lower percentile is that they're more current.

24 Q. Now, you stated that the Company reviews current
25 market conditions and policy developments to establish CO2

00105

1 estimates. Is that correct?

2 A. Could you please restate the question?

3 Q. You stated that the Company or, I'll add, in this
4 case perhaps your consultants rely on reviewed current market
5 conditions and policy developments to establish CO2 estimates.

6 A. Correct. Yeah, they were developed in
7 consideration with current market conditions and policy
8 developments.

9 Q. Have there been any recent policy developments
10 that would lead you to believe that the prospect of the CO2
11 price may be different than when you filed this application?

12 A. No.

13 Q. Would you consider the public response to
14 Hurricane Sandy and nationwide droughts and the news
15 coverage, that it has started linking those dramatically to
16 climate change as something that could drive policy
17 developments?

18 MR. MOSCON: Objection. Assumes facts not in
19 evidence and is beyond the scope.

20 BY MR. RITCHIE:

21 Q. I'll rephrase. Mr. Link, are you aware of Hurricane
22 Sandy?

23 A. Yes.

24 Q. Are you aware of any news outlets or discussion
25 that has potentially linked Hurricane Sandy to climate changes

00106

1 here?

2 A. Not particularly.

3 Q. You're not aware of any discussion in the public
4 domain where Hurricane Sandy has been discussed as part of
5 climate change.

6 A. I am not.

7 Q. Okay. I'll move on. Mr. Link, did you watch or later
8 read President Obama's State of the Union address in 2012?

9 A. I did not.

10 Q. Are you aware of whether or not he directly
11 addressed action on climate change as a policy goal of his
12 administration?

13 A. I am aware that that was part of his speech.

14 Q. And do you generally believe that statements in the
15 State of the Union--let me rephrase. Do you generally believe
16 that these statements in the State of the Union could indicate
17 policy developments for climate change--for CO2 prices?

18 MR. MOSCON: Calls for speculation of the
19 witness.

20 MR. RITCHIE: The witness has stated they review
21 market statements and policy developments. I'm asking if this is
22 something that triggers their review of a policy development.

23 THE HEARING OFFICER: If that's the question,
24 can you answer the question, please?

25 THE WITNESS: I think there are many things that

00107

1 are said in State of the Union addresses that may or may not
2 come to fruition. And, so, a president's State of the Union
3 address at any given point in time is certainly not indicative of

a

4 fundamental change in policy direction, in my opinion.

5 BY MR. RITCHIE:

6 Q. So, there's been no impact on the Company's
7 planning from that event.

8 A. Correct.

9 Q. And are you aware of any bills that have been
10 introduced in Congress that address climate or CO2 pricing?

11 A. Ancillarily.

12 Q. And has the impact of those bills maybe led the
13 Company to make any policy decisions about policy
14 developments related to CO2 pricing?

15 A. No.

16 Q. And, finally, are you aware that Gina McCarthy has
17 been nominated to head the EPA?

18 A. Not familiar with it.

19 Q. Then, I won't address that issue.

20 But suffice it to say that all these issues that I
21 talked about, that you are aware of, there is nothing that has
22 happened since filing this application that has led the Company
23 to change its estimates of when CO2 pricing--whether or at what
24 magnitude CO2 pricing might affect the Company's decision.

25 A. You know, since filing the application, I should

00108

1 highlight we did update our CO2 price assumptions in our
2 rebuttal filing. So, from that perspective, we did update our
3 assumptions. However, we did not--there are not changes that
4 have occurred since that filing that would cause me to believe
5 we needed to reassess anything now.

6 Q. And when you say you updated those assumptions,
7 you moved the start date of CO2 pricing back a year. Is that
8 correct?

9 A. That's correct.

10 Q. So, that would then assume that between the time
11 that you filed this application and the update, that you actually
12 think it's going to take more time than when you originally filed
13 the application to see a CO2 price.

14 A. That's correct.

15 Q. Thank you, Mr. Link. Moving on just a little--

16 THE HEARING OFFICER: Mr. Ritchie, it's noon.

17 Are you at a stopping point or--

18 MR. RITCHIE: Two or three more questions, and
19 I'll be done with my questioning.

20 THE HEARING OFFICER: Please continue.

21 BY MR. RITCHIE:

22 Q. Mr. Link, I believe you referenced in your rebuttal
23 testimony--you don't have to turn here--
24 but generally--on page .28, generally speaking, that CO2 prices
25 are correlated with natural gas prices in your cost estimate. Is

00109

1 that correct?

2 A. Could you please show me the specific line you're
3 referencing?

4 Q. Sure. Page .28, line 548.

5 A. Correct.

6 Q. So, as you target higher CO2 price in your
7 modeling, the model in turn also raises the natural gas price; is
8 that correct; natural gas price estimate?

9 A. The dynamic, as I've described in the testimony,
10 that we apply here, is based on supply/demand economics,
11 whereby if you have an increase in demand associated with
12 natural gas driven by CO2 policy, that might incent switching
13 from, say, coal generation to natural-gas-fired generation,
14 thereby increasing the demand for natural gas within the electric
15 sector.

16 All else equal, with that higher demand of natural
17 gas, there's an associated price response. And that there is
18 some correlation between the assumed levels of CO2 price and
19 therefore the price for natural gas.

20 Q. And, so, going back--the implication of that is, if
21 you have a higher CO2 price, the natural gas price is also
22 higher.

23 A. In the case where you're isolating the case of the
24 effect of CO2 by itself, yes.

25 Q. So, if we're looking--I believe in your direct

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1 testimony you had provided a matrix of zero CO2, base CO2,
2 and high CO2. And, then, corresponding on the other axis,
3 there was low gas, base gas, and high gas. If we're looking at
4 the low gas price, the low gas price in that zero CO2 cell is
5 actually different than the low gas price in that base case, or
6 median, CO2 cell, correct?

7 A. Could you maybe point me to the correct exhibit or
8 section of my testimony to make sure I answer correctly?

9 Q. Bear with me one moment.

10 So, the matrix I was actually thinking of were in Ms.
11 Kelly's testimony and not in your testimony. But conceptually
12 thinking, if you were looking at all things being equal in a low
13 gas price and you compared that low gas price estimate and a
14 zero CO2 scenario and a mid CO2 scenario, that low gas price
15 is different in those two CO2 scenarios. Is that correct?

16 A. Correct, per the supply/demand assumptions I
17 described for the prior question.

18 Q. And have you run any models or supply or demand
19 to determine if that correlation exists?

20 A. It's an assumption going forward. You can't really
21 empirically calculate the correlation going back to the same
22 concept where there is no current Federal CO2 policy that one
23 can use to calculate whether that correlation would, in fact,
24 occur. Again, I think the assumption is based more on
25 supply/demand economics on what the expectation on the

00111

1 interaction between those key markets might look like in a
2 hypothetical future where there could be a CO2 policy in place.

3 Q. And do you believe in Dr. Fisher's testimony where
4 he stated--one moment while I find the page.

5 And, Commissioners, thank you for bearing with
6 me. I'm very nearly done.

7 On page .27 of his surrebuttal testimony, Dr. Fisher
8 noted that there were several models portrayed. And some of
9 those models predicted a correlation, a positive correlation
10 between natural gas prices and CO2 prices. Some of them
11 predicted a negative correlation between natural gas and CO2
12 prices. And some of them were uncorrelated. Do you recall
13 that aspect of his testimony?

14 A. I do.

15 Q. So, is it fair to say there are models out there that
16 do not agree with your assumption to correlate natural gas
17 prices and CO2 prices?

18 A. I would agree that that's what's in Dr. Fisher's
19 testimony.

20 Q. Would you agree that there are models out there
21 that are as Dr. Fisher has stated they are in his testimony?

22 A. You know, I'm not as familiar with each of the
23 particular models that Dr. Fisher references in his testimony and
24 whether they are truly model-driven or if they're assumptions
25 that are driving those differences. But certainly I do agree
that

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1 that, again, was what was in Dr. Fisher's testimony.

2 MR. RITCHIE: Thank you, Mr. Link. I have no
3 further questions.

4 THE HEARING OFFICER: We'll be in recess until
5 1:30.

6 (Luncheon recess, 12:05-1:31 p.m.)

7 THE HEARING OFFICER: I think we're all here.
8 Am I right? Ready to go? We'll be on the record.

9 Mr. Michel, I think you were still conducting your
10 cross-examination. Please continue.

11 MR. MICHEL: Thank you, Commissioner.

12 Good afternoon, Mr. Link.

13 UNIDENTIFIED SPEAKER: Turn the microphones
14 on.

15 MR. MICHEL: Oh.

16 THE HEARING OFFICER: I should say something
17 while we're--before you start, Mr. Michel. There are not
18 speakers in the hallway, we believe, but the volume was so loud
19 in this room that it seems like there are speakers. So, we have
20 adjusted the microphones in this room, but we'll all need to be
21 sensitive to that. So, if it's too loud, please let us know.

22 And as we begin, I'd like to say again, this is a
23 closed hearing of the Commission dealing with confidential
24 information. So, everyone here should be either part of the
25 Public Service Commission staff, Division personnel, Office

00113

1 personnel, or has executed a nondisclosure agreement with the
2 Company. So, is there anyone here that does not meet that
3 definition? Okay. Thank you.

4 Mr. Michel.

5 MR. MICHEL: Thank you, Commissioner.

6 CROSS EXAMINATION

7 BY-MR.MICHEL:

8 Q. Is it Mr. or Dr. Link? I'm sorry. Are you--

9 A. It's Mr.

10 Q. Mr. Okay. Don't feel bad. I'm only Mr., too.

11 The--you analyzed two different alternatives that
12 the Company has presented to the Commission--one being a
13 conversion of one or more units, that category; the second being
14 SCR on the two units, right?

15 A. Those are two alternatives we considered. The way
16 the analysis was conducted, when we run the case, as I
17 described, I think, early on in my cross, where we run two runs
18 and then a scenario where the units no longer operate as coal,
19 the SCRs are not installed. We do not definitively establish
20 that--whether the units should convert to gas or retire. Those
21 are alternatives available to the model to choose based off the
22 economic differences between those two alternatives. But in all
23 cases, except for the one sensitivity where we did forced
24 retirement, the model did choose the gas conversion alternative
25 as the next best alternative to the SCR.

00114

1 Q. All right. I understand. Thanks for that
2 clarification.

3 Did you do any--were you involved at all in any of
4 the visibility modeling associated with any of the alternatives?

5 A. If you're referring to, like, the BART or Regional
6 Haze process--

7 Q. Yes.

8 A. --I was not.

9 Q. Who at the Company was involved in that?

10 A. I'm not entirely sure, but likely Mr. Teply or Ms.
11 Woollums might have more information on that topic for you.

12 Q. One of the things you talk about in your direct
13 testimony at page .11 is the correlation between CO2 prices and
14 gas prices. Do you recall that testimony?

15 A. Yes.

16 Q. And I believe you indicate that there is a correlation
17 that as if you have high CO2 prices that's probably also going to
18 drive up gas prices, as well. Is that right?

19 A. Yeah, we make the assumption on the
20 supply/demand economics, as I discussed earlier.

21 Q. Okay. And you would agree, would you not, that a
22 large driver of today's low gas prices is the recent availability

or

23 discovery of the availability of shale gas?

24 A. I would.

25 Q. And would you also agree that as CO2 prices go

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1 up, gas looks less attractive as compared to, for example, wind
2 resources?

3 A. I would not necessarily agree with that conclusion.

4 Q. Other things being equal, if there's a price on CO2,
5 that doesn't give an advantage to a zero-emission resource over
6 a gas resource.

7 A. There are too many variables and uncertainties
8 around that hypothetical scenario to conclude definitively one
9 way or the other whether a renewable or a gas emitter,
10 something might benefit with a CO2 policy.

11 Q. Okay. So, it's your testimony that a price on CO2
12 doesn't--advantage resources with no CO2 emissions over
13 resources with CO2 emissions.

14 A. No, that's not, I think, what my testimony--or what
15 my statement was. I think you'd asked the question if gas may
16 be disadvantaged or become more costly relative to renewables.
17 And I just concluded it's hard to tell with a lot of other

variables:

18 capital costs, whether there's production tax credits available
19 for renewable assets. There's many variables that go into the
20 relative economics of different resource alternatives.

21 Q. So, the same would be true of gas versus coal with
22 the rising CO2 price.

23 A. I'd say less so on that front. You know, I think
24 what's fundamental to the differences between gas and coal is
25 that inherently the CO2 content of the two different fuels,

00116

1 whether it's coal or natural gas, it's not directly the numbers,
but
2 it's roughly half from a gas plant versus a coal--a coal plant in
3 terms of the input of the fuel itself.

4 Both of those types of assets are used in many
5 instances to generate energy, baseload type units. And if you're
6 going to displace a large quantity of coal across the U.S. fleet
7 with a CO2 policy, natural gas certainly in the midterm would
8 play a significant role in that approach.

9 Q. If you assume everything else stays the same, do
10 you--is it still your position that a CO2 price would not create
an

11 economic advantage over today's situation for zero-emission
12 energy versus energy that's got a CO2 footprint?

13 A. Again, no.

14 Q. You disagree with what I just said.

15 A. I still think there are too many unknowns and
16 variables associated with that hypothetical situation. You know,
17 even if all else stays the same, I think there are differences in
18 generation energy profiles, one resource is dispatchable, one is
19 not, generically, assuming renewables may be referring primarily
20 to either wind or solar. And, so, all of those factors will go
into

21 the relative economics, CO2 being one of them, as to whether or
22 not one might pursue or it might be more economic to pursue
23 gas versus a renewable resource, or vice versa.

24 Q. Let me just follow this up just a little bit. And,
25 then, we'll move on. You agree that if there is a price on CO2,

00117

1 the cost of a gas resource is going to go up by some amount,
2 depending on that price of CO2, right?

3 A. Yes.

4 Q. Okay. And if that same price of CO2 is identified
5 with a wind resource, that wind resource is not going to go up in
6 price at all, right?

7 A. In theory, in a hypothetical CO2 policy.

8 Q. Okay. In your rebuttal testimony, you made a
9 number of adjustments to the modeling that you presented in
10 your direct case, right?

11 A. We did make some assumption updates, yes.

12 Q. And you identify those on pages 1 and 2 of your
13 rebuttal, beginning at line 20 and proceeding on to line 37.

14 A. The reference portion of my testimony is the
15 summary of my testimony. And it does mention we make
16 updates, but it didn't specifically identify every update, though
17 that is included in my testimony elsewhere.

18 Q. And the differential between your preferred
19 alternative SCR and the next-best alternative that you identify,
20 the conversion is [REDACTED], the PVRR(d).

21 A. That's correct.

22 Q. Okay. And you show that in an exhibit to your
23 testimony, right? And that's your Exhibit RTL-5R.

24 A. Yes.

25 Q. Okay. And the total PVRR that's calculated in this

00118

1 exhibit is roughly in the [REDACTED] range, depending on what
2 scenario you're looking at.

3 A. Are you referencing for the entire system or--what
4 in particular are you referring?

5 Q. Well, that was going to be my question, actually, is,
6 what is this PVRR that's roughly [REDACTED] number? My
7 understanding is it's not your entire system but it's those parts
8 of your system that change as a result of this resource.

9 A. No. It is, in fact--when you look at any of the given
10 runs, whether it's the runs coal or gas conversion alternative,
11 those figures that range, just glancing at my exhibit, between--I
12 think to your point, around [REDACTED] as
13 estimates on the exhibit are for the entire system. They are the
14 present value of PacifiCorp system over the course of the study
15 period, across the period through 2030.

16 Q. So, looking at footnote 2--and it doesn't matter
17 which footnote you use; I think they're all identical--you

indicate

18 that fixed costs include the levelized costs for incremental
19 environmental upgrade investments, total O&M for coal
20 resources, and fixed O&M and run rate capital for all resources.
21 Is that a fixed cost that you identified?

22 A. Those as--I'm not sure I understand the question
23 there, but the footnote you read does identify the various cost
24 elements included in the line item titled "Fixed Cost."

25 Q. Okay. So, which of these line items--and I guess it

00119

1 doesn't matter which scenario we're looking at--which of these
2 line items include existing resources on the Company's system.

3 A. A number of them would actually include cost
4 associated with the existing system. Fixed costs, by way of an
5 example in the footnote here, it just read: Total O&M for coal
6 resources, a portion of O&M is fixed across these assets. Fixed
7 O&M--O&M, as well. Run rate capital costs are fixed costs.
8 Incremental environmental upgrade investments themselves,
9 those are fixed costs, that we're applying, such as the SCR cost
10 to Jim Bridger Unit 3, which are existing resources on the
11 Company system. Fuel cost, another line item in here,
12 incorporate fuel cost associated with the existing resources.

