

PUBLIC SERVICE COMMISSION OF UTAH

Docket No. 20-035-04

PUBLIC HEARING REDACTED

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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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Application of Rocky)
Mountain Power for Authority)
to Increase its Retail)
Electric Utility Service)
Rates in Utah and for)
Approval of its Proposed)
Electric Service Schedules)
and Electric Service)
Regulations)
)
Application of Rocky)
Mountain Power for Authority)
to Change its Depreciation)
Rates Effective January 1,)
2021)
_____)

DOCKETS 20-035-04 and 18-035-36

REDACTED

PUBLIC HEARING PROCEEDINGS
TAKEN VIA GOOGLE MEET
THROUGH ADVANCED REPORTING SOLUTIONS

*** CONFIDENTIAL SESSIONS ***

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PAGE 263 LINE 4 THROUGH PAGE 268 LINE 3

Taken on Thursday, November 5, 2020
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1 P R O C E E D I N G S

2 -o0o-

3 COMMISSIONER LEVAR: We'll be on the record.
4 Good morning. It is Thursday, November 5th, and we
5 are here for day three of the evidentiary hearing on
6 revenue requirement for two Public Service Commission
7 dockets, 20-035-04 and 18-035-36, Rocky Mountain
8 Power's general rate case and depreciation case.

9 And at this point, we were ready for Rocky
10 Mountain Power's cross-examination of
11 Dr. Joni Zenger, so we'll move forward to that point.

12 MS. SHURMAN: Okay. Can you hear me okay?
13 This is Lauren for the Company. I switched seats so
14 that -- I was told when I was speaking from my own
15 computer, my face didn't show up on the YouTube
16 stream, so even though you have my name there --

17 COMMISSIONER LEVAR: And I have not seen
18 Dr. Zenger having joined us. I should have checked
19 that before moving forward. I don't see her on the
20 videoconference list, participant list.

21 Mr. Jetter, do you know if she's having
22 technology issues this morning?

23 MR. JETTER: Well, not that I'm aware of,
24 but let me follow up and see. We've been in
25 communication this morning, and so I think she should

1 be joining shortly, but I'm going to -- oh, there she
2 is.

3 Morning, Joni.

4 COMMISSIONER LEVAR: Dr. Zenger, can you
5 hear us?

6 DR. ZENGER: Yes. Good morning.

7 COMMISSIONER LEVAR: Okay. Thank you.
8 You're still under oath from yesterday, so we'll move
9 forward with Ms. Shurman's cross-examination
10 questions of you.

11 DR. ZENGER: Okay. Thank you.

12

13 CROSS-EXAMINATION (Cont.)

14 BY MS. SHURMAN:

15 Q. Good morning, Dr. Zenger. How are you this
16 morning?

17 A. Good. Thank you.

18 Q. Okay. So I wanted to start with just a few
19 points of clarification from your surrebuttal
20 testimony. In your direct testimony, you had raised
21 a question as to whether the Pryor Mountain project
22 was addressed in the Company's 2019 IRP. And then I
23 see in your surrebuttal testimony, you've addressed
24 that on page 7 of your surrebuttal. And so I just
25 wanted to make sure that I understand your testimony.

1 **Are you clarifying in your surrebuttal**
2 **testimony that you now recognize that the Company did**
3 **identify a need for new wind capacity in the**
4 **portfolio development cases in the IR -- the 2019**
5 **IRP?**

6 A. No. To clarify my position, it was -- as
7 Rick Link mentioned, there was a bullet point in the
8 meeting.

9 Is that static coming from mine? I hope
10 that's not from my line, but does anyone hear the
11 static?

12 COMMISSIONER LEVAR: I am not hearing the
13 static on my end.

14 DR. ZENGER: Okay. Great. Great. So --
15 yeah, so I was clarifying that it was mentioned in a
16 bullet point, and then I explained how, you know, it
17 wasn't something that was vetted through the IRP,
18 like, thoroughly. And most people didn't even know
19 it was in the IRP, even the Oregon Commission staff
20 and your own policy witness in Oregon. And even --
21 you know, I put statements there that Mr. Ralding
22 [phonetic] didn't even know it was in the IRP.

23 But when I did do the Google search, I saw
24 it was mentioned in the IRP. So, no, I -- the first
25 part of your question, yes, I agree with. The second

1 part, no.

2 BY MS. SHURMAN:

3 Q. Okay. And so in your surrebuttal testimony,
4 you discussed the stakeholder meeting that you
5 attended in May of 2019; is that correct?