13 Q. That's not where I'm--not what I meant to ask you,
14 if that's--let me give you an example. Where would the capital
15 costs associate--or the rate-based cost associated with Bridger
16 Units 1 and 2, where does that show up on here? Which of
17 these line items?

18 A. If you could clarify which portion of Jim Bridger
19 rate-based cost you're referring to.

20 Q. Well, any of them, or all of them.

21 A. Okay.

22 Q. Let's just talk about the plant, the generating
23 station itself, the--I'm not sure what the distinction is that
you're
24 drawing here.

25 A. Sure. So, for example, with Bridger Units 3 and 4,

00120

1 there's a line item on here which started with the footnote 2,
2 which is fixed costs. So, if you move your--a little bit ways
3 down the table, fixed cost include--

4 Q. No. I was asking about Units 1 and 2.

5 A. Right.

6 Q. Okay.

7 A. In 1 and 2, they'd be in there--they're in there for
8 Naughton and all our--all of our units across the entire fleet.
9 So, 1 and 2 would also be included in at that line item.

10 Q. So, it is in the "Fixed Costs" line item.

11 A. That's where those line--elements identified in
12 footnote 2 are included. So, incremental environmental upgrade
13 investments, O&M, and run rate capital.

14 Q. So, the remaining plant balances at Bridger Units 1
15 and 2 showed up in that "Fixed Costs" line.

16 A. When you're--could you please clarify what you
17 mean by "remaining plant balance"?

18 Q. The depreciation, return, those revenue
19 requirements associated with those two units, that would show
20 up in the fixed cost line there.

21 A. That is included in--that line item is associated for
22 the environmental upgrade and the run rate capital, for all
23 incremental capital spent through this study period. We do not
24 capture embedded costs or depreciation expense. Already sort
25 of on the books, so to speak.

00121

1 Q. Okay. So, this is not your present value revenue
2 requirements of your entire utility system for Utah; this is just
3 the non-embedded costs of your system that change as a result
4 of your plant addition, your resource addition.

5 A. These are incremental in time. So, any of the costs
6 from the simulation period forward we focused 2016 and '17 and
7 beyond, which is the period the SCRs need to be installed on
8 Bridger Units 3 and 4. Any incremental dollars spent on a
9 forward-looking basis are captured in here, including
10 depreciation, return, and all of the net power cost type of
11 expenses one would expect, as well.

12 Q. Okay. So, if--just to make sure we're on the
13 same--I'm sorry this is taking so long--if you took at the
14 Company's revenue requirements, Rocky Mountain Power's, in
15 all its jurisdictions, or PacifiCorp's, and present-valued those,
16 you'd get a number much bigger than the roughly [REDACTED]
17 that's shown here.

18 A. I haven't done that calculation to know for sure
19 whether it would be bigger or smaller directionally, but I can
20 speak to what these numbers are. And they're the forward-
21 looking incremental expenses expected across the system
22 among these different scenarios.

23 Q. And the [REDACTED] differential, you'd agree, is
24 roughly [REDACTED] percent of the PVRs you identify here.

25 A. Subject to check.

00122

1 MR. MICHEL: If I could have a moment,
2 Commissioner, that may be all I have.

3 THE HEARING OFFICER: We'll be off the record.

4 MR. MICHEL: That's all I have. Thank you very
5 much, Mr. Link.

6 THE HEARING OFFICER: Redirect?

7 MR. MOSCON: No redirect.

8 THE HEARING OFFICER: Mr. Link, I have a few
9 questions for you regarding risk and how it's assessed in the--in
10 your approach. And I recognize you describe this in your direct
11 testimony and discussed the System Optimizer model and its
12 relationship to IRP analysis, but I'd like to have you compare or
13 contrast how risk is evaluated in the analysis that you've done
14 here relative to how risk is evaluated in the RFP case that the
15 Company submitted last year, significant energy resource
16 examination. Are we talking about the same kind of risk
17 assessment, a different one, if different, why the difference?

18 THE WITNESS: Sure. There are some differences
19 and some similarities. And, so, I think first to address your
20 question, I'll start with the similarities. In particular, the
process

21 for an RFP, the request for proposal, the source that was
22 started last year, initiated last year.

23 We also use the System Optimizer model in similar
24 capacity in order to develop what's the appropriate resource
25 alternatives--in that case, from a series of bids that we were

00123

1 looking at--to see which one's the most economic to put into our
2 mix.

3 In this case, we're doing a similar assessment. The
4 key difference is rather than analyzing bids we're allowing the
5 model to determine what's the best alternative if SCRs are not
6 installed, which basically means it can no longer operate as a
7 coal unit, coal-fired facility. So, you're creating in that case

an

8 incremental need on the system that the model can then fill with
9 resource alternatives, gas conversion being one of them.

10 When we look at the RFP, there are additional
11 steps to that evaluation process that do occur. And there are
12 stochastic risk type of runs that are performed that are also
13 similar to what we would do in an IRP. Not to get too model
14 technical, but the stochastic runs are just draws across

different

15 variables that are uncertain in a model. And there are things
like

16 how are prices, gas prices, hydro generation, unit outage rates--
17 things of that nature--that can give you a distribution or a
range

18 of potential system costs outputs. And, typically, we would take
19 a look at the mean of that run and maybe an upper tail risk type
20 of analysis.

21 In the analysis we performed here, we've effectively
22 attempted not to duplicate a mini IRP, so to speak, around this
23 investment decision, but focus our risk analysis around the two
24 drivers that are clearly most influential to the present value
25 revenue requirement impacts that we've calculated. And those

00124

1 two drivers being natural gas and the CO2 price, which we've
2 analyzed more on a scenario risk assessment as opposed to a
3 statistical-based, stochastic-type risk analysis.

4 THE HEARING OFFICER: And the reason for the
5 difference--the reason that one approach is adequate or more
6 appropriate in this setting versus a stochastic approach--

7 THE WITNESS: Yeah, I wouldn't necessarily think
8 that--I wouldn't call a stochastic analysis inappropriate in this
9 setting. I think the key drivers, though, are--what we were

trying

10 to pick up in this analysis was what decision would be made.

11 Our expectation around running risk around--or
12 stochastic analysis around these two outcomes, one with gas
13 conversion and one with the asset running as coal, would most
14 likely tend to favor baseload generation, just given the effects

of

15 variables that are being shot. In stochastic draws like energy
16 prices and even loads, things of those natures, loads are higher.
17 Generating assets that can run at lower cost and produce more
18 output and contribute to off-system sales tend to perform better.

19 In those studies--because keep in mind, also, in
20 those studies we're not shocking or stressing CO2 price
21 assumptions. Even in an RFP, or even an IRP analysis, CO2 is
22 addressed more on a scenario risk basis, much like we've done
23 in the studies we've performed here.

24 THE HEARING OFFICER: Thank you. With respect
25 to the revenue requirement impact of the area scenarios, but

00125

1 particularly the scenario that you're supporting or the outcome
2 that you're supporting in the application, is there anything
3 beyond the PVRR(d) analysis in the record that would inform the
4 Commission of the revenue requirement that would be
5 incremental to the Company's existing revenue requirement, for
6 example, the first year following the implementation or
7 operation of SCR in Bridger Unit 3?

8 THE WITNESS: Those--I don't know that we call
9 out the annual results in testimony. All of the scenarios are
10 kind of summarized on a present value basis. That said, the
11 present value figures that we are reporting do incorporate the
12 cost--I'll call it life cycle costs associated with the SCR
13 investments in particular, the capital and then all of the run

rate

14 and operation and maintenance costs--types of costs that Mr.
15 Teply was talking about earlier with reagent and catalyst. Those
16 are all factored into and incorporated into those numbers that
17 we're present-valuing off of.

18 THE HEARING OFFICER: Thank you.

19 CHAIRMAN ALLEN: Just turned my own mike off. I
20 should know how this works.

21 Earlier, before lunch, you were talking about--you
22 were being asked questions about the Energy Gateway and how
23 it played into the models and if it's built or not built. And if
I'm
24 not mistaken, you inferred--said that it didn't play a major role
in
25 the outcomes. I'm just wondering if you can--it almost seems

00126

1 counterintuitive, without trying to prejudge--if you can give me
a
2 reason why Energy Gateway and the transmission that might be
3 needed to improve if these plants go away--why is it not
4 material--if Energy Gateway accomplishes so many other
5 things? What would that list be?

6 THE WITNESS: Sure. There's--I think, first and
7 foremost, the way we've done our analysis, in my--I think the
8 appropriate way to do the analysis with that sensitivity is the
9 Gateway is removed in both cases where it's running as coal
10 and where it's not running as coal. And, so, the impacts of
11 Gateway being removed from the system in that sensitivity is
12 similar across those two simulations. So, it is not to indicate
13 that there is no potential benefit associated with Gateway--it's
14 sort of a different matter.

15 There are many benefits that a Gateway or
16 transmission investment--again, it would be expected to bring to
17 customers that go well beyond some of the things that we've
18 identified, or that parties have attempted to identify in this
19 proceeding: items like reliability, improved system performance,
20 which can get to improved line loss performance across the
21 system. So, line loss savings and increased access to different
22 types of generation resources that might be required under a
23 range of uncertain and different future outcomes, whether that
24 be due to policy, commodity prices. All of those sorts of risks
25 where we might need to--the long term access resources from

00127

1 different parts of our system.

2 CHAIRMAN ALLEN: And if I remember correctly,
3 this is scheduled to be put into place around, what, 2017 to
4 2020. So, it's still out there about seven years. Is my
5 recollection correct? Do you know?

6 THE WITNESS: It varies by individual segment of
7 the Energy Gateway. There are different components of the
8 Gateway project. Some of them have been completed or are
9 being actively completed. Others are kind of pending, but
10 majority of the incremental segments remaining, I think, are
11 currently estimated sort of '19 and beyond, depending on which
12 segment, 2019.

13 CHAIRMAN ALLEN: So, it would probably be
14 obvious, then, that certainly we'd have a chance for us in the
15 future to evaluate whether Energy Gateway or additional
16 segments will be just and reasonable as we move forward in the
17 next seven years.

18 THE WITNESS: I would agree.

19 CHAIRMAN ALLEN: Thank you.

20 COMMISSIONER LEVAR: I don't have anything.

21 THE HEARING OFFICER: Any questions based on
22 ours?

23 You're excused, Mr. Link. Thank you for your
24 testimony.

25 MR. MOSCON: Thank you.

00128

1 The Company next calls Ms. Cathy Woollums.

2 While she's approaching the stand, I'm going to
3 note that as we discussed this morning, there were two exhibits
4 filed that were emailed to the parties. We have hard copies in
5 case parties were in route, in transit--don't have copies with
6 them or for the Commission that I can make available if anyone
7 did not have those put into their binders. So, before she
8 begins, if the Commissioner or parties would like a hard copy,
9 we have those here.

10 THE HEARING OFFICER: The commissioners have
11 them. Thank you.

12 Do you solemnly swear that the testimony you're
13 about to give shall be the truth, the whole truth, and nothing
but
14 the truth?

15 THE WITNESS: I do.

16 THE HEARING OFFICER: Thank you. Please be
17 seated.

18 CATHY WOOLLUMS, being first duly sworn, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY-MR.MOSCON:

22 Q. Good afternoon, Ms. Woollums. Would you please
23 state and spell your name for the record?

24 A. C-A-T-H-Y. Woollums, W-O-O-L-L-U-M-S.

25 Q. And would you please--your employer and what

00129

1 your job title is.

2 A. Yes. I'm the vice president of environmental
3 services and chief environmental counsel for MidAmerican
4 Energy Holdings Company, the parent of PacifiCorp.

5 Q. And did you prepare surrebuttal testimony in this
6 proceeding?

7 A. Yes, I did.

8 Q. And do you have any corrections or additions to
9 that testimony?

10 A. I do have additions, which have just been
11 referenced by Mr. Moscon. Those would consist of two letters
12 marked as Exhibit CSW-4SR and CSW-5SR.

13 Q. Ms. Woollums, very briefly, just because those
14 were provided at a later date, could you identify briefly what
15 each of those exhibits is?

16 A. Certainly. CSW-4SR is a letter that I wrote to the
17 Wyoming Department of Environmental Quality requesting that
18 they reconsider our previous request of them to change the
19 deadlines in the Wyoming SIP on the Bridger 3 and 4 SCR
20 installations. And 5SR is the response that I received from the
21 Wyoming DEQ.

22 I wrote those letters, because it became apparent
23 that within the course of my submittal of surrebuttal, the
parties

24 continued to question whether or not I had actually engaged in a
25 conversation and requested of DEQ that they change those

00130

1 deadlines.

2 Q. Thank you. Ms. Woollums, if I were to ask you the
3 same questions contained in your surrebuttal, would each of
4 your answers remain the same as in--exists in your prefiled
5 testimony?

6 A. Yes, they would.

7 MR. MOSCON: Thank you. Then, if it please the
8 Commission, at this time I would ask that Ms. Cathy Woollums
9 prefiled surrebuttal testimony and all exhibits be entered into
10 the record as evidence.

11 THE HEARING OFFICER: Any objections?

12 They're received.

13 MR. MOSCON: Thank you.

14 BY MR. MOSCON:

15 Q. Ms. Woollums, have you prepared a summary of
16 your testimony that you could share with the Commission and
17 parties?

18 A. Yes, I have.

19 Q. Please do so.

20 A. My surrebuttal testimony responds to a key issue
21 raised by the parties in this proceeding, that the approval of
the
22 Jim Bridger Units 3 and 4 selected catalytic reduction systems
23 should be deferred or not approved because of asserted
24 uncertainties created by the EPA's deferred action on the
25 Wyoming Regional Haze State implementation plan.

00131

1 My testimony supports three key points: First, that
2 the EPA's failure to meet its deadline and its corresponding
3 re-proposal do not change the Company's obligations to install
4 controls at Jim Bridger Units 3 and 4 by December 31, 2015 and
5 2016; second, that the Company has, in fact, investigated its
6 ability to change those deadlines with both EPA and the State of
7 Wyoming. The Company asked the Wyoming Department of
8 Environmental Quality to extend the deadline and was told no.
9 Further, the Company requested that the DEQ reconsider its
10 position. And the DEQ responded that it stands by its previous
11 position, declining to extend the deadlines.

12 Third, and as a result, using the best available
13 information available at this time, the Company must proceed
14 with fulfilling its compliance obligations to install SCR.

Contrary

15 to the position of some parties in this case, the statutory and
16 regulatory requirements do not allow the Company five or more
17 years to install the controls, but rather that controls must be
18 installed as expeditiously as practical, which is the Wyoming
19 Department of Environmental Quality's determination for Jim
20 Bridger Units 3 and 4 at 2015 and 2016.

21 MR. MOSCON: Thank you. Ms. Woollums is
22 available for examination by the parties and Commission.

23 THE HEARING OFFICER: Thank you.

24 Mr. Jetter.

25 MR. JETTER: I have no questions.

00132

1 THE HEARING OFFICER: Mr. Jensen.

2 MR. JENSEN: We have no questions.

3 THE HEARING OFFICER: Mr. Ritchie.

4 MR. RITCHIE: No questions.

5 MR. MICHEL: No questions.

6 THE HEARING OFFICER: I have a question or two.

7 THE WITNESS: Yes.

8 THE HEARING OFFICER: If the EPA issues a
9 re-proposal on March 29 and it alters the requirements that
10 Wyoming has imposed in its State implementation plan, can you
11 describe how that affects the SIP and what other wheels would
12 that put in motion and how would those go forward?

13 THE WITNESS: And the answer to the question
14 depends upon the nature of any change that EPA would be
15 interested in implementing. The Regional Haze program is
16 primarily a State-led program. And, so, the States are required
17 to submit their plans for consideration by EPA.

18 If EPA adopts that plan, which it had proposed to
19 do previously for Jim Bridger 3 and 4, then the State can move
20 forward with it--at least that piece of its plan that EPA
approves.

21 So, EPA has a couple of options. It can approve, it can
22 disapprove, or it can partially approve and partially disapprove
23 the State SIP. So, to answer your question, it depends on what
24 EPA ultimately does.

25 If EPA came back and said that the requirement

00133

1 was less stringent, the State of Wyoming still has the ability to
2 implement its SIP as it currently stands. It can be more
3 stringent than the EPA requirements. So, that's kind of the
4 beginning of the process.

5 If EPA comes back and makes things more
6 stringent than the current State implementation plan, Wyoming
7 has a couple of choices. One is to let EPA issue what's called a
8 FIP, or a Federal implementation plan, in which case the
9 Company requirements become regulated by EPA. Or the State
10 can go and move forward to modify its State implementation
11 plan.

12 Given where the State is, there are a couple other
13 things that has--would have to change, as well, because I
14 believe in the exhibits to my testimony, there was the settlement
15 agreement which would have to be unwound based on the
16 conditions precedent in that settlement agreement. So, we
17 would have to go back. We would have to unwind the
18 settlement agreement, obtain approval from the Wyoming
19 environmental quality council. And, then, the State would also
20 have to change its SIP if it saw fit to do so, or let EPA issue
21 that Federal implementation plan.

22 THE HEARING OFFICER: Are there further legal
23 challenges that are possible to EPA action?

24 THE WITNESS: Yes. And as has been the case in
25 many of the Regional Haze SIP activities, many of the parties,

00134

1 both on the environmental side and the Company side, have
2 litigated over EPA decisions on the Regional Haze State
3 implementation plans.

4 THE HEARING OFFICER: Thank you. Any further
5 questions?

6 Thank you, Ms. Woollums.

7 MR. MOSCON: That concludes the Company's
8 presentations of its direct witnesses.

9 THE HEARING OFFICER: Thank you.

10 We'll turn now to the Division. Mr. Jetter.

11 MR. JETTER: The Division would like to call its
12 first witness, Matthew Croft.

13 THE HEARING OFFICER: Do you solemnly swear
14 that the testimony you're about to give shall be the truth, the
15 whole truth, and nothing but the truth?

16 THE WITNESS: I do.

17 THE HEARING OFFICER: Thank you. Please be
18 seated.

19 MATTHEW CROFT, being first duly sworn, was
20 examined and testified as follows:

21 DIRECT EXAMINATION

22 BY-MR.JETTER:

23 Q. Mr. Croft, could you please state your name and
24 your position for the record?

25 A. Sure. My name is Matthew Croft. I'm a utility

00135

1 technical consultant for the Division of Public Utilities.

2 Q. Thank you. Have you submitted prefiled direct and
3 surrebuttal testimony in this docket?

4 A. I have.

5 Q. If you were asked the same questions that were
6 asked in those direct and surrebuttal prefiled testimony, would
7 the answers today be the same?

8 A. They would be. I do have two minor corrections.

9 Q. Would you please go ahead and explain those
10 corrections?

11 A. Okay. The two minor corrections are in footnote 9
12 on page .10 of my direct testimony. And, again, these are just
13 minor, but in that footnote where it reads "Rows 138 through
14 14," that should be replaced with "Rows 138 through 145." And,
15 then, a few words later, in quotations it says, "FR-Sinking
16 Fund." That should be replaced with "FR-Cash Flows."

17 Q. Are those all the corrections to your testimony?

18 A. Yes.

19 Q. Thank you.

20 MR. JETTER: Division would move at this time to
21 have direct and surrebuttal testimony of Matt Croft entered into
22 the record at this hearing, along with all of the corresponding
23 exhibits attached thereto.

24 THE HEARING OFFICER: Any objections?

25 They're received.

00136

1 MR. JETTER: Thank you.

2 BY MR. JETTER:

3 Q. Mr. Croft, have you prepared a brief statement
4 summarizing your position in this case?

5 A. Yes, I have.

6 Q. Would you please go ahead and provide it?

7 A. I would like to briefly summarize the positions--or
8 the Division's position with regards to Rocky Mountain Power's
9 request to construct selective catalytic reduction systems on Jim
10 Bridger Units 3 and 4. In direct testimony, the Division
11 recommended that the Commission grant conditional approve of
12 the SCR investments if certain issues that were raised by the
13 Division were resolved. These issues included actual operations
14 not being reflected in the SO model, after-the-fact adjustments
15 to the SO model, need for more recent natural gas and
16 wholesale market forecasts, corrections for errors identified by
17 the Office of Consumer Services, a more complete set of SO
18 model results, a quantified risk-weighted result, understated
19 reclamation trust fund contributions, and finally, the viability
of
20 selling coal to offset higher cost in the two- unit scenario.

21 To the Company's rebuttal testimony, in response
22 to that request, these issues have been resolved. Although
23 these issues have been resolved, the Division recommends
24 conditional approval of the Company's request. I will summarize
25 those conditions here. The exact language of those conditions

1 is in my surrebuttal testimony.

2 First, the Commission's approval should be
3 conditioned upon a review of impacts of the EPA's emission limit
4 re-proposal anticipated to be released March 29, 2013. After
5 evaluating those impacts, and assuming that the PVR(d)
6 remains favorable to the SCR investments, this first condition
7 would be satisfied.

8 Second, the Commission's approval should be
9 conditioned upon a review of the full--of the Company's fully
10 executed EPC contract. Assuming that the final costs are
11 aligned with the costs currently filed in the Company
12 application, the second condition would be satisfied.

13 Third, ratepayers should be held exempt from any
14 non-compliance costs imposed by the State of Wyoming or the
15 EPA due to a failure to meet the December 31, 2015, and
16 December 13, 2016, emission deadlines or other deadlines as
17 may be included in the EPA's forthcoming re-proposal.

18 Fourth, any deviation between the SCR costs
19 included in this case and the costs included in a future general
20 rate case or major plant addition case should be explained by
21 the Company. And those explanations, we believe, should be
22 provided up front with their application.

23 Fifth, the Commission's approval should be an
24 approval of a decision--of the decision to construct the SCR
25 systems, not a preapproval of whatever costs may be incurred

00138

1 under the SCR's system's project. Basically what we mean by
2 this is, we're not handing the Company a blank check.

3 As an example, and not necessarily limited to this
4 example, but suppose that the Company is supposed to prepare
5 their plant a certain way so that the SCRs can be installed. If
for

6 some reason they were imprudent and didn't prepare the plant
7 right and the SCRs were installed and something
8 collapsed--maybe that's a bad technical example, but the point
9 is that the Company still has a duty of ongoing prudence in their
10 actions during construction.

11 In summary, the Division believes that our initial
12 issues have been resolved, that the Commission should
13 conditionally approve the Company's request to construct
14 selective catalytic reduction systems on Jim Bridger Unit 3 and
15 4. And that concludes my summary.

16 MR. JETTER: Thank you.

17 The witness is open for cross-examination.

18 THE HEARING OFFICER: Thank you.

19 Mr. Moscon.

20 MR. MOSCON: No questions. Thank you.

21 THE HEARING OFFICER: Mr. Jensen.

22 MR. JENSEN: A couple--excuse me--a couple brief
23 questions.

24 CROSS EXAMINATION

25 BY-MR.JENSEN:

1 Q. In your recommendations, you have suggested that
2 the Company be required to file an updated analysis within
3 approximately one week of the receipt of the EPA re-proposal.
4 We actually quite like your recommendations, but we question
5 whether one week is adequate time. Would you just comment
6 on why you have selected one week? Is that time enough to do
7 a sufficient analysis?

8 A. In regards to the Company filing their update or
9 with regards to us responding to the Company?

10 Q. Good question. Let's deal with each in order.

11 A. Okay. Those dates that were in my surrebuttal
12 testimony were first based on statements that were made in the
13 February 6 prehearing by the Company. They suggested some
14 dates. And, so, based on those dates, it seemed reasonable
15 that the Company could provide that analysis within a week.

16 Now, as far as the time required for us to evaluate
17 whatever the Company updates might be, we're not necessarily
18 opposed to more time. We just ask that the Commission be
19 able to provide an order such that the Company can meet their
20 May 15 contract deadlines.

21 Q. Is your request for the one-week time period based
22 on an assumption that the EPA's requirement is going to be a
23 reduction to the 0.05 standard? I'm assuming that's the only
24 assumption you've got in there, that there isn't going to be any
25 other changes by EPA. Is that correct?

00140

1 A. It's really just based on dates that were presented
2 here by the Company at the prehearing and a timeline that they
3 had suggested.

4 MR. JENSEN: I see. Thank you. No more
5 questions.

6 THE HEARING OFFICER: Thank you.
7 Mr. Ritchie.

8 MR. RITCHIE: No questions.

9 THE HEARING OFFICER: Mr. Michel.

10 CROSS EXAMINATION

11 BY-MR.MICHEL:

12 Q. Good afternoon, Mr. Croft. In your direct
13 testimony, can you open to page .3, please? And at lines 31 to
14 33, you--just to characterize it this way: You basically invite
the

15 Company to make a better case and redo a lot of its
16 assumptions and a lot of its modeling. Is that right?

17 A. Basically, yes, the ratios we identified and thought
18 that those should be addressed by the Company.

19 Q. And you identify 11 different things that the
20 Company should do to adjust its study and its presentation of
21 the alternatives, right?

22 A. (Moves head up and down.)

23 Q. And I guess the question I have: Is that a proper
24 role, in your mind, for rebuttal testimony, for the Company to
25 basically improve its case?

00141

1 MR. MOSCON: Objection to the question on
2 grounds of relevance. I'm not sure that any particular witness--
I
3 don't mean to select out Mr. Croft--but their view--of what makes
4 for good rebuttal testimony. It really is germane to the issue
of
5 whether the SCR project is in the best interests of customers as
6 a whole.

7 MR. MICHEL: Commissioner, I think it is relevant.
8 We have got an accelerated docket here. And as it turns out,
9 we really didn't get the Company's real case until February 11,
10 just a little over three weeks ago. And we've got a project here
11 that's asking for cost recovery or cost--
12 approval of cost recovery that's several hundred million dollars.
13 And I think it's important to think what--how this case
14 progresses. And Mr. Croft has recommended that the Company
15 be permitted to basically improve its case as the case proceeds.
16 And I want to explore with him whether that is a proper way to
17 administer this case for the Commission to be able to get the
18 information it needs and for stakeholders to get the information
19 that they need and protect their interests.

20 MR. MOSCON: And, again, I'd renew my objection
21 that what this is really trying to accomplish is a legal argument
22 vis-...-vis a witness on the stand about the nature of the
23 voluntary application process and the collaboration that's
24 happened between the party which has--may be better
25 addressed in some summation or closing argument. But to ask

00142

1 Mr. Croft, "Do you think this is proper rebuttal testimony"?
2 again, does not go to the issue which is before the Commission
3 which, "Are the SCRs in the best interest of Utah customers?"

4 THE HEARING OFFICER: Mr. Michels, it seems to
5 me that the propriety of the process is really outside of the
6 witness's expertise. If you're concerned about how the timing
7 might have affected his judgment or evaluation, if you can ask
8 about that.

9 MR. MICHEL: Okay. Thank you.

10 BY MR. MICHEL:

11 Q. So, would you agree that in a very constrained time
12 frame or the more constrained the time frame is, the less ability
13 stakeholders like the Division and others have to obtain the kind
14 of confidence that they might otherwise get if they had more
15 time to analyze a case of the Company's?

16 MR. MOSCON: Again, calls for speculation.

17 THE HEARING OFFICER: Do you have an answer
18 to the question, Mr. Croft?

19 THE WITNESS: If you want to restate the question,
20 make sure I understand it.

21 BY MR. MICHEL:

22 Q. The question I have is, would you agree that as the
23 time frame to analyze the filing by the Company gets more and
24 more constrained, the confidence that stakeholders and
25 ultimately the Commission may have in the information that's

00143

1 presented to them and to be able to test that is diminished?

2 A. It depends.

3 Q. Well, let's say as an example that in this case the
4 Company made a one-page filing that said: We think SCR is the
5 best outcome. We've looked at it and it's our cheapest way to
6 comply with EPA and Wyoming regulations. Would you still
7 recommend to the Company that in subsequent rebuttal or
8 surrebuttal testimony they fill that out a little bit and provide
9 more information?

10 A. It really all depends on what the issues were that
11 were presented, what our opinion is of them at the time. I
12 mean, like I said before, it really depends.

13 Q. Well, you would agree that a lot of information very
14 relevant to the Commission's determination in this case was not
15 submitted until just a few weeks ago.

16 A. There was some new information submitted. It's
17 not that the Company held that information back. It was in a
18 response to testimony that was provided by the Division and
19 other parties.

20 Q. Had the Company not filled in its filing in
21 mid-February, would the Division still be recommending
22 preapproval of this project?

23 A. It all depends on what you mean by "filled in." But I
24 think ultimately, the question is, "Were our issues resolved?"
25 And they were.

00144

1 Q. Okay. The question I have is, at the time after the
2 Company had filed its direct testimony, at that point in time,
did

3 the Division--would the Division have recommended approval of
4 the Company's project or preapproval based on what was
5 presented in the Company's direct case?

6 A. I think we're pretty clear in our direct testimony that
7 it was only conditional approval if certain issues were resolved.
8 So, we would have wanted those issues resolved.

9 Q. And a lot of those issues were corrected--the
10 problems that the Division identified in their direct case,
right?

11 A. Yes.

12 Q. Would you agree that it can be prejudicial to other
13 stakeholders after ability to test the validity of the Company's
14 case if a lot of it is not presented until rebuttal testimony?

15 MR. JETTER: I'm going to object to that. I don't
16 think that our witness is prepared to testify on relative
fairness

17 to various parties.

18 MR. MOSCON: Join the objection.

19 THE HEARING OFFICER: It seems to me, Mr.
20 Michel, that--

21 MR. MOSCON: Made the point.

22 THE HEARING OFFICER: --it raises the same
23 problem, that--

24 MR. MICHEL: Okay.

25 THE HEARING OFFICER: --it's--

00145

1 question's more in the nature of a legal objection to the process
2 and to the testimony rather than
3 it's . . .

4 MR. MICHEL: I'll move on.

5 BY MR. MICHEL:

6 Q. Turning to your surrebuttal, Mr. Croft--
7 and you touched on this in your summary--I want to--I'd like you
8 to turn to page .4 in your Item 5. And I just want to understand
9 what the Division is recommending here. You talk about how
10 the approval should be approval of the Division but not
11 necessarily an approval of the costs that are incurred, right?

12 A. The basic point is, is that the Company has a duty
13 of ongoing prudence.

14 Q. So, I guess the question I have is, do you
15 understand the difference between planning prudence and
16 operational prudence, if you will?

17 A. Maybe you could--when you say "planning
18 prudence," I'm not sure.

19 Q. Would you agree that poor planning decisions can
20 result in excessive costs that a Commission might be able to
21 consider for disallowance?

22 A. It could.

23 Q. And is the Division recommending that planning
24 issue prudence--in other words, the Company's planning--the
25 prudence of the Company's planning and development to this

00146

1 alternative--that that would not be approved as part of this--the
2 outcome in this case? You simply mention prudence. And I'm
3 trying to drill down a little bit and understand what you're
4 recommending there.

5 A. Well, essentially, the Company has to meet--has
6 compliance obligations it has to meet and they have to decide
7 how they're going to meet those compliance obligations. And
8 they've come up with an analysis that shows what the best way
9 it is to meet those compliance obligations. And we believe that
10 the SCRs are the appropriate way to do that.

11 On a going-forward basis, that still means in a rate
12 case, where--a major plant addition case, even though we're
13 conditionally approving it now, we'll review costs later on. And
14 if for some reason the Company was imprudent during
15 construction, then, you know, such costs wouldn't be
16 recoverable.

17 Q. Okay. So, let me ask it this way. Let's assume
18 that the Commission adopts your recommendation here. The
19 Company develops its SCR proposal, comes to the Commission
20 with a rate case, and WRA is able to identify an alternative that
21 the Company should have considered that was cheaper, that
22 would have been compliant, but that was not developed by the
23 Company. Would we be able to challenge the differential
24 between what the Company presumably could have done that
25 was cheaper versus what they actually did?

00147

1 MR. MOSCON: I'll object--

2 MR. JETTER: I object to this.

3 MR. MOSCON: Go ahead.

4 MR. JETTER: You're asking for a legal conclusion
5 of what may be presented at a potential future hearing. And I
6 think that's something more appropriate for counsel for the
7 parties to debate in briefing.

8 THE HEARING OFFICER: I think we're talking
9 about what Section 14-17-4031A means. And what I'd like to
10 recommend is that counsel address this in briefs that we're
11 going to discuss and provide for--rather than trying to solicit a
12 witness's interpretation or--so, if that's what you're--Mr.
Michel.

13 MR. MICHEL: I'm trying to understand Mr. Croft's
14 recommendation here that a future rate case open for prudence
15 review. And what exactly is he only recommending that
16 construction prudence be open for review, or if that also
17 includes possible imprudence in the Company's planning and
18 development of this project. And I'm trying to--I'm just trying
to
19 understand what the Division's recommendation is here.

20 THE WITNESS: Maybe if I could put it this way:
21 Assuming the Commission approves the SCRs and we're in a
22 general case, obviously the Division has recommended
23 conditional approval. We would not challenge whether the
24 Company--
25 whether the decision the Company made to go forth was prudent

00148

1 or not.

2 BY MR. MICHEL:

3 Q. And would other parties be able to raise that issue,
4 or would the Commission's decision in this case preclude that?