6 A. Yes.

7 Q. Okay. And then you described Mr. Link's
8 testimony, where he explains that the Company
9 communicated at that meeting that there was a limited
10 opportunity to acquire wind resources that would not
11 require significant incremental transmission upgrades
12 and that could still come online by the end of 2020
13 to qualify for the production tax credit and that the
14 Company might procure that resource outside of the
15 competitive solicitation process.

16 Do you see that part of your surrebuttal
17 testimony on page 7?

18 A. Yes.

19 Q. Okay. And then you are agreeing with
20 Mr. Link's characterization of what was communicated
21 at that meeting; is that right?

22 A. Yes.

23 Q. Okay. Thank you. And the snapshot of this
24 PowerPoint presentation that you've included at the
25 bottom of page 7 of your surrebuttal testimony, you

1 highlighted that first bullet point that says:

2 In the near term, all cases include 240
3 megawatts of new Wyoming wind.

4 And the cases that that's referring to are
5 the portfolio development cases that were being
6 discussed in the IRP planning meeting; is that
7 correct?

8 A. Those, I can't testify to. I saw the bullet
9 point. It said Wyoming wind.

10 Q. Okay. So you refer to this slide in your
11 testimony, and it discusses the changes, and you see
12 there -- you recall discussing portfolio development
13 cases, and that's what's shown on this slide?

14 A. Not until after the -- after Mr. Link
15 pointed it out here. I do not recall that part.

16 Q. Okay. Do you recall generally participating
17 in the 2019 IRP planning process and discussing the
18 capacity needs that the Company's portfolio needed to
19 fill?

20 A. Yes.

21 Q. Okay. And you would agree, wouldn't you,
22 that the Company acknowledged throughout the IRP
23 planning process that its system had a capacity
24 deficiency that it would need to fill with resources?

25 A. Yes. Every IRP basically does.

1 Q. Okay. And do you recall that the IRP
2 developed a preferred portfolio to meet those
3 deficiencies, the capacity deficiencies?

4 A. Yes. But I was not aware of -- at least to
5 my knowledge, that the Company had, like, hardwired
6 those resources in, in every portfolio. I wasn't
7 aware of it and I don't think most IRP people were,
8 including the witness in Oregon. That part, we
9 didn't -- you know, we did not know that these were
10 hardwired into there, into every portfolio.

11 Q. You didn't understand that what was
12 hardwired in? I'm not following.

13 A. 240 megawatts of Wyoming wind.

14 Q. Well, by the time that the Company issued
15 the 2019 IRP, it had already acquired that and it was
16 identified as a utility in the IRP; right? That's
17 what you have on -- you show on page 9 of your
18 surrebuttal testimony?

19 A. That's what I'm -- found out later, when I
20 was preparing my testimony.

21 Q. Okay. But you would acknowledge, though,
22 that the Company had a deficit in a capacity need,
23 even despite filling that 240-megawatt capacity,
24 plugging Pryor Mountain into that capacity; right?

25 A. Yes.

1 Q. Okay. I want to shift a little bit to talk
2 about production tax credits.

3 You would agree with me, generally, that
4 production tax credits are beneficial to the
5 Company's customers?

6 A. Yes.

7 Q. Okay. And you agree also, as a general
8 proposition, that the production tax credits under
9 the internal revenue code are set to phase out?

10 A. You cut out a little bit there, but I think
11 you said "will phase out"?

12 Q. Correct.

13 A. Yes. Yes.

14 Q. And you understand, generally, that in order
15 to qualify for 100 percent of its production tax
16 credits, a project needed to have started
17 construction before January 1st, 2017? Or as part of
18 the construction requirement, in other words?

19 A. Yes, in order to get the full 100 percent.

20 Q. Correct. And you understand that the
21 Company continued to use the safe harbor equipment in
22 order to satisfy that start of construction
23 requirement for the Pryor Mountain project?

24 A. Yes. I didn't understand until
25 Mr. Van Engelenhoven testified. And I don't think

1 that most people understood this; that this BHER
2 resources, you take a piece of that and set it aside,
3 and that would apply for a whole entire project. I
4 think that's something about the asymmetry of
5 information in these general rate cases -- or
6 research decision, because, you know, we just thought
7 that every piece -- every piece had to be -- you
8 know, meet the standard. So we didn't know you could
9 set aside a bookend and that would be set aside for
10 that project like that.

11 Q. Okay. But sitting here today, you
12 understand that, though?

13 A. Yes, I do.

14 Q. Okay. And do you also understand that
15 there's a continuous effort requirement, that a
16 project needs to have continuous effort towards
17 completion in order to qualify for the production tax
18 credit?

19 A. Yes.

20 Q. Okay. And then you understand that there's
21 a continuity safe harbor where if a project is
22 completed, at least in 2019, the project -- out of
23 the 2019 time frame, the project needed to be
24 completed by the end of 2020 to qualify for the full
25 production tax credit?

1 A. Yes.

2 Q. Okay. And you testified, I think, that
3 the -- you acknowledged that the Company identified
4 the opportunity to acquire the Pryor Mountain project
5 in October 2018; is that correct?

6 A. Yes. I -- if I may, I need to explain some
7 clarification on that, if you have a minute.

8 Q. Sure. Go ahead.

9 A. Because it goes towards my whole summary
10 statement and everything. When the Company said that
11 they had started the process in June of 2018, I took
12 that to mean that that's when the Company made the
13 decision to pursue this resource. So it wasn't until
14 last night, when I played Mr. Van Engelenhoven's
15 testimony on the stand, that when he explained that
16 it wasn't until the June appropriation requests, that
17 that point was the point of the resource decision
18 from the Company. So I just wanted to point that out
19 because that changes a lot of assumptions in my
20 testimonies.

21 You know, if I had known that June 21st,
22 when all of these other things were put in place,
23 that would have changed my conclusion because I
24 understood it to mean that this was happening in
25 2018. And that's why I thought, Well, this is

1 impossible to get all this done in time.

2 So I hope that that helps a little.

3 Q. Okay. Yeah. And we can get into that a
4 little bit more --

5 A. Okay.

6 Q. -- as we review the points that you made in
7 your testimony. But thank you for clarifying that.

8 Okay. So we could agree, can't we, that the
9 ability to acquire, develop this project in time for
10 100 percent PTC eligibility was a time-limited
11 opportunity; correct?

12 A. Correct.

13 Q. Okay. And there can be instances where a
14 utility acts prudently to take advantage of
15 time-limited opportunities; right?

16 A. We've seen -- I've learned -- we've seen
17 that in the 39 and 40 docket.

18 Q. Right. Okay. And you would agree with me
19 that under the Utah statute, the Energy Resource
20 Procurement Act, there's not a requirement for a
21 solicitation process for a project like Pryor
22 Mountain that's under 300 nameplate -- 300-megawatt
23 nameplate capacity; right?

24 A. Right.

25 Q. Okay. So let's talk now about some of the

1 points that you raised in your summary yesterday and
2 in your prefiled testimony. You had a point that the
3 initial purchase -- about the initial purchase price,
4 and I wanted to clarify that you have a figure -- and
5 it's designated confidential, so we'll try to talk
6 about it without using the actual number in your
7 testimony. But it's on, let's see here, line 222 of
8 your surrebuttal, which is page 11.

9 A. Oh, my surrebuttal? Okay. So I apologize,
10 I only have my laptop, so I'm going to have to jump
11 to that document. And so if I -- my screen cuts out,
12 that's because I've got to jump to that real quickly.
13 And I have it here.

14 Q. No problem. I've got two laptops going on
15 at the same time, so think we're dealing with --

16 A. I wish I did have two, but something
17 happened to one yesterday.

18 So you're talking about page what? What
19 page of my surrebuttal?

20 Q. Page 11. And do you see there where it says
21 that the Company purchased the partially developed
22 wind project from Energy Renewables, and then you
23 cite a dollar amount there?

24 A. Yes. Yes, I'm there.

25 Q. All right. And you have -- or you had some

1 authority that you cited for that figure. I believe
2 my colleague, Mr. Sabin, has emailed out two
3 exhibits. Do you -- it is the documents that you
4 cited in your surrebuttal, which was DPU 6.1-10 and
5 DPU 18.2. I'm wondering if you have those in front
6 of you or if your counsel has shared those with you.
7 They're confidential, so I think we only distributed
8 them to counsel.

9 A. I have those I can pull up without looking
10 for his email.

11 Q. Okay.

12 A. Which one do you want me to look at first?

13 Q. DPU 6.1-10, I believe, is where you obtained
14 this figure from. Is that the -- which we had marked
15 as Rocky Mountain Power Cross Exhibit 10.