5 A. Well, I think any party's--

6 MR. MOSCON: Same objection.

7 THE HEARING OFFICER: Just a minute, Mr. Croft.

8 And I think what other parties can do is--really is a
9 matter of what the statute means and--I think it's fair for you

to

10 ask what the Division would do and what its recommendation
11 means. But what the restrictions or limitations of the statute

on

12 other parties would be seems to me to be a legal--

13 MR. MICHEL: Well, Commissioner, I'm sorry I'm
14 belaboring this, but the statute allows conditional approval and
15 the Division has recommended certain conditions on the
16 approval the Commission is--that it's recommending. What I'm
17 trying to understand is what this particular condition on
18 prudence issues being open means. Does it mean any
19 imprudence that arises after the date of the Commission's
20 decision, or does it mean any imprudence issues at any time
21 related to this project? And I'm not clear on that. And that's
22 what I'm trying to understand.

23 MR. JETTER: May--

24 THE HEARING OFFICER: Go ahead, Mr. Jetter.

25 MR. JETTER: I really think that the terms of a

00149

1 condition are a question for the Commission. I think the
2 Division's laid out its concerns and how it believes conditions
3 should be made and what our conditions would be. But the
4 terms of those and who might have raised issues at a later time,
5 I think, is a question that would be addressed in an order from
6 the Commission.

7 MR. MOSCON: My response, Mr. Commissioner, is,
8 essentially this topic has been asked and answered to the
9 extent that this witness, who can speak only on behalf of the
10 Division, has the ability to answer both in the summary that was
11 presented and in response to questions. They provided not only
12 their explanation--at least two hypotheticals to try and give
13 context to their explanation. And the questions repeatedly are
14 of the nature of what other parties could do, what could WRA
15 do, which are all legal conclusions and which are, as the
16 Commission has pointed out, interpretations of a statute. So, I
17 would ask the Commission to indicate that on this topic that it
18 has been asked and answered to the extent this witness has
19 personal knowledge or can speak for the Division.

20 THE HEARING OFFICER: Pardon us just a
21 moment.

22 Mr. Michel, we're going to give you another shot at
23 this if you want to take it, but your question needs to be
limited

24 to what the Division means by its recommendation. That needs
25 to be the context and not what the condition might mean for

00150

1 other parties as to--you know, in a Commission order.

2 MR. MICHEL: Thank you, Commissioner.

3 BY MR. MICHEL:

4 Q. So, Mr. Croft, my question is, with respect to your
5 recommendation on page .4, your fifth recommendation, are you
6 recommending that all prudence issues be opened for
7 determination as part of a cost recovery case or only prudence--
8 imprudence issues, if any--may arise after the date of the
9 Commission approval?

10 A. Definitely we're not recommending that all prudence
11 issues can be open again. I would say it's mainly on a
12 going-forward basis.

13 Q. So, any actions the Company took prior to the date
14 of the Commission's preapproval, assuming--presuming that
15 is--or assuming that's what the Commission would do, those
16 would be off-limits, those would be determined as part of the
17 outcome of this case is what you're recommending.

18 A. Yes.

19 Q. Okay. I understand now. I don't like it, but I
20 understand it.

21 Now, on page .5 of your surrebuttal--and I'm still in
22 surrebuttal--you identify a Regional Haze FIP for the San Juan
23 Generating Station in New Mexico, right?

24 A. Yes.

25 Q. And you reference that that particular FIP had an

00151

1 emission limit of 0.05 pounds per mmBtu.

2 A. Yes.

3 Q. And you go on to indicate there has been an
4 announcement very recently in New Mexico of an alternative
5 compliance path that EPA and the State and the operating utility
6 PNM have entered into, right?

7 A. Yes.

8 Q. And that's what you're referencing in this italicized
9 quote--

10 A. Yes.

11 Q. --right?

12 I'm going to hand you what--you may already have
13 it--I don't know if you do--but I--this is WRA Cross Exhibit 1.
14 And this is the term sheet of the agreement that you reference
15 in your testimony, right? Would you accept that?

16 A. Subject to check. Technically, what was in my
17 testimony was in answer to a data request provided by the
18 Company.

19 Q. Okay. And would you agree that this--
20 the date of this term sheet was February 15 of this year?

21 A. Subject to check, yes.

22 Q. And this agreement or announcement that you
23 reference in your testimony, that had a compliance path at--a
24 number of details but the--I guess the highlights of this
25 agreement were that half of the facility would be shut down and

00152

1 replaced and the other half would be allowed SNCR technology
2 to be installed with some optimization requirements.

3 MR. JETTER: Objection.

4 MR. MOSCON: I'm not sure that we have
5 established the foundation for this. I think what we're trying
to

6 do is to create a record--I understood the witness to say that
7 this excerpt--

8 the witness was only reporting what the Company put in a data
9 response. And the questioning is now trying to get the witness
10 to corroborate exactly what happened apparently in a term sheet
11 between the EPA and the State of New Mexico, when we have
12 not had any foundation laid as to whether this witness knows
13 anything about what was involved in that settlement agreement,
14 what went into it, led to it, to answer--essentially, we're

trying to

15 get this testimony in the record through a witness that I don't
16 think has the foundation.

17 MR. JETTER: I think I'd also like to add to that that
18 we haven't laid any foundation for this document itself. We
19 have a document that we have no one, at least thus far, to
20 identify what this document actually is or whether what is
21 identified as a term sheet is, in fact, the correct term sheet
from
22 the New Mexico agencies.

23 THE HEARING OFFICER: Mr. Michel.

24 MR. MICHEL: Yeah. Commissioner, this is a
25 public document. It's a document entered into by two public

00153

1 agencies, the New Mexico environment department, EPA, and
2 utility--I mean, if there's some question as to its authenticity,
I
3 can certainly get an authentic document if folks think that
4 I'm--that I created this and invented it. But this is
specifically

5 related to the testimony here of Mr. Croft. He identifies an
6 announcement of an agreement or attempt at an agreement.
7 This is that agreement. And I'm asking him--I'd like to be able
8 to ask him about it since he does spend a page of, you know,
9 fairly short surrebuttal testimony talking about it.

10 MR. JETTER: In his surrebuttal testimony, he
11 quoted a section from a data response from the Company. And
12 now we're going down the path to asking him details of the
13 terms of an agreement that was referenced by the Company to
14 the data response. And I believe that's far enough outside of
15 the scope of his testimony.

16 MR. MOSCON: And my point was, Commissioners,
17 the response that counsel made addressed basically whether
18 this was hearsay and said, "Well, it's a public record," and that
19 was not my objection. And we're not seeking that a certified
20 copy of this document be found and faxed to the parties. My
21 point was that this witness does not have foundation to say what
22 terms were or weren't put together, what the basis was, what
23 analysis went into it, or to in any other way be able to
24 authenticate the meaning or context for this document. And
25 that's--you know, what my objection was, not the hearsay point.

00154

1 THE HEARING OFFICER: Mr. Michel, I think we do
2 need to know whether the witness has ever seen this, read it, is
3 familiar with it.

4 BY MR. MICHEL:

5 Q. In your testimony on page .5, you identify a
6 tentative agreement that has been entered into by the State of
7 New Mexico for an alternative SIP. Is that right?

8 A. I quoted what the Company provided in the data
9 request.

10 Q. Okay. Well, this is what you're--what your
11 testimony says is this is an announcement that you're quoting,
12 right?

13 A. Yes.

14 Q. It doesn't reference a Company data request.

15 A. It does reference a Company--

16 Q. Does it?

17 A. --data request. Prior to that, on line 63, it does
18 reference a data request.

19 Q. Okay. I see. But the response to data request
20 is--this quote is not the Company's quote. It's a quote of an
21 announcement, right? Is that your understanding of what you've
22 received?

23 A. That's what the Company has stated, yes.

24 Q. And would you accept, subject to check, that the
25 document I handed you is that tentative agreement that is

00155

1 referenced in your testimony in this quote from your testimony
2 here?

3 MR. MOSCON: Same foundation objection.

4 THE HEARING OFFICER: Mr. Michel, I think we
5 need to know if he has any basis on which to accept what you
6 said. Is he familiar with the document? Does he . . .

7 MR. MICHEL: Well, Commissioner, this--if you
8 understand--this is an accelerated case. There's a lot of
9 information coming in very recently, some as recently as
10 yesterday that we have not objected to. This is a document that
11 was created after rebuttal testimony was filed in this case.

It's

12 particularly referenced in this witness's testimony. It can be
13 easily verified. And I'm simply asking--
14 and I believe it's very pertinent to the issue in this case and
15 whether the Company has explored all the alternatives that are
16 available to it that may be less costly.

17 The witness has testified that anything that the
18 Company has done up to the date of preapproval is going to be
19 off-limits. This is information the Company has available to it.
20 It's out there in the public sector. It relates very

specifically to

21 Regional Haze and--utilities are doing to comply with that.
22 The--Mr. Teply testified that SNCR is a whole lot cheaper than
23 SCR. And I think it's important that the Commission have
24 before it this kind of evidence that these types of things are
25 being done. This was not presented by the Company. And I

00156

1 think that omission in itself is important.

2 THE HEARING OFFICER: Are you seeking to have
3 the document admitted into evidence? Is that--

4 MR. MICHEL: I--that's where I'm eventually going
5 to go, yes.

6 THE HEARING OFFICER: Is there an objection to
7 it being received in evidence?

8 MR. MOSCON: First--well, let me take a sidebar
9 here to confirm, because I--without having heard the foundation
10 for it, I guess I need to confirm before. The point that I was
11 going to make that I think's been missing in all of this is
twofold.

12 The question and the testimony of Mr. Croft is why they had
13 focused on a 0.05 limit. And the answer in Mr. Croft's testimony
14 was that in answer to a data request, the Company when asked
15 how many other plants are you aware of where a 0.05 limit was
16 imposed responded as follows, and the Company identified
17 several things.

18 So, Mr. Michel or the WRA was welcome at the time
19 to ask Ms. Cathy Woollums or anyone else were you aware of
20 this and what did you think of it or anything else. And I'm not
21 conceding that they do or do not have foundation. But what's
22 happening is he's trying to cross-examine Mr. Croft about
23 whether or not my client considered all of these alternatives.
24 And I think Mr. Croft neither has foundation as to what my client
25 did or did not consider, nor to lay foundation for what happened

00157

1 in New Mexico.

2 And to the ultimate point of is this a reliable or
3 admissible piece of testimony, of course what is completely
4 missing here is--what was the analysis that went on in Mexico?
5 What plant was this, and how far away from load centers was it?
6 What was the generation--how old was the plant, and what was
7 the transportation situation? So, it by itself is very difficult

to

8 say that this is probative of anything. And, so, until that
9 foundation is established, then yes, I guess I object. I know
10 that it's been referenced in data responses, so it's not like

we're

11 hiding that topic, but I just don't think this line of
questioning is

12 appropriate.

13 MR. MICHEL: May I respond, Commissioner?

14 THE HEARING OFFICER: Okay. Then we're going
15 to take a break. We're due for one anyway.

16 MR. MICHEL: Mr. Teply testified that the
17 Commission--I'll try to paraphrase--that the Company did not
18 consider a combination shutdown or conversion and a lesser
19 control like SNCR. And that was not a compliance strategy.
20 They did not feel that was a compliance strategy. The Division
21 witness has testified that the Company should be given
22 preapproval for anything that it has done up until the date of
23 preapproval.

24 This is information the Company obviously has. It's
25 information that was referenced in Mr. Croft's testimony. And

00158

1 I'd like to explore with Mr. Croft whether this information and
2 this type of outcome in a very--what you know from the
3 description here is a very similar situation, is something that
4 should weigh on the Division and ultimately the Commission's
5 decision whether to preapprove everything that has happened
6 up until today or whether the Commission should reserve the
7 right and its ability to look later and see if the Company did,

in

8 fact, explore all the opportunities that may be out there to
9 make--to achieve the environmental outcome that's required at a
10 lesser cost. And, so, that's the relevance of this. And that's
11 why I'm exploring it with Mr. Croft, or would like to.

12 THE HEARING OFFICER: We'll be in recess until
13 five after.

14 (Recess taken, 2:49-3:05 p.m.)

15 THE HEARING OFFICER: On the record.

16 Any further developments on this issue before I
17 express our ruling?

18 MR. MICHEL: Maybe. Commissioner, I've talked a
19 little bit with the Company.

20 THE HEARING OFFICER: I'm not sure your
21 microphone's on, Mr. Michel.

22 MR. MICHEL: Sorry. Commissioner, I've talked a
23 little bit with the Company. I've not had an opportunity to talk
24 with the Division's attorney, but what we would be willing to do
25 is stipulate this into the record with the proviso that the

00159

1 document speaks for itself, it is what it purports to be. And,
2 then, I would not need to further question Mr. Croft about it.
3 But I--but we do want this in the record and do--you know, and
4 parties can make what they will of its importance.

5 THE HEARING OFFICER: Any other comments?

6 MR. MOSCON: On behalf of the Company, we
7 recognize that the rules of evidence that apply here are very
8 broad, allowing the Commission a lot of deference. And we
9 recognize that it can admit any document, essentially, it wants.
10 The Company does not object, essentially, that a document be
11 brought in as part of the record, so we will not object to that.
12 And we would stipulate to allow that.

13 What we would continue to object to, however, is
14 any attempt to build a case or build its case either through
15 contribution of others or trying to question witnesses without
the
16 background here. Essentially to say what happened here could
17 have or should have happened in this situation with that
18 background, we don't have. So, we would object to ongoing
19 questions about it. But if the document is simply to be annexed
20 as part of the record, if that's helpful to the Commission, then
21 we would have no objection.

22 MR. JETTER: Division would not object to that
23 approach.

24 THE HEARING OFFICER: The Commission has a
25 long- standing practice of liberality in receiving documents into

00160

1 the record, including hearsay and assigning to hearsay
2 documents the weight that they're due. And we will receive it
3 into the record as Cross-Examination Exhibit No. 1 of the WRA.
4 We also have concluded that the context and the limitations
5 surrounding Mr. Croft's reference to this general matter are
6 pretty clear in his testimony and that he was basically reporting
7 what--something that the Company had provided to the Division.
8 So, under those circumstances, we would not be inclined to
9 allow additional examination.

10 I know you've already conceded that, but just so
11 you have a sense of our approach to these kinds of matters, we
12 much prefer to have this kind of matter presented in a
13 surrebuttal testimony, where there's a witness that can address
14 it, and so that we all come to the hearing room aware of the
15 document and can prepare accordingly.

16 So, Mr. Michel, would you please continue now with
17 your examination?

18 MR. MICHEL: Yes. Thank you, Commissioner.
19 With that concession that I made, which wasn't--didn't seem like
20 I was conceding very much after all, I don't have further
21 questions for this witness.

22 I do want to just be sure that the record is clear
23 that this document is coming in--it's an authentic document that
24 is what it purports to be. And with that understanding, I have

no

25 more questions for Mr. Croft.

00161

1 Thank you, Mr. Croft.

2 THE HEARING OFFICER: Thank you.

3 I have no questions for Mr. Croft.

4 COMMISSIONER LEVAR: Sierra Club.

5 THE HEARING OFFICER: Sorry.

6 MR. RITCHIE: I have no questions. Thank you.

7 THE HEARING OFFICER: I think you're excused,

8 Mr. Croft. Thank you.

9 Call your next witness, Mr. Jetter.

10 MR. JETTER: The Division will call our next
11 witness, George W. Evans.

12 THE HEARING OFFICER: Do you solemnly swear
13 that the testimony you're about to give shall be the truth, the
14 whole truth, and nothing but the truth?

15 THE WITNESS: Yes, I do.

16 THE HEARING OFFICER: Thank you. Please be
17 seated.

18 GEORGE EVANS, being first duly sworn, was
19 examined and testified as follows:

20 DIRECT EXAMINATION

21 BY-MR.JETTER:

22 Q. Mr. Evans, would you please state your name and
23 occupation for the record?

24 A. Yes. My name is George Evans, E-V-A-N-S. I'm
25 currently president of Evans Power Consulting, Inc.

00162

1 Q. Thank you. And were you retained as an expert
2 witness in this hearing for the Division of Public Utilities?

3 A. Yes, I was.

4 Q. And have you submitted direct and surrebuttal
5 testimony in this case?

6 A. Yes, I did.

7 Q. Do you have any corrections that you'd like to make
8 to any of your testimony?

9 A. I do not.

10 Q. If you were asked the same questions that are
11 contained in your prefiled direct and surrebuttal testimony
12 today, would your answers remain the same?

13 A. Yes, they would.

14 MR. JETTER: With that, I would like to move to
15 enter the direct and surrebuttal testimony of George W. Evans
16 into the record, along with the exhibits attached thereto.