16 A. Okay.

17 Q. Follow along here.

18 And this is the APR to authorize funding and
19 construction for the Pryor Mountain wind project.

20 A. Okay. Just bear with me here. I'm almost
21 there. I just had that pulled up this morning, so
22 hang on.

23 Okay. I have 6.1-10.

24 Q. Okay. And that is the Pryor Mountain wind
25 project authorization, the APR document in the -- a

1 request for approval of the appropriation request for
2 the project?

3 A. Yeah. This is the proposal dated 6-21-19.

4 Q. Correct. And is it fair to say -- I noticed
5 you cited this document throughout your surrebuttal.

6 Is this primarily what you relied upon in
7 performing your assessment of whether the -- you
8 think the project is prudent or reasonable?

9 A. It's part of it. Because -- mainly because
10 this is all I had until DPU 18 -- 18. I asked you
11 guys to give me everything, all of the investment
12 appraisal documents, all the APRs, and I did not get
13 those much later in the case, and so some of these
14 are in DPU Set 18. But this is certainly one of
15 them.

16 Q. Okay. And I -- the other exhibit that we
17 marked as Rocky Mountain Power Cross 11 was the
18 investment appraisal document that was produced as
19 DPU 18.2.

20 Do you have that one in front of you?

21 A. Okay.

22 Q. And again, these are both confidential, so I
23 think we can talk about them generally without
24 disclosing any of the actual figures here in the
25 documents.

1 A. Okay. One moment. 18.2, you say?

2 Q. Correct. That was what was cited in your
3 surrebuttal and what we've marked as the Cross
4 Exhibit 11.

5 A. Okay. Hang on. I have to pull up the
6 attachment that goes with it.

7 Okay. On 18.2, I have one, two, three,
8 four, five -- I have eight documents on 18.2.

9 Q. So I think what you have cited in your
10 testimony was the investment appraisal for Pryor
11 Mountain?

12 A. Okay. That's the 2015 to 2020 document?

13 Q. Correct.

14 A. Okay. Yes, I have that now, and I have the
15 other I can switch to.

16 Q. Okay. So are you -- is your testimony that
17 these are the two documents that you primarily relied
18 upon in assessing the reasonableness of the Pryor
19 Mountain project?

20 A. Yes. Yes. And again, my assessment -- my
21 assessment was based on the assumption that the
22 Company's decision to pursue this was, you know, back
23 when -- in August of 2018, I guess it was.

24 Q. Sorry. You cut out there for a second when
25 you said --

1 A. Oh. I was just saying -- my testimony,
2 surrebuttal and summary statement yesterday, was
3 based on the understanding that the decision point,
4 if you want to call it, for which the Company decided
5 to pursue the project was not peer -- the APR of
6 June 21st. If -- yeah. That changes things quite a
7 bit. I thought it was a year prior to that.

8 **Q. Okay. And you heard Mr. Van Engelenhoven**
9 **testify that from his perspective, the project was**
10 **approved at the Company level once the APR that he**
11 **submitted was approved. And that's what we're**
12 **looking at as Cross Exhibit 10.**

13 **Is that your understanding?**

14 A. My understanding is, is this -- yeah. This
15 document is the -- the document that, you know,
16 authorizes that -- this is basically the point in
17 time when the Company made the decision to go forward
18 with this project. It wasn't the other -- the other
19 APR, which has a higher number than this one, but it
20 was this June 21st one.

21 **Q. Okay. And the -- the other document that we**
22 **marked as DPU 18.2, this is an investment appraisal.**
23 **I just want to make sure we're clear on what this**
24 **document is. If you look at the executive summary,**
25 **again, without disclosing confidential information,**

1 it says that this is a -- an appraisal to authorize a
2 capital expenditure to interconnect 240 megawatts of
3 new wind generation to one of PacifiCorp's
4 transmission lines.

5 So you understand that this DPU 18.2
6 document relates to just the interconnection aspect
7 of the Pryor Mountain wind project?

8 A. Yes. Like I said, I went through each of
9 those documents in 18.

10 Q. Okay. So going back to where I think we
11 started with this, we were talking about your
12 testimony about the initial purchase price for the
13 project.

14 A. Mm-hmm.

15 Q. And I believe the figure that you cite in
16 your testimony comes from page 3 of the APR document,
17 which is DPU 6.1-10; is that correct?

18 A. The figure in my direct testimony?

19 Q. In your surrebuttal testimony.

20 A. My -- okay. In my surrebuttal?

21 Q. Yes. You have a figure on line 22 of your
22 surrebuttal that seems to match the figure on page 3
23 of the APR documents. I'm just trying to confirm if
24 that's where you got that figure from.

25 A. Okay. Just bear with me. I'm not used to

1 having just one laptop screen, so it's a little
2 longer.

3 Okay. So the one in paragraph 4 or the one
4 in paragraph 7? I have two numbers.

5 Q. Paragraph 4, which you say is the initial
6 purchase; right?

7 A. Yes. The 2019 expenditure.

8 Q. Okay. And so do you see where that is in
9 the APR document under CAPEX Budget Status?

10 A. Yes. Mm-hmm.

11 Q. Okay. And it -- I want to make sure we are
12 clear on this point because it seems that the CAPEX
13 budget status and the amount that's listed there, it
14 says that that's the amount required in 2019. And if
15 you look at the chart there, you can see that's the
16 entire capital expenditure budget for 2019; right?

17 A. Right.

18 Q. Okay. And in your testimony, you said that
19 that was the initial purchase.

20 So that's not correct in your testimony;
21 right? That figure that you cite is the entire 2019
22 budget, not the initial purchase price?

23 A. Correct. And I learned that when -- after
24 Mr. Van Engelenhoven testified.

25 Q. Okay. Thank you. And I think you also cite

1 that same figure on line 315 of your surrebuttal.
2 You say, "that figure as the amount to purchased the
3 project from Energy." That would -- that's
4 incorrect, as well, on line 315 of your surrebuttal?

5 A. Yeah. Like I say, I write, "the Company's
6 initial decision to spend this." You know, that's --
7 that's when I understood the Company's decision to --
8 and -- to pursue this project was, at that time, and
9 for that amount.

10 Q. Okay. So we're clear now that that amount
11 was the entire 2019 expenditure, not the initial
12 purchase price. Do you know what -- without
13 disclosing the figure, do you know what the initial
14 purchase price was?

15 A. Yes.

16 Q. All right. It was significantly less than
17 what's cited in your surrebuttal; right?

18 A. On which line?

19 Q. The number we've been looking at on line 315
20 and on 222.

21 A. So when you say it's less, are you -- you're
22 referring to --

23 Q. I'm referring to the price that the Company
24 paid to purchase the project and the development
25 rights from Energy.

1 A. Okay. So, yeah, that number would have been
2 less, yes.

3 Q. Okay. And you can see from the first page
4 of the APR document that we've been looking at,
5 DPU 6.1-10, in the first paragraph there, it talks
6 about the preliminary development funding for the
7 project was originally approved with APR 20007004,
8 dated May 10th, 2019.

9 Do you see that?

10 A. Let's see. You're not talking about the
11 Bowler Flats APR; right?

12 Q. No. I'm talking about the APR that approved
13 the funding for the original purchase of the project.

14 A. The one we just talked about in 6.10 -- or
15 6.1?

16 Q. So I'm talking about -- I'm looking at 6.1,
17 and it mentions that there was a prior APR that
18 approved development funding for the project.

19 A. Okay.

20 Q. Preliminary development funding.

21 A. I recall that. Uh-huh.

22 Q. All right. And so -- and it says:
23 This APR along with costs incurred to date
24 are included in the amount requested in this
25 APR and represent total funding for the

1 project.

2 Do you see that?

3 A. Is this on the first page?

4 Q. Yes.

5 A. Okay. This is the June 21st one; right?

6 Q. Right.

7 A. And can you repeat the sentence from here?

8 Q. Sure. I'm just looking under Decisions

9 Required, that first section on the first page.

10 A. Oh, okay. Okay. I'm on that paragraph.

11 Q. And towards the end of that paragraph, it

12 says:

13 Preliminary development funding for this
14 project was originally approved with APR
15 20007004 dated May 10th, 2019. That
16 authorization along with costs incurred to
17 date are included in the amount requested in
18 this APR and represent total funding for this
19 project.

20 A. Yes, I do --

21 Q. Do you see that?

22 A. I do see that.

23 Q. So you'd agree that the initial acquisition
24 of the project went through one APR process, and then
25 the project went through APR approval again in June

1 2019, once the Company had developed total funding
2 and a capital expenditure budget for the project;
3 right?