17 THE HEARING OFFICER: Any objections?

18 They're received.

19 MR. JETTER: Thank you.

20 BY MR. JETTER:

21 Q. Mr. Evans, have you prepared a brief statement
22 summarizing your testimony?

23 A. Yes, I have.

24 Q. Would you please provide that? Thank you.

25 A. Sure.

1 Good afternoon. My testimony in both direct and
2 surrebuttal deals with the set of System Optimizer runs that Mr.
3 Link, the Company's witness, presented as his financial analysis
4 of installing the SCRs at Bridger Units 3 and 4. In my direct
5 testimony, I identified a number of different problems and issues
6 that I had with his analysis--his original analysis. Mr. Croft
7 mentioned some of those in his summary of his testimony.

8 My surrebuttal responded to Mr. Link's rebuttal
9 testimony in which he presented a revised analysis. And
10 essentially the conclusion of my surrebuttal testimony is--Mr.
11 Link's revised System Optimizer model results correct the
12 problems that I identified and are a reasonable representation
13 of the cost savings that should arise from installation of the
14 SCR's at Bridger Units 3 and 4.

15 MR. JETTER: Witness is now available for
16 cross-examination.

17 THE HEARING OFFICER: Thank you.

18 Mr. Moscon.

19 MR. MOSCON: No cross-examination.

20 THE HEARING OFFICER: Mr. Jensen.

21 MR. JENSEN: No questions.

22 THE HEARING OFFICER: Mr. Ritchie.

23 MR. RITCHIE: No questions. Thank you.

24 THE HEARING OFFICER: Mr. Michel.

25 CROSS EXAMINATION

00164

1 BY-MR.MICHEL:

2 Q. Just one question.

3 Mr. Evans, I just want to clarify that at the
4 conclusion of the Company's direct case--

5 THE HEARING OFFICER: I think your
6 microphone's not on.

7 MR. MICHEL: Sorry.

8 BY MR. MICHEL:

9 Q. At the conclusion of the Company's direct case, you
10 would not have been able to recommend approval or
11 preapproval of the Company's proposal, right?

12 A. That's correct, yes.

13 MR. MICHEL: Okay. That's all I have. Thank you.

14 THE HEARING OFFICER: I have a question or two
15 for you, Mr. Evans.

16 THE WITNESS: Sure.

17 THE HEARING OFFICER: I assume that your
18 conclusion reached in your surrebuttal testimony includes the
19 conclusion that risk has been adequately evaluated in the
20 system--or System Optimizer model. Is that--am I correct in
21 that?

22 THE WITNESS: Well, I do have what I'd call a
23 minor disagreement with the Company on that in that I feel the
24 way to do that is to combine the results of the nine different
25 modeling simulations that were performed. And the way I did

00165

1 that in my surrebuttal testimony was simply to average them, to
2 take the nine results, average those values and you get [REDACTED]
3 [REDACTED], which accounts for all nine cases, and simply assumes
4 that all of the cases, all the different nine cases, are equally
5 likely.

6 I think that's one way to approach it, and a pretty
7 good way, and one that's neutral. It doesn't attempt to say that
8 lower gas prices are more likely or less likely in the future,
just

9 that they are equally likely with the base and high gas price
10 forecasts.

11 That's my approach to it. I don't--it doesn't
12 represent a major disagreement at all. But it is a way to
13 produce a quantified--a risk-quantified result.

14 THE HEARING OFFICER: And one which you
15 produced for the record in this case.

16 THE WITNESS: I did, yes.

17 THE HEARING OFFICER: Thank you. Any other
18 questions?

19 CHAIRMAN ALLEN: No.

20 THE HEARING OFFICER: You're excused.

21 THE WITNESS: Thank you.

22 THE HEARING OFFICER: Thank you, Mr. Evans.
23 Anything further, Mr. Jetter?

24 MR. JETTER: Division would call its third witness,
25 Mark W. Crisp.

00166

1 THE HEARING OFFICER: Do you solemnly swear
2 that the testimony you're about to give shall be the truth, the
3 whole truth, and nothing but the truth?

4 THE WITNESS: I do.

5 THE HEARING OFFICER: Thank you. Please be
6 seated.

7 MARK W. CRISP, being first duly sworn, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 BY-MR.JETTER:

11 Q. Mr. Crisp, would you please state your name and
12 occupation for the record?

13 A. My name is Mark W. Crisp, C-R-I-S-P. I am
14 managing partner with Global Energy & Water Consulting, LLC.

15 Q. And were you retained as an expert witness in this
16 case by the Division of Public Utilities?

17 A. Yes, I was.

18 Q. Have you submitted prefiled direct testimony in this
19 case?

20 A. Yes, I have.

21 Q. Do you have any corrections that you'd like to make
22 to your prefiled direct testimony?

23 A. No, I do not have any corrections.

24 Q. If you were asked the same questions that are
25 contained in your prefiled direct testimony today, would your

00167

1 answers remain the same?

2 A. Yes, they would.

3 MR. JETTER: With that, I would like to move that
4 the direct testimony and the attached exhibits thereto for Mark
5 W. Crisp be entered into the record of this hearing.

6 THE HEARING OFFICER: Any objections?

7 Just for clarification, are there any exhibits
8 attached to it?

9 THE WITNESS: No, sir, there are not.

10 THE HEARING OFFICER: Thank you.

11 BY MR. JETTER:

12 Q. Have you prepared a brief statement that
13 summarizes your testimony?

14 A. Yes, I have.

15 Q. Would you please go ahead and provide that?

16 A. Yes. Thank you.

17 Mr. Chairman and Commissioners, my assignment
18 in this case was to assist the department of public utilities in
19 evaluating the technical and financial considerations in Rocky
20 Mountain Power's voluntary request for approval of resource
21 decision to install the SCR--the selective catalytic reduction at
22 Bridgers 3 and 4. The request as filed by RMP asks the
23 Commission to issue an order approving the construction of a
24 major emissions project--reduction project, the addition of
25 selective catalytic reduction systems on Units 3 and 4 of the

00168

1 Bridger steam plant located in Sweetwater County, Wyoming.
2 My specific responsibilities in this case were to look
3 at the technology, the actual SCR technology that was
4 suggested by the Company in their application to look at the
5 range of costs that they provided in their application, as well
as
6 sensitivities to those costs as a result of scheduling, cost
7 mitigation in terms of possible rises and falls in material
costs,
8 and certainly issues dealing with the risks associated with cost
9 overruns, noncompliance or any other issue that might arise as
10 a result of either the contractor, the EPC contract not being
able
11 to fully respond to the deadlines as--laid out in the
application,
12 or that if the Company had any problems with those same types
13 of issues.
14 Following my review of all the documentation that
15 was provided either in the application or in responses to data
16 requests and as a result of experience in the field, I came to
the
17 conclusions from a technical point of view and I make
18 recommendations to this Commission, that, No. 1, the
19 Commission condition its approval on this request to address
20 four major items. Number 1 is the risk that continues until the
21 Company signs its formal contract with its selected EPC
22 contractor--EPC being engineering procurement and
23 construction contractor.
24 The Company, upon signing of that contract, final
25 negotiation of the costs should provide refreshed cost numbers,

00169

1 and a reanalysis of the pro forma following the signing of that
2 EPC contract; the new pro forma--in other words, the financial
3 assessment by the Company with those costs included--provide
4 that supportive documentation to the Commission for its review
5 and further approval; and that risk issues are mitigated through
6 comprehensive ratepayer protection measures within the EPC
7 contract covering any possible delays failure to meet delivery or
8 start-up dates, or failure to meet performance criteria. All of
9 those are critical to a successful deployment of these SCRs at
10 Bridger.

11 That concludes my recommendations and my
12 summary.

13 MR. JETTER: Thank you.

14 Mr. Crisp is available for cross-examination.

15 THE HEARING OFFICER: Mr. Moscon.

16 MR. MOSCON: No questions. Thank you.

17 MR. JENSEN: No questions.

18 MR. RITCHIE: No questions.

19 CROSS EXAMINATION

20 BY-MR.MICHEL:

21 Q. Just a couple questions, Mr. Crisp. Could you turn
22 to Exhibit A to your testimony? And reading your testimony at
23 lines 132 to 137, you indicate that you--what your understanding
24 is of what this document does and does not do or would or
25 would not do. The first question I have is the quote that you

00170

1 have on lines 134 to 136. Am I correct in assuming that that's
2 simply your quotation marks, you're not quoting from another
3 source, you're just expressing something that someone might
4 say in a future case?

5 A. I'm trying to make certain that I'm in the right place,
6 because my pagination--

7 Q. Okay. I'm at lines 134 to 136.

8 A. All right.

9 Q. Does that help?

10 A. And would you please read the quote that you're
11 speaking of, please?

12 Q. Well, yeah. What you say is, ". . . will establish an
13 argument for rate case or other docket that the Commission
14 [quote] knew the cost figures and did approve of the technology
15 selection, therefore, it is only reasonable that the Commission
16 only find the final cost reasonable." Are you just quoting what
17 you presume a party would say in support of cost recovery in a
18 future case?

19 A. I am--that's correct. Your statement is correct, yes.

20 Q. Nobody actually has said this.

21 A. No, they have not.

22 Q. Okay. I understand.

23 And is it your understanding that if the Commission
24 preapproves--grants a preapproval requested in this case that
25 that would establish that the Company--all the Company's

00171

1 actions up until the date of that approval are approved and
2 would not be revisited?

3 A. No, sir, that's not my understanding. My
4 understanding is that this is a case--a docket that approves the
5 application to construct this particular technology. It does not
6 provide a carte blanche or a cover, if you will, for all

decisions

7 made by the Company from this date--or from the date of the
8 order of this Commission forward.

9 Q. What about backwards was what my question was?

10 A. What about--

11 Q. Going backwards in time, would all the decisions up
12 until the date of that preapproval be--

13 A. I think--I believe you're asking me for a legal
14 opinion of the laws--or the regulations of the Commission. And
15 certainly I'm not--I may play a lawyer on Tuesday night TV, but
16 I'm sorry. I don't think it's my place to respond in terms of a
17 legal response to that.

18 Q. Well, let me ask you what your recommendation
19 would be for the Commission if it were to grant approval, would
20 your recommendation be that that approval also be the
21 Commission establishing the prudence of the Company's actions
22 up until the date of that approval?

23 A. Again, I believe that stretches beyond the four
24 corners of my testimony. I testified to the fact that the
25 technology is appropriate, the technology is correct. The

00172

1 technology--the pricing has been approximated to date is within
2 the realm for this type of technology. But I don't testify to
the

3 fact that the Commission should order this or shouldn't order
4 that. That's not my area of expertise. I'm sorry.

5 Q. Okay. Well, I'm trying to understand your testimony
6 where you say, "While this docket does not establish prudence .
7 . . .," and if--you know, if you're indicating now that you would
8 defer to a legal--well, what did you mean by that? Let me just
9 ask--

10 A. That statement is merely a reflection of the actual
11 language of the regulations of the Commission. This docket is
12 not a prudence hearing.

13 Q. Okay. Is it your understanding that approval of this
14 application would, in fact, establish for cost recovery purposes
15 that the Company's actions up until the date of the approval are
16 prudent?

17 MR. MOSCON: I'm going to object again on the
18 ground of relevance. The witness has indicated that his area
19 was limited to a review of the technology and whether the costs
20 of the technology provided are reasonable. And, again, we're
21 delving repeatedly into not only just legal conclusions but an
22 area of this witness about, you know, prudence and everything
23 else that he's indicated he has no foundation to answer.

24 MR. MICHEL: Commissioner, I'm not--if the witness
25 can't answer, that's fine. I'm just--he does make a statement in

00173

1 his testimony. I'm trying to understand the import of that.

2 THE HEARING OFFICER: You're looking at line
3 132, and you want to understand what he means by that.

4 MR. MICHEL: Yeah. And if it was . . .

5 THE HEARING OFFICER: Why don't you rephrase
6 the question that addresses line 132 and we'll see?

7 BY MR. MICHEL:

8 Q. Mr. Crisp, at line 132, you indicate that this docket
9 does not establish prudence. And my question is, is that a
10 statement of your understanding of the laws and regulations or
11 is it a recommendation as to what this docket should do?

12 A. I did not include that in my recommendations. It is
13 a statement of the rules and regulations of this Commission.

14 Q. As you understood?

15 A. As I understand them, that's correct.

16 MR. MICHEL: That's all I have. Thank you.

17 THE HEARING OFFICER: Any questions?

18 CHAIRMAN ALLEN: No.

19 COMMISSIONER LEVAR: (Moves head from side
20 to side.)

21 THE HEARING OFFICER: Thank you. Have we
22 had redirect? I'm sorry. I'm looking at the wrong counsel.

23 MR. JETTER: I have no redirect.

24 THE HEARING OFFICER: All right. And the
25 commissioners have no questions.

00174

1 You're excused, Mr. Crisp. Thank you very much.

2 THE WITNESS: Thank you.

3 MR. JETTER: That concludes the presentation by
4 the Division of Public Utilities.

5 THE HEARING OFFICER: Thank you.

6 Mr. Jensen.

7 MR. JENSEN: Our first witness is Cheryl
8 May--Cheryl Murray. I'm sorry.

9 THE HEARING OFFICER: We know you're
10 acquainted with each other.

11 Do you solemnly swear that the testimony you are
12 about to give shall be the truth, the whole truth, and nothing
but
13 the truth?

14 THE WITNESS: I do.

15 CHERYL MURRAY, being first duly sworn, was
16 examined and testified as follows:

17 DIRECT EXAMINATION

18 BY-MR.JENSEN:

19 Q. Please state your name, Ms. Murray.

20 A. I'm Cheryl Murray.

21 Q. By whom are you employed?

22 A. The Office of Consumer Service.

23 Q. And what is your position there?

24 A. Utility analyst.

25 Q. And did you file--prefile testimony in this matter?

1 A. I did. I filed direct, rebuttal, and surrebuttal.

2 Q. Do you have any corrections or additions to make
3 to any of that?

4 A. I do not.

5 Q. If you were asked those same questions today that
6 were asked in that prefiled testimony, would they be the same
7 today as they were when you answered them?

8 A. Yes, they would.

9 MR. JENSEN: I'd move that the prefiled testimony
10 of Ms. Murray and the direct rebuttal and surrebuttal be
11 admitted into evidence and entered into the record.

12 THE HEARING OFFICER: Any objection?
13 Received in evidence.

14 MR. JENSEN: Thank you.

15 BY MR. JENSEN:

16 Q. Have you prepared a summary--

17 A. I have.

18 Q. --to give? Please proceed.

19 A. Good afternoon, Commissioners. In order to
20 determine positions that would be in the best interest of the
21 ratepayers that we represent, the Office conducted a full review
22 of the policy implications and technical issues surrounding the
23 Company's request. Since this is the first request using this
24 statute, the Office asserts that the Commission must eliminate
25 as much uncertainty as possible and determine that the results

1 provide clear benefits to rate payers before granting
2 preapproval.

3 Through the course of the case, the Office's issues
4 have narrowed. Modeling issues identified in direct testimony
5 have largely been resolved through additional information
6 provided by the Company, updates and errors identified have
7 been corrected. That leaves one issue of major importance: the
8 uncertainty regarding the Environmental Protection Agency's
9 re-proposal expected to be submitted March 29.

10 The Office asserts that this outstanding issue
11 leaves too much uncertainty for the Commission to determine
12 that the Company's proposed measures will be the least-cost
13 compliance option or that preapproval of the Company's
14 application in this--is in the public interest at this time.
15 Therefore, the application cannot be approved based on the
16 current record. Rather than advocating that the Commission
17 reject the Company's application at this time, the Office
18 supports a process in which the Commission delays taking
19 action and revisits the issue of the EPA decision before issuing
20 its order in this case.

21 We support a schedule that expeditiously deals with
22 any new information or requirements that may come out of the
23 EPA re-proposal. However, the process must be meaningful or
24 parties will be prejudiced. To accommodate a meaningful
25 process, the Commission must allow time for parties to respond

1 to the Company and then to each other. The process should
2 also allow adequate time for some discovery to take place.

3 The Office understands that some parties may have
4 concerns with the process that we propose. However, the Office
5 asserts that the Commission needs full information on this
6 issue. Partial information, such as only the Company's
7 assessment of the EPA re-proposal, would not provide an
8 adequate record on which the Commission could make a public
9 interest determination.

10 That concludes my summary.

11 MR. JENSEN: Ms. Murray is available for
12 cross-examination.

13 THE HEARING OFFICER: Mr. Moscon.

14 MR. MOSCON: Thank you.

15 CROSS EXAMINATION

16 BY-MR.MOSCON:

17 Q. I have only one or two questions, Ms. Murray. In
18 your surrebuttal testimony, when you're discussing this EPA
19 uncertainty that you just referenced, on page--I'm looking at
20 page .5, you were responding to the Company's point that it still
21 had Wyoming obligations of 2015 and 2016. And your testimony
22 states that the Office accepts those dates represent the current
23 deadlines for a compliance--under Wyoming law, but there's no
24 indication that those dates wouldn't be changed--
25 we don't know if Wyoming would be willing to do so. I want to

00178

1 ask you if you've been able to review the exhibits that were
2 filed, the supplemental exhibits to the testimony of Cathy
3 Woollums.

4 A. I did read through them this morning.

5 Q. Okay. Do you have any personal knowledge that
6 would dispute the facts asserted in the March 6, 2013, letter
7 from the Wyoming Department of Environmental Quality
8 indicating that they will not consider their deadline?

9 A. I cannot dispute that. But--and I apologize,
10 because I don't have it with me, but I believe at the very bottom
11 of that first page it talked about at this time they won't change
it

12 because they aren't aware of any material facts that would
13 cause them to reconsider, so I would have to question if that
14 doesn't leave some opening for a reconsideration.

15 Q. Was this, in fact, a request for a reconsideration?

16 A. I believe it was, but what I'm saying is if the EPA
17 comes back and materially changes or makes more stringent
18 requirements, whatever they may do, there may be--that may
19 trigger that last comment in there that they're saying right now
20 there's no reason for us to do it. And I'm just saying perhaps
21 there would be if the EPA makes some significant changes.

22 MR. MOSCON: Thank you.

23 THE WITNESS: You're welcome.

24 THE HEARING OFFICER: Mr. Jetter.

25 MR. JETTER: I have no questions.

1 THE HEARING OFFICER: Mr. Ritchie.

2 CROSS EXAMINATION

3 BY-MR.RITCHIE:

4 Q. Just a couple questions, Ms. Murray. I'm Travis
5 Ritchie with the Sierra Club. You mention in your rebuttal
6 testimony that due to the high level of uncertainties related to
7 the EPA action that you think that for the time being it would be
8 premature to grant preapproval. Is that correct?

9 A. That is correct.

10 Q. During this case, are there any other aspects of
11 uncertainty that were identified in the Company's case?

12 A. Various parties have identified additional
13 uncertainties such as potential CO2 costs, differing gas prices,
14 things of that nature.

15 Q. This is a relatively kind of new territory for the
16 Commission to be looking at with respect to implementing the
17 statute. Is that correct?

18 A. That is correct.

19 Q. So, what I'd like to do is maybe get a little bit of
20 understanding of how the Office sees, you know, what an
21 approval or disapproval would mean in this circumstance. And I
22 guess with respect to those other uncertain--to those
23 uncertainties, both EPA uncertainty and the ones that you just
24 identified with respect to CO2 prices, if the Commission did
25 grant approval here and there was some major change to those

00180

1 uncertainties such that the Company's calculations could or
2 should change, do you think--does the Office think that there is
3 an opportunity provided by the statute for other parties to
revisit
4 this issue later?

5 MR. MOSCON: Objection. Again, that was nothing
6 but a call for a legal conclusion asking does the statute provide
7 that grounds, which, again, we're asking witnesses to do what
8 the Commission would be doing, which is interpreting the
9 statute.

10 THE HEARING OFFICER: We've heard from a
11 number of witnesses generally on the issue, so I think it's fair
12 that we hear the Office's point of view, but--if you have one,
13 recognizing that you're not offering us a legal opinion.

14 THE WITNESS: I'm certainly not. I don't even play
15 a lawyer on Tuesday nights. Well, the question, I believe, is if
16 in the future there's a change--CO2, I think that from our
17 perspective, generally--let me just say generally, when we are
18 looking at things in a rate case, that--it's been pointed out
19 elsewhere that the--you look at what could the Company--what
20 did the Company know, what could they reasonably have known
21 or should have known, did they hide something they knew, and if
22 they acted prudently based on the information they had, I would
23 suspect that that would not be challenge--challengeable.

24 BY MR. RITCHIE:

25 Q. And I appreciate that. I think that's actually a very

00181

1 clear answer. And I do appreciate the Office's position on that.
2 I wasn't so much asking for a legal response, but I think as a
3 practical matter, is it fair to say that approval in this docket
4 shifts the risk away from the Company that recovery might not
5 be granted at a later time?

6 A. I would say that if the Company prudently follows
7 and installs and, you know, takes prudent actions in following
8 the course of the--if they're given approval for the SCRs and
9 they follow prudent actions and you--they don't have cost
10 overruns that can be identified as inappropriate, then it would
11 lessen their risk, but I think that--I'm not sure that I would go

so

12 far as to say that it takes the risk from ratepayers--I mean,
from
13 the Company and moves it to ratepayers, because any time the
14 Company builds something, installs something, then there is a
15 risk that ratepayers could end up paying for it.

16 Q. I guess one final question just to clarify that: Would
17 it then be your expectation and the Office 's expectation that if
18 circumstances in the future did change, that you would expect
19 the Company to continue to make prudent management
20 decisions that were in the best interest of its ratepayers?

21 A. I absolutely would expect that, yes.

22 MR. RITCHIE: Thank you. I have no further
23 questions.

24 THE HEARING OFFICER: Mr. Michel.

25 CROSS EXAMINATION

00182

1 BY-MR.MICHEL:

2 Q. Thank you. Good afternoon, Ms. Murray.

3 A. Good afternoon, late afternoon.

4 Q. Ms. Murray, up until--through the filing of your
5 rebuttal testimony, the office was recommending denial of the
6 Company's application. Is that right?

7 A. That's correct.

8 Q. And you couldn't just stop there, right?

9 A. I suppose we could have, but there was more
10 information we got.

11 Q. Let me ask you this: If preapproval--and I'd like
12 you to assume this--if preapproval precludes an inquiry, a later
13 inquiry into the Company's prudence up until today, would the
14 Office still--
15 would the Office recommend denying approval?

16 Did you follow the question? If preapproval
17 precludes a prudence inquiry for any actions up until today,
18 would the Office then recommend a denial of preapproval?

19 A. Well, we aren't recommending preapproval--

20 Q. I understand.

21 A. --so I don't know that I could really answer that.

22 Q. I'm asking if you would, instead of the position that
23 you've taken, then be recommending that the Commission deny
24 preapproval; in other words, if it precludes a prudence inquiry.

25 A. Any sort of a prudence inquiry?

00183

1 Q. Through today for any activity--any actions up until
2 today, would the Office then recommend denying preapproval?

3 A. Even illegal or--

4 Q. No, not misrepresentation and some of the
5 exceptions in the statute. I'm talking about prudence,
6 negligence, if you will.

7 A. I honestly do not know. I can't answer that
8 question.

9 Q. Okay. Fair enough.

10 That's all I have. Thank you.

11 THE HEARING OFFICER: Thank you.

12 Redirect?

13 MR. JENSEN: No questions.

14 THE HEARING OFFICER: You're excused.

15 THE WITNESS: Thank you.

16 THE HEARING OFFICER: Thank you, Ms. Murray.

17 MR. JENSEN: The next witness would be Randall
18 Falkenberg.

19 THE HEARING OFFICER: Do you solemnly swear
20 that the testimony you're about to give shall be the truth, the
21 whole truth, and nothing but the truth?

22 THE WITNESS: I do.

23 THE HEARING OFFICER: Be seated.

24 RANDALL J. FALKENBERG, being first duly sworn,
25 was examined and testified as follows:

00184

1 DIRECT EXAMINATION

2 BY-MR.JENSEN:

3 Q. Mr. Falkenberg, will you state your name, please?

4 A. Randall J. Falkenberg.

5 Q. By whom are you employed?

6 A. I'm president of RFI Consulting, Inc.

7 Q. And where is that located?

8 A. Atlanta, Georgia.

9 Q. And have you been asked to be an expert witness
10 on behalf of the Office of Consumer Services?

11 A. Yes, I have.

12 Q. Have you submitted prefiled testimony?

13 A. Yes, I did.

14 Q. And what was it that you submitted?

15 A. I submitted direct testimony and surrebuttal
16 testimony. And I did submit an arata to the direct testimony,
17 also.

18 Q. And do you have any additions or corrections to
19 any of that testimony you previously submitted?

20 A. No.

21 Q. If you were asked the same questions as posed in
22 that testimony today, would any of those answers change?

23 A. No.

24 MR. JENSEN: I move that the testimony that's
25 been prefiled in this matter, with the exhibits, be entered into

00185

1 the record and admitted into evidence.

2 THE HEARING OFFICER: Any objections?

3 They're received.

4 BY MR. JENSEN:

5 Q. Have you prepared a summary to give us today?

6 A. Yes, I have.

7 Q. Would you proceed, please?

8 A. Yes. Quite briefly, I was engaged by OCS to
9 perform a review of the Company's modeling studies. And we
10 conducted an extremely intensive review. I believe we
11 submitted more than 20 rounds of data requests. I think we had
12 more than 200 individual questions. And we uncovered a
13 substantial number of issues that we discussed--I discussed in
14 my direct testimony identifying a variety of problems,
15 inconsistent, unproven assumptions, some errors, and a number
16 of factors that I laid out in that testimony.

17 Since that was filed, the Company came back with
18 their rebuttal testimony and they addressed to my satisfaction, I
19 believe, nearly all of the issues that were identified in my
direct

20 testimony. And originally, because of the large number of
21 problems and the issues that we'd uncovered, my
22 recommendation was that the Commission really lacked the
23 information it needed from a modeling perspective to make the
24 right decisions in this case. However, owing to the steps that
25 the Company took in its rebuttal filing, I believe that that

00186

1 uncertainty has been eliminated to a great extent.

2 During the process of this investigation, I utilize the
3 GRID model in order to perform independent analyses of the
4 economics of the SCR-versus-gas-conversion option. And in the
5 course of that, I found that was a very useful tool. And it is
very

6 useful now, because I conducted an analysis utilizing updated
7 assumptions that corrected all of the errors in the Company's
8 study, along with all of the new assumptions that were released
9 since the time of the filing of my direct testimony and developed
10 a PVR(d) benefit to the SCR option of [REDACTED], which I
11 believe corroborates the Company's baseline figure of [REDACTED]
12 [REDACTED].

13 So, on the basis of that, I feel that the Commission
14 now is in a position to look to the Company's results with more
15 confidence and to make decisions based on the information
16 that's available.

17 Now, as I mentioned, I utilized the GRID model
18 throughout the course of this endeavor. I believe that was a
19 useful tool. I recommend that the Commission continue to--or
20 require the Company to continue to provide the GRID model in
21 future cases such as this. And I made some suggestions
22 specifically in my testimony as to how to go about doing that in
23 a way that would be, I believe, less administratively burdensome
24 for the Company.

25 That concludes my summary.

00187

1 MR. JENSEN: Mr. Falkenberg is available for
2 cross-examination.

3 THE HEARING OFFICER: Mr. Moscon.

4 MR. MOSCON: No questions.

5 MR. JETTER: I have no questions.

6 THE HEARING OFFICER: Mr. Ritchie.

7 MR. RITCHIE: No questions.

8 THE HEARING OFFICER: Mr. Michel.

9 CROSS EXAMINATION

10 BY-MR.MICHEL:

11 Q. Just a couple questions. Good afternoon, Mr.
12 Falkenberg.

13 A. Good afternoon.

14 Q. In your surrebuttal testimony, page .2, you indicate
15 that you were unable to do the analysis that you did on the
16 Company's direct case or their initial filings. Is that because
17 there was not sufficient time to do that on the time rebuttal was
18 filed until you had to file surrebuttal?

19 A. Well, there was limited time, obviously. We had
20 something like several months between the filing of the case
21 and the filing of the direct testimony that it filed, whereas
there
22 was only a few weeks. So, that's right now. I had taken some
23 steps prior to the Company's filing of rebuttal such as obtaining
24 updated GRID model. And I was also involved at the same time
25 in the concurrent case in Wyoming where I was able to continue

00188

1 to monitor developments that took place. So, there wasn't as
2 much time as available during the direct, but I certainly had an
3 opportunity to do some further investigation.

4 Q. Okay. And on the next page--and I think you
5 referenced this in your summary--you talk about your use of the
6 GRID model as a verification of the Company's conclusions or at
7 least their PVR(d). Are you--is part of your testimony that the
8 GRID model confirms that the SO model is working--or--working
9 appropriately, or is your testimony simply that your independent
10 analysis with the GRID model shows that the resource selection
11 the Company's proposing is [REDACTED] less?

12 A. I would say more the latter. The GRID model--you
13 know, it's useful to compare models because that way you can
14 really learn a lot about why the results that are emerging are
15 coming forward. But I would suggest that the fact that the two
16 models are producing comparable results is a basis for having a
17 little bit more confidence in both models.

18 Q. Did you do more than--well, it says you only did one
19 GRID analysis with those assumptions. Did you test the two
20 models with other assumptions?

21 A. Well, it wasn't possible, of course, to directly test
22 the SO model. But throughout the course of this proceeding, I
23 performed a large number of GRID scenarios. I also utilized a
24 model that I developed myself and examined a wide number of
25 scenarios. And from all of those investigations, I gained sort

of

00189

1 a sense of how the results ought to work out.

2 Q. And did the results of those other studies--results
3 of the GRID studies that you did--comparable to the outcomes
4 that the System Optimizer model was producing, or do you
5 know?

6 A. They seem comparable. I mean, for example, the
7 ██████████ result for the combined cycle alternative seemed
8 quite reasonable. The impact of removing the Gateway links
9 results seem parallel to those that I developed. The analysis of
10 taking out the RPS wind and incremental wind resources also
11 seemed to corroborate with results I've been getting.

12 MR. MICHEL: All right. That's all I have. Thank
13 you.

14 THE HEARING OFFICER: Redirect?

15 MR. JENSEN: No questions.

16 THE HEARING OFFICER: You're excused. Thank
17 you, Mr. Falkenberg.

18 Anything further, Mr. Jensen?

19 MR. JENSEN: Oh. No. That concludes our
20 witnesses.

21 THE HEARING OFFICER: Thank you.

22 It's five minutes to 4:00. I think it would be useful
23 for us to just take a moment and develop cross-examination
24 estimates for the remaining witnesses. Is that--so that we have
25 a sense of whether we're going deep into tomorrow or whether a

00190

1 few extra minutes today would save us tomorrow.

2 Mr. Moscon.

3 MR. MOSCON: On behalf of the Company, I think
4 that we--I would recommend that we proceed. I--in fact, what I
5 was just discussing and intending to do was--even if it may not
6 have been my original thought, is to waive a cross of the
7 intervenor witnesses of Western Resource Advocates and the
8 Sierra Club, reserving the right if other cross opens up areas.
9 But I think we can proceed and complete the proceeding today,
10 subject, of course, to what the other parties have planned for
11 cross.

12 MR. JETTER: I think that's a good assessment for
13 the Division, as well. We would like to move forward today. I
14 think we can finish today.

15 THE HEARING OFFICER: Mr. Jensen.

16 MR. JENSEN: I think we can finish today.

17 MR. MICHEL: I don't have any questions for Sierra
18 Club.

19 THE HEARING OFFICER: Okay. Mr. Ritchie.

20 MR. RITCHIE: And we have no cross for WRA's
21 witnesses.

22 THE HEARING OFFICER: Okay. So, we'll proceed
23 hopefully.

24 So, Mr. Ritchie.

25 MR. RITCHIE: Sierra Club calls Dr. Jeremy Fisher

00191

1 as our first and only witness.

2 THE HEARING OFFICER: Do you solemnly swear
3 that the testimony you're about to give shall be the truth, the
4 whole truth, and nothing but the truth?

5 THE WITNESS: Yeah.

6 THE HEARING OFFICER: Thank you. Be seated.

7 JEREMY FISHER, being first duly sworn, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 BY-MR.RITCHIE:

11 Q. Dr. Fisher, could you please state and spell your
12 name for the record?

13 A. My name is Jeremy Fisher. J-E-R-E-M-Y. Fisher,
14 F-I-S-H-E-R.

15 Q. And could you state your employer and your
16 position?

17 A. I work at Synapse Energy Economics,
18 S-Y-N-A-P-S-E. And I am a scientist there.

19 Q. And have you submitted prefiled direct and
20 surrebuttal testimony on behalf of Sierra Club in this
21 proceeding--

22 A. I have.

23 Q. --and accompanying Exhibits Sierra Club 1 through
24 40?

25 A. That sounds correct, yes.

00192

1 Q. Do you have any corrections to your testimony?

2 A. I have two corrections to my surrebuttal testimony
3 based on new breaking evidence put forth yesterday, on page
4 .33 of my surrebuttal, lines 7 through 9. Starting with the term
5 "however," please strike that sentence in full.

6 And, then, on line 12 of that same page, page .33 of
7 my surrebuttal, in the first full sentence, starting off with
8 "PacifiCorp's apparent refusal," change the term "is" prior to
the
9 word "irrational" to "was."

10 That completes my corrections.

11 Q. Page .21, perhaps.

12 A. Page .21.

13 MR. MOSCON: I'm beginning to wonder if this is
14 more corrections or commentary.

15 BY MR. RITCHIE:

16 Q. I may be mistaken.

17 A. I don't think so. I think those are my only
18 corrections.

19 Q. And with those corrections, is your testimony, to
20 your knowledge, true and correct?

21 A. Yes, it is.

22 Q. And if asked those same questions today, would
23 you give those same answers?

24 A. Yes, I would.

25 MR. RITCHIE: I would like to move Dr. Fisher's

00193

1 testimony into the record and exhibits.

2 THE HEARING OFFICER: Any objections?

3 BY MR. RITCHIE:

4 Q. Dr. Fisher, have you provided a statement that
5 summarizes your testimony?

6 A. Yes.

7 Q. Would you deliver that?

8 A. Good afternoon, late afternoon. Again, I'm Jeremy
9 Fisher. I'm a scientist with Synapse Energy Economics here on
10 behalf of Sierra Club. My testimony lays out my position --that
11 the Commission should not support application for preapproval
12 of SCR at Bridger Units 3 and 4, without prejudice, in this case.
13 Despite volumes of discovery and numerous model runs,
14 PacifiCorp has not shown these retrofits are decisively in the
15 best interest of ratepayers, and certainly not to the extent that
16 this Commission should advance the guarantee of full rate
17 recovery to the Company.

18 I identified a number of flaws in the Company's
19 modeling and justification, and despite the second round of
20 modeling performed by the Company, my most important
21 concerns were either not substantively addressed, or
22 accentuated even in the Company's final rebuttal filing.

23 These concerns taken as a whole, and some
24 individually, are enough to nullify and, in fact, reverse the
25 Company's asserted benefit of retrofit. The Company faces a

00194

1 decision--the Commission--I'm sorry--faces a decision today
2 without the benefit of these concerns being addressed by the
3 Company. It's my opinion that the Company should address
4 these shortcomings on a subsequent application, or choose to
5 proceed with retrofit at their own risk, and seek recovery
6 through traditional ratemaking after these projects are in
7 service.

8 THE REPORTER: Could you slow down a little bit?

9 THE WITNESS: My testimony addressed four key
10 shortcomings of the Company's analysis that, in my opinion,
11 have been inadequately addressed. First, the Company claimed
12 that in order to provide the lowest cost of fuel to Bridger, they
13 must close the Bridger Coal Company surface mine and begin
14 immediate remediation. The costs of this advanced and
15 compressed remediation effort relative to the delayed
16 remediation should the mine remain open for another quarter
17 century dominate the outcome of this analysis. Without this cost
18 embedded in the analysis, the Company's conclusion would
19 likely be quite different and Bridger 3 and 4 might, in fact, be
20 closed. Quite literally, the Company would be retaining
21 noneconomic coal units simply to maintain a vehicle for the
22 collection of mine reclamation fees. The Company has
23 presented no evidence, despite numerous requests, that it has
24 reviewed opportunities to sell this coal either in-system or
25 domestically and maintain the mine.

00195

1 THE HEARING OFFICER: Dr. Fisher, maybe just a
2 little slower for--

3 THE WITNESS: I'm so sorry.

4 THE HEARING OFFICER: --the court reporter.

5 THE WITNESS: This is what I get for being an
6 East Coaster.

7 Even if the Company is compelled to start the
8 closure of the mine process, the closure process is compressed
9 and advanced faster than if all of the units were to be
10 maintained. This inserts a significant bias into the Company's
11 analysis.

12 Secondly, the Company has repeatedly refused and
13 failed to examine the opportunity to avoid imminent transmission
14 expenditures associated with the retirement and replacement of
15 Jim Bridger Units 3 and 4. The Company is currently engaged
16 in building massive transmission infrastructure that will pass
17 directly through the Jim Bridger site and parallel the existing
18 system. By retiring Jim Bridger units, the Company has a very
19 real opportunity to free up existing transmission lines and avoid
20 the massive capital expenditures associated with building the
21 segments of this line.

22 Thirdly, it's my opinion that the Company has
23 underestimated the risk associated with greenhouse gas
24 regulation or legislation. I have shown that the Company's
25 assumed price of carbon dioxide is amongst the least effectual

00196

1 or impactful of their utility peers, and is effectively a long-
odds

2 bet against any form of carbon regulation. The Company has
3 shown that their analysis is very sensitive to carbon price
4 assumptions. And by choosing a low price, the Company biases
5 their analysis and exposes ratepayers to significant unmitigated
6 risk of carbon regulation. Further, the Company reduced their
7 carbon price in rebuttal testimony, further skewing their
8 analysis.

9 Fourthly, the Company biased their analysis by
10 linking carbon prices and gas prices. Every time that a carbon
11 price is imposed, the Company assumes that gas prices will
12 increase tremendously--an assumption that the Company is
13 unable to justify. Further, the extent that the Company has
14 chosen to increase their gas prices with the imposition of carbon
15 dioxide price is well above what even their cited resources show
16 is reasonable.

17 Finally, it's worth noting that there is still no
18 Federal regulatory requirement for SCRs at Jim Bridger in the
19 timeline propounded by the Company. The US EPA is currently
20 revisiting their findings relative to the requirement for SCRs at
21 Jim Bridger. And I think it's quite likely that the EPA's
decision

22 will have a material impact on the Company's analysis.

23 That concludes my summary.

24 MR. RITCHIE: Dr. Fisher is available for
25 cross-examination.

00197

1 THE HEARING OFFICER: Thank you.

2 Mr. Moscon.

3 MR. MOSCON: As indicated, we'll, subject to the
4 right to conclude back, waive any cross for right now. Thank
5 you.

6 THE HEARING OFFICER: Mr. Jetter.

7 MR. JETTER: I have just a few questions, if I
8 might.

9 CROSS EXAMINATION

10 BY-MR.JETTER:

11 Q. Dr. Fisher, is it possible that, depending on
12 different mining outputs, you would change the mining plan for a
13 three-unit scenario versus a four-unit scenario?

14 A. Can you clarify what you mean by "mining outputs"?

15 Q. Would you agree that a three-unit coal scenario
16 would use less coal than a four-unit coal scenario?

17 A. Certainly.

18 Q. Is it possible that the mining operations--the mining
19 plan for a three-unit scenario would change the locations of
20 mining as well as the nature of the operation?

21 A. If we continue to assume, yes, with the caveat that
22 if we assume--continue to assume that the coal is obtained
23 exclusively from the Jim Bridger Mine--

24 Q. Okay.

25 A. --and that that mine is inextricably linked to the

00198

1 coal unit, then yes, certainly there could be changes at the mine
2 relative to the use of that coal.

3 Q. And with that, is it possible that two separate
4 mining plans--one for a three-unit, one for a four-unit
5 scenario--would require different time frames for recovery for
6 reclamation of the various mining sites?

7 A. They could.

8 Q. Second question that I--different line of questioning
9 a little bit: Would you turn to page .22 of your surrebuttal
10 testimony, please? Specifically, I'm looking at lines 13 through
11 15, where you describe how Synapse reviews and calculates
12 their carbon pricing forecasting. And you say, quote, We review
13 the cohort of utility plans filed and types of policies they
14 represent and estimate a range of prices that are likely high
15 enough to impact planning procedures yet are politically viable.

16 A. Yes, I see that.

17 Q. When you're estimating a CO2 forecast, are you
18 using a mechanism where you're simply looking at prices that
19 might impact planning procedures yet are politically viable? And
20 would you agree that that's different than simply looking at the
21 likelihood of various bills that may or may not pass and
22 likelihood of political climate, etc.?

23 A. So, let me clarify on a number of counts and see if
24 I understand the question correctly. You tell me if I'm not on
it.

25 First, I should stipulate that I'm not actually on the team of

00199

1 people who make that carbon price forecast.

2 Q. Okay.

3 A. I'm not an author on that paper. They are my
4 colleagues, however.

5 So, this is my representation of my understanding
6 of their process. And I'm happy to speak to it. The--using the
7 other utility forecasts is one of multiple mechanisms that are
8 employed side by side looking at what other Federal bills have
9 been modeled at is another mechanism. And looking at the
10 possible mitigation technologies and the costs is yet another
11 mechanism.

12 Of all of those, there is an informative process that
13 we use where we set to some extent--

14 I wouldn't say it's an upper and lower bound. It's a degree of
15 possibility with--in any of the forecasts that we're looking at,
16 particularly the mid-price forecast, in which if the price is too
17 low and to accomplish anything, then it would effectively be a
18 pain without gain.

19 And we think that it's politically unlikely that you
20 would ever have a scenario in which you'd have pain without any
21 form of gain. Why would you have a CO2 price in which you're
22 not actually reaching any form of CO2 reduction?

23 On the other hand, if you have a price that's too
24 high at any given time, you have too much pain imposed on a
25 system that--it looks like it's possibly non-politically viable.

So,

00200

1 there's a counterbalance somewhere between those two, that
2 it's completely free of the economics of CO2 price and is simply
3 a political calculus. And that's just part of the benchmarking
4 process that we use to develop that CO2 price.

5 Q. So, it would be fair to say that a number high
6 enough to impact planning procedures yet politically viable may
7 have no relation to--or may be unrelated to general predictions
8 of future CO2 pricing.

9 A. No, I--sorry. I would actually say that is quite
10 related to your predictions of future CO2 pricing. I think that
11 targets will likely be set both on the basis of what's required
to

12 hit specific CO2 emissions targets and be based on mitigation
13 technologies and the costs as well as what's politically viable.

14 Q. Okay. You had said that you're not involved in the
15 CO2 price forecasts. Is that right?

16 A. That's correct.

17 Q. Were you an author of the 2008 Synapse CO2 price
18 forecast?

19 A. I don't think so. If I was--I don't think I was an
20 author on it. I had discussions with the authors, but . . .

21 Q. I think I'm going to need to make a few copies of an
22 exhibit.

23 MR. MOSCON: I have copies.

24 MR. JETTER: You have copies?

25 THE HEARING OFFICER: We'll be off the record.

00201

1 (A discussion was held off the record.)

2 BY MR. JETTER:

3 Q. Do you recognize this document?

4 THE HEARING OFFICER: We'll be on the record.

5 Please continue, Mr. Jetter.

6 MR. JETTER: Thank you.

7 BY MR. JETTER:

8 Q. Dr. Fisher, do you recognize this document?

9 A. I do.

10 Q. Could you read the last name on the cover under
11 the title "Authors"?

12 A. That would be Jeremy Fisher. And, yes, that is the
13 same Jeremy Fisher as myself.

14 Q. Okay. Thank you.

15 MR. JETTER: I'd request that we enter this into the
16 record as DPU Cross Fisher Exhibit 1-A.

17 THE HEARING OFFICER: Any objection?

18 It's received.

19 BY MR. JETTER:

20 Q. Could you turn to page .15 of this report, please,
21 Mr. Fisher?

22 A. Uh-huh (affirmative).

23 Q. And could you tell me what the high, low, and
24 midrange CO2 forecasts in this 2008 CO2 forecast indicate for
25 the year 2015?

00202

1 A. For the year 2015?

2 Q. 2013.

3 A. 2013. It appears that the high is on a price of \$30,
4 a mid is a price of looks like about \$15, and the low is a price
of

5 approximately \$10.

6 Q. Are you aware of what the current CO2 price is?

7 A. A current CO2 price at a Federal level?

8 Q. Yes.

9 A. There is currently no CO2 price at a Federal scale.

10 Q. Thank you.

11 Those are the only questions that I have. Thank
12 you.

13 MR. JENSEN: No questions.

14 THE HEARING OFFICER: Mr. Michel.

15 MR. MICHEL: No questions.

16 THE HEARING OFFICER: Redirect?

17 MR. RITCHIE: Just a quick redirect.

18 REDIRECT EXAMINATION

19 BY-MR.RITCHIE:

20 Q. Dr. Fisher, has Synapse updated its price forecast
21 since this document was produced?

22 A. Yes, the current CO2 price forecast that we have
23 was produced, I believe, at the end of last year.

24 Q. And is that the CO2 price forecast that you relied
25 on in your testimony?

00203

1 A. It is.

2 Q. And in that CO2 price forecast, does Synapse have
3 a 2013 estimate for CO2?

4 A. We do not.

5 MR. RITCHIE: No questions.

6 THE HEARING OFFICER: You're excused. Thank
7 you, Doctor.

8 THE WITNESS: Thank you.

9 THE HEARING OFFICER: Anything further, Mr.
10 Ritchie?

11 MR. RITCHIE: Sierra Club has no further
12 witnesses.

13 THE HEARING OFFICER: Thank you.

14 Mr. Michel.

15 MR. MICHEL: Thank you, Commissioner.

16 I call Stacy Tellinghuisen.

17 UNIDENTIFIED SPEAKER: Microphone.

18 THE HEARING OFFICER: Do you solemnly swear
19 that the testimony you're about to give shall be the truth, the
20 whole truth, and nothing but the truth?

21 THE WITNESS: I do.

22 THE HEARING OFFICER: Be seated.

23 STACY TELLINGHUISEN, being first duly sworn,
24 was examined and testified as follows:

25 DIRECT EXAMINATION

00204

1 BY-MR.MICHEL:

2 Q. Would you please state your name for the record?

3 A. My name is Stacy Tellinghuisen.

4 Q. And by whom are you employed?

5 A. I'm employed by Western Resource Advocates.

6 Q. And did you prefile direct and surrebuttal testimony
7 in this proceeding?

8 A. I did.

9 Q. And were there exhibits attached to either of those
10 testimonies?

11 A. I don't believe so. I believe my r,sum, is attached
12 to my testimony.

13 Q. Do you have any changes or corrections to make to
14 that prefiled testimony?

15 A. No, I do not.

16 Q. If I were to ask you the same questions today as
17 are requested in those testimonies, would your answers be the
18 same?

19 A. Yes.

20 Q. And those answers are true and correct.

21 A. Yes.

22 MR. MICHEL: I would move the admission of the
23 prefiled direct and surrebuttal testimony of Stacy Tellinghuisen.

24 THE HEARING OFFICER: Any objections?

25 They're received in evidence.

1 BY MR. MICHEL:

2 Q. Thank you.

3 Ms. Tellinghuisen, do you have a testimony
4 summary of your testimony you could provide the Commission?

5 A. I do.

6 Good afternoon. My testimony addresses the water
7 impacts of continued operation of the Jim Bridger Units 3 and 4
8 versus alternative strategies to reduce pollution at those units.

9 Water is a scarce and valuable resource in the
10 West. And the Bridger Units 3 and 4 consume approximately
11 14,000 acre-feet of water per year, or enough water to meet the
12 consumptive water needs of around 250,000 people. Retrofitting
13 these units with SCR would not affect the water use at the
14 plants. Repowering with natural gas would likely result in lower
15 water needs at the site. And replacing the Bridger units with
16 electricity generated at combined-cycle gas plants located
17 elsewhere would likely reduce net water demands considerably.

18 The water use in Bridger 3 and 4 is important and
19 valuable. It has a monetary value and important environmental
20 or public interest values. The Green River is a critical
21 component of the recovery of several endangered fish in the
22 Upper Colorado River Basin, and failure to recover those
23 species could have costly impacts in Utah and other upper basin
24 States, including impeding those States' ability to continue
25 diverting or develop new water from those rivers in the future.

00206

1 Not considering these water impacts is a critical omission in the
2 Company's analysis.

3 MR. MICHEL: Pass the witness.

4 THE HEARING OFFICER: Thank you.

5 MR. SOLANDER: No questions.

6 THE HEARING OFFICER: Mr. Jetter.

7 MR. JETTER: I just have a few quick questions.

8 CROSS EXAMINATION

9 BY-MR.JETTER:

10 Q. Do you have any estimate of a dollar value of what
11 that water resource might be worth?

12 A. It's a good question. And as I described in my
13 testimony, there are very few well functioning water markets in
14 the West. And, so, attributing a dollar value to those water
15 rights is really difficult. And attributing a future dollar
value to

16 those water rights what they might be worth in 5 or 10 or 15
17 years is equally, if not more, difficult.

18 So it's hard, if not impossible, to ascribe a
19 monetary value to those water rights and equally difficult to
20 ascribe a monetary value to the environmental or public interest
21 benefits of leaving that water in the stream.

22 MR. JETTER: Thank you.

23 That's the only question I had.

24 THE HEARING OFFICER: Mr. Jensen.

25 MR. JENSEN: No questions.

00207

1 MR. RITCHIE: No questions.

2 THE HEARING OFFICER: Mr. Ritchie.

3 Redirect, Mr. Michel?

4 MR. MICHEL: No, I don't.

5 THE HEARING OFFICER: Thank you. You're
6 excused.

7 MR. MICHEL: Commissioner, Western Resource
8 Advocates calls Nancy Kelly.

9 THE HEARING OFFICER: Do you solemnly swear
10 that the testimony you're about to give shall be the truth, the
11 whole truth, and nothing but the truth?

12 THE WITNESS: I do.

13 THE HEARING OFFICER: Please be seated.

14 THE WITNESS: Thank you.

15 NANCY L. KELLY, being first duly sworn, was
16 examined and testified as follows:

17 DIRECT EXAMINATION

18 BY-MR.MICHEL:

19 Q. Would you please state your name?

20 THE HEARING OFFICER: Would you turn on your
21 microphone, Mr. Michel? I think it's off.

22 MR. MICHEL: Yes. I'm sorry I keep doing that. I
23 seem to have it exactly wrong every time.

24 THE HEARING OFFICER: All right.

25 THE WITNESS: It's Nancy L. Kelly.

1 BY MR. MICHEL:

2 Q. And by whom are you employed, Ms. Kelly?

3 A. Western Resource Advocates.

4 Q. And did you prefile direct and surrebuttal testimony
5 in this docket?

6 A. I did.

7 Q. And did you also prefile exhibits attached to those
8 testimonies?

9 A. Yes, I did.

10 Q. And do you have any changes or corrections to
11 make to those--either of those testimonies?

12 A. I do.

13 Q. Could you provide those?

14 A. Yes, I'd be pleased to. Starting with my direct, at
15 line 130, I have an extra "s" floating around in there. That
16 should be stricken.

17 At line 230, we heard from Mr.--Mr. Teply changed
18 a footnote in his direct testimony, which changes my testimony
19 on a line 230. He testified that the capacity of one of the Jim
20 Bridger units had actually been modeled with 523 megawatts
21 capacity as opposed to 530, so that changes my estimate by 7
22 megawatts. And so--
23 and I had a 1-megawatt error I was going to correct anyway.
24 And, so, where this leaves us, then, is line 230 should read,
25 "Approximately 17.4 megawatts lower than was modeled."

1 And, then, I have a--an error on lines 261 and 262.
2 I'm referring to my confidential exhibit NLK2. And I said it
3 appears to me from information contained within the confidential
4 work papers. That was incorrect. The source of NLK2 is
5 Attachment OCS 4.7A.

6 Q. So, what is the change that you would make?

7 A. Okay. So, I would strike the "confidential work
8 papers" and I would insert "Attachment OCS 4.7A."

9 Turning to my surrebuttal, line 131, has the same
10 megawatt change as before. So, line 31, strike the number 23
11 and replace it with 17.4.

12 And, then, turning to page .18, I have several items.
13 On line 346, the word "raised," third word, should be changed to
14 "lowered." On line 351, the very last word in the row should say
15 "catalyst."

16 Q. Catalyst, singular?

17 A. Yes.

18 At 354, the word "higher" should say "lower." And
19 at 358, the word "higher" should say "lower."

20 And that concludes my--

21 Q. Those are all your corrections.

22 A. --there.

23 Q. With these changes and corrections, if I were to
24 ask you the same questions today as are reflected in your direct
25 and surrebuttal testimony, would your answers be the same?

00210

1 A. They would.

2 Q. And are those answers true and correct?

3 A. They are.

4 MR. MICHEL: Move the admission of the prefiled
5 direct and surrebuttal testimony of Nancy Kelly and associated
6 exhibits.

7 THE HEARING OFFICER: Any objections?

8 They're received.

9 BY MR. MICHEL:

10 Q. Ms. Kelly, do you have a summary of your
11 testimony that you can provide the Commission?

12 A. Yes, I do. Thank you.

13 I appreciate the opportunity to appear before you
14 today. In this case, I filed direct and surrebuttal testimony.

My

15 direct testimony made the following points: The economic case
16 for installing SCR is not clear-cut. The modeling outcomes are
17 sensitive to the modeling assumptions and inputs and have
18 varied widely over the course of this case.

19 PacifiCorp's modeling appears to overstate the
20 economic case for SCR. The analysis has not included an
21 evaluation of the possible benefits of avoided or delayed
22 transmission, which you heard from today from other witnesses,
23 or reduced water use.

24 The scenarios evaluated by PacifiCorp--
25 sensitivities to its base case do not capture the cost

00211

1 consequences of being wrong.

2 For those reasons, my direct testimony concluded
3 that the Commission did not have the information that you need
4 to determine that SCR is a least-cost outcome adjusted for risk
5 and uncertainty.

6 My surrebuttal--I filed surrebuttal testimony. And it
7 responded to the extensive revisions provided by the Company
8 in its rebuttal testimony and underscore that the essential
points

9 I had made in my direct testimony had not been rebutted by the
10 Company. In fact, the revisions underscored the sensitivity of
11 the results to the underlying assumptions that I noted in my
12 direct testimony.

13 My surrebuttal testimony made two other key
14 points: The uncertainty since this case began has increased
15 and the inadequacy of the analysis of the risk of environmental
16 compliance has increased.

17 Given that the analysis provided in this case is not
18 clear-cut, has undergone extensive revisions, and is extremely
19 sensitive to modeling assumptions, given that the uncertainty in
20 this case has not been adequately evaluated, and given that
21 certain critical pieces of information are still in flux, it
appears

22 that customer interests are best protected by denying the
23 current voluntary request for preapproval. A denial does not
24 preclude cost recovery but simply defers that determination to a
25 proceeding on which all of the issues, analyses, and decisions

00212

1 can be fully vetted and not rushed.

2 I, therefore, recommend the Commission deny the
3 request for preapproval of the cost of installing SCR on Jim
4 Bridger Units 2 and 3.

5 And that concludes my summary.

6 MR. MICHEL: Thank you, Ms. Kelly.

7 Pass the witness.

8 MR. SOLANDER: No questions.

9 MR. JETTER: No questions.

10 MR. JENSEN: No questions.

11 MR. RITCHIE: No questions.

12 THE HEARING OFFICER: You're excused, Ms.

13 Kelly. Thank you very much for your testimony.

14 THE WITNESS: Thank you.

15 THE HEARING OFFICER: Is there anything else,

16 Mr. Michel?

17 MR. MICHEL: Oh. No, Commissioner. Thank you.

18 That concludes WRA's case.

19 THE HEARING OFFICER: Does anything else
20 remain for us to do except to address the briefing question?

21 MR. MOSCON: Only if the--one of the things that's
22 been discussed during the process of today and how we should
23 brief it or what we do with the EPA statement is--has been raise
24 the issue of oral summation if that would be useful to the
25 Commission. I'll ask you to consider that.

00213

1 Also, just when we get to the briefing issue, I'll let
2 the Commission know that the Company's had further thought
3 perhaps going back to where the Commission was earlier that
4 we're happy to share with the Commission before it reaches a
5 conclusion at the point that the Commission wants to hear those
6 points.

7 THE HEARING OFFICER: Well, let's do that now.
8 If you've had some either conversations among yourselves or
9 with your clients, what are your final thoughts on a briefing
10 approach to the case?

11 MR. MOSCON: So, when we began this this
12 morning, the Commission made the suggestion of--if there's
13 going to be legal briefing, to file that. And I think the
14 Commission asked if the 27th would be reasonable. And I made
15 the suggestion that well, let's combine that with any commentary
16 on the EPA position, which led to several rounds of how long
17 and how often and how many.

18 And perhaps the Commission is correct, that to the
19 extent it wants legal briefing, that there is--and because time
is
20 of the essence and recognizing the longer we push out the time
21 when the Commission really can take the argument and begin
22 working maybe there is some wisdom in the Commission's initial
23 suggestion that legal briefing does not necessarily need to
24 track, you know, any statement regarding what EPA has or
25 hasn't done.

00214

1 So, my revised suggestion would be that--would
2 mirror what the Commission had indicated earlier, which is
3 perhaps we should have legal briefing--and if the 27th is the
4 date, that's fine. I'm kind of neutral on that position-- but we
5 not necessarily delay until such time as there is an EPA ruling
6 and then have a much more limited in scope kind of statement
7 by parties about what, you know, the EPA proposed rule is when
8 it is released on March 29.

9 THE HEARING OFFICER: Other views? Mr. Jetter.

10 MR. JETTER: I don't think that the Division has a
11 strong preference either way to whether we milk those two or we
12 have an early legal briefing. It may be cleaner to have the
legal
13 briefing done separately.

14 We still have some concerns, depending on the
15 re-proposal by the EPA in that the Company naturally in this
16 situation has somewhat of a monopoly, if you will, on certain
17 information that we may need.

18 We also recognize concerns that the Company
19 might have with a fear of receiving substantial onerous data
20 requests that go far beyond simply the change that an EPA
21 re-proposal might have on this hearing, any information that's
22 already been provided, but would like some opportunity to
23 potentially respond to the Company proposal after the EPA or
24 an opportunity to at least ask some type of limited data request
25 before filing the briefing after the EPA re-proposal.

00215

1 THE HEARING OFFICER: Mr. Jensen.

2 MR. JENSEN: The Office definitely prefers
3 separating the legal briefing from the EPA response.

4 Our concern on the EPA response--and here we're
5 speculating. We don't know what the EPA ruling is going to be.
6 We don't know how the Company's going to respond to it. I
7 mean, it's possible that we're fine with the Company's response.
8 But we would at least like some time to be able to review and
9 analyze the Company's response to the EPA draft rule, and then
10 allow us time to respond to it. I don't know what kind of time
11 that takes, but it's probably more than a week.

12 THE HEARING OFFICER: Mr. Ritchie.

13 MR. RITCHIE: I think Sierra Club would largely
14 hear what the parties said today--legal briefing, I think--we
have

15 a slight preference to that being separate. Willing to do it
16 together, as we suggest this morning. But we have a preference
17 for doing it separate. So, a ten-page brief due March 27 would
18 sound very good to us.

19 And with respect to the issue on--when EPA issues
20 its re-proposal, we do agree that, you know, it could raise
21 complicated issues and the opportunity for data requests if it's
22 appropriate. I agree with the Division and the Office that that
23 could prove useful.

24 THE HEARING OFFICER: Mr. Michel.

25 MR. MICHEL: We are also fine with having a

00216

1 briefing schedule that's limited to the proceeding that we just
2 had, and the evidence. As far as the--as far as what happens
3 with EPA, you know, agree with the Office that it's pretty
4 speculative right now as to what maybe even when EPA's going
5 to do something and what that might look like.

6 And what we'd suggest, if the Company's willing, if
7 they could circulate that determination when--if and when it is
8 issued, or when it is issued, to the parties, and then, you know,
9 parties can make whatever suggestions to the Commission by
10 way of motion that they think is appropriate to either deal with
11 that or not deal with it. But it's hard to make decisions about

a

12 prospective EPA ruling without really seeing what it's going to
13 look like. So, for now, I would suggest let's, you know, set the
14 briefing schedule assuming that's helpful to the Commission,
15 and then deal with what EPA does when it does it.

16 THE HEARING OFFICER: We'll be in recess for
17 five minutes. Thank you.

18 MR. MOSCON: Can I make one note before the
19 Commission leaves on the last point that was raised? I just
20 want to know that--I think it would be problematic, recognizing
21 the time constraints that everyone recognizes we have, to
22 simply indicate that we should by motion file suggestions of
23 what parties ought to do in response to the EPA and then get a
24 ruling and then go about the process of doing that. It seems
25 that that would consume precious days or weeks that would eat

00217

1 into the time the Commission would have to issue an order.

2 THE HEARING OFFICER: Thank you. We'll be in
3 recess for five minutes.

4 (Recess taken, 4:34-4:42 p.m.)

5 THE HEARING OFFICER: On the record.

6 In lieu of summation statements today, we're going
7 to direct the parties to engage in a briefing process. The
8 first--the brief addressing legal issues and presenting parties'
9 final position on the merits of the case setting aside the EPA
10 potential action. If we do March 27, we're grateful that you've
11 all indicated you can accomplish your purposes within a
12 ten-page limit. We are going to direct the Company to file as
13 quickly as reasonably possible any communication from the
14 EPA, any re-proposal or--any other action that the Company
15 might become aware of. And assuming that that happens on
16 March 29, then we hope to receive it that day and hope the
17 parties would be able to receive it at least electronically that
18 day.

19 We will then invite the parties and direct the
20 Company to provide its comments--their comments on the EPA
21 re-proposal if it occurs by--
22 and these would be initial comments--by April the 5th. And we
23 would like to propose a ten-page limit there. Is there any
24 objection to that? Is that reasonable?

25 I recognize that's a short time frame. We're--we

00218

1 are imposing that time frame in order to provide parties until
2 April 19 to evaluate the comments of other parties and conduct
3 some limited discovery. We recognize most of that will likely be
4 directed at the Company, the Applicant. We're going to rely on
5 the Company to use its best efforts to turn around discovery
6 requests as quickly as possible and--so that the parties can file
7 reply comments by the 19th.

8 We're eating into the Commission's time a bit.
9 We're mindful of them--May 14--the import of the applicant--or
10 import to the applicant of the May 14 date. And we tried to
11 design a schedule that maybe is a bit painful to all of us but
that
12 will allow that schedule to be met if indeed that's the--that is
the
13 direction of the Commission's order. So, other questions about
14 that? Is there any objection to that process?

15 MR. MICHEL: Commissioner, the only--I guess
16 question I have is, what if EPA doesn't act on the date we're
17 anticipating you've set some firm dates for responses and so on.
18 If EPA's action is delayed a few days, I'm wondering how that
19 would work its way through what you're establishing. So, just a
20 question.

21 THE HEARING OFFICER: And I don't think we can
22 answer that until we know. We have to deal with what's--what
23 we know. And we'll--if the EPA doesn't act on March 29 and
24 acts subsequently, we'll leave it to the parties to address that
in
25 whatever way they deem necessary.

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1 Mr. Moscon.

2 MR. MOSCON: Yeah. The Company recognizes
3 that frequently something that is dated the 29th may be put out
4 on the 30th or the 1st, but we'll just do what we need to and
5 we'll get a position out. And if worse comes to worse, we'll say
6 on the 5th there's nothing out, that's fine--and the Company
7 recognizes the point of all the compressed time schedules and it
8 will do what it can.

9 The one point I would like some clarification
10 on--and I think this is probably what was intended, in any event,
11 by all--but I have a slight concern that some parties may be
12 motivated to propound countless data requests simply for the
13 point of being able to come in and say, Look, you can't do this.
14 There's this uncertainty. All my data requests went
15 unanswered, therefore, there's--you know, we can't do this.

16 And I wonder if we can limit that all data requests
17 have to be surrounding, you know, the EPA re-proposal and
18 noting that the Company has already in its case in chief
19 provided data or the parties have had ample time to do data
20 requests regarding either a 0.07 or 0.05, meaning the Company
21 has said in its initial case or--meaning the
rebuttal/surrebuttal,

22 we could do a 0.07, we could do a 0.05.

23 So, in other words, if the EPA were to come out at
24 0.06 or 0.05, I would like to think that there wouldn't be a lot
of
25 need for a lot of data requests, because that's kind of already
in

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1 the case now. If it's 0.04 or some new technology or something
2 else--so, I'm hopeful we can get some clarification that the data
3 request would be limited to, again, the re-proposal and if it's
4 something different than as has already been presented in the
5 filing papers of the Company.

6 THE HEARING OFFICER: First, the March 27 brief
7 is to address the case. Let's be clear about that. So, you need
8 to take care of those issues in that brief. Don't hold any of
9 those back for--

10 MR. MOSCON: Right.

11 THE HEARING OFFICER: --for these later filings.
12 And the comments on the 5th are intended to be the parties'
13 views of the implications of the EPA's order. And I don't know
14 how to say that more clearly, but we'd expect that the discovery
15 that's directed would be directed at the comments that are filed
16 on April the 15th. That will be the scope of discovery and not
17 other matters that could have been explored during this phase
18 of the proceeding.

19 So, I'm not sure whether that gives you the comfort
20 you would like or not, but that's what we're expecting. So, is
21 there any questions about that?

22 Mr. Jensen and then Mr. Jetter.

23 MR. JENSEN: We assume you're still anticipating a
24 five-day turnaround on data requests.

25 THE HEARING OFFICER: Or less.

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1 MR. JENSEN: Okay.

2 THE HEARING OFFICER: Or less.

3 Mr. Jetter.

4 MR. JETTER: I was just going to ask--we hadn't
5 discussed potential page limit for the April 19 response.

6 THE HEARING OFFICER: We were thinking the ten
7 pages for each of these--ten pages or less. We don't want to
8 unduly constrain you, but . . .

9 MR. JETTER: Thank you.

10 THE HEARING OFFICER: Is that workable? Is
11 there anyone that feels that that's not an appropriate
12 restriction?

13 Okay. Any other questions about our path forward?

14 Anything else to accomplish today?

15 Then, we're adjourned. Thank you all for your
16 participation.

17 MR. MOSCON: Thank you.

18 (Proceedings adjourned at 4:53 p.m.)

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