4 A. Yes.

5 Q. Okay. And you mentioned in your summary and
6 your testimony that the 2019 spend was unbudgeted?

7 A. Yes.

8 Q. Now, given that the project -- the
9 opportunity to acquire the project arose the end of
10 2018, it wouldn't be surprising that that wouldn't be
11 reflected in the 2019 budget, which would have
12 already been prepared by that time; right?

13 A. Let's see. You sign off on -- usually the
14 business plan is signed off, then, in December -- or
15 the ten-year plan. So...

16 Q. Okay. And we just established that the
17 capital expenditure budget for the project would have
18 been developed between that time of the first APR
19 approval and the second APR approval.

20 So it makes sense that there was no line
21 item for this project in the 2019 budget; right?

22 A. Because we're talking about a difference in
23 date of June 21st and -- I'm sorry. I'm really
24 handicapped by having to jump one at a time.

25 Yep, from June 21st to -- to the -- to the

1 IAD that is a five-year -- it doesn't have a date.
2 It's just a five-year -- it says 2015 to 2020.

3 Q. I'm talking about your point that it wasn't
4 in the 2019 budget, which would have been prepared,
5 presumably, prior to 2019 to be a 2019 budget; right?

6 A. Right.

7 Q. Okay. And so is it your position that a
8 utility can never take advantage of an opportunity
9 that are not expressly mentioned in a budget?

10 A. No.

11 Q. Okay. And you also mentioned in your
12 summary, I believe, yesterday that the APR that we've
13 been looking at wasn't signed by the appropriate
14 authorizer.

15 Do you recall mentioning that yesterday in
16 your summary?

17 A. I do.

18 Q. Okay. Was that mentioned anywhere in your
19 prefiled testimony?

20 A. Let's see. It wouldn't have been in my
21 direct testimony because at that time, I explained
22 that I was still going -- sorting through all of
23 these data requests, so I know it wouldn't have been
24 in there. But I know I referred to the point that I
25 was going to continue to investigate all of these

1 other documents.

2 **Q. Is it in your surrebuttal testimony?**

3 A. Let me check really quickly.

4 Yeah, it is not spelled out. It's not
5 called out specifically in my surrebuttal.

6 **Q. Okay. So the point that you've made in your**
7 **summary was that -- help me understand. Is it that**
8 **there's not a physical signature on this APR**
9 **document?**

10 A. Yes. I reviewed these before, in the past,
11 in several, in fact, wind projects, and it's been the
12 Company's position to -- once the approval document's
13 prepared, that the authorizing person signs off on
14 it.

15 **Q. Okay. But you -- you don't -- okay. Are**
16 **you saying that you don't think because you would**
17 **expect to see a physical, wet ink signature on this**
18 **document, and that would lead you -- that's what's**
19 **leading you to believe that it wasn't signed off on**
20 **by this company's CEO?**

21 A. Well, yeah. It made me question it, yes.

22 **Q. Okay. But -- I mean, you don't think that**
23 **this project would have gone forward without**
24 **obtaining the APR approval; right?**

25 A. No, I wouldn't have thought -- I wouldn't

1 have thought so.

2 Q. I mean, it doesn't seem like it would be
3 possible to have the funding approved without the
4 necessary authorization; right?

5 A. Yeah, I wouldn't have -- I wouldn't have
6 thought so, so...

7 Q. And to be -- okay. To be clear, there's no
8 line here for a signature, so we --

9 A. There is -- there is not a line on that.
10 That's why I found that interesting.

11 Q. Okay. But we can assume that there is some
12 maybe other electronic means by which the CEO signs
13 off on this or approves; right?

14 A. I don't -- I'd like to know how you -- you
15 handle that so that I will know for future if you --
16 you know, if you've eliminate -- eliminated having
17 the person sign it or -- yeah.

18 Q. I'm sure --

19 A. So like I say, I'm coming from the outside.
20 I don't have the information you have, so I just can
21 go on what's presented.

22 (Reporter admonition.)

23 MS. SHURMAN: Sorry. Thank you for that
24 reminder.

25 It's a little bit different in this format

1 than when you're live. The audio is a little more
2 challenging. So I will commit to do better on my
3 part.

4 BY MS. SHURMAN:

5 Q. So let's just make sure we're clear on the
6 APR document, just generally, that we've been looking
7 at since you relied upon it.

8 Your understanding is that the APR document
9 is a report to allow management to review the scope
10 of the project, review the risks associated with the
11 project and the risk mitigation plan, and the
12 potential benefits of the project; right?

13 A. Correct.

14 Q. And as you mentioned, it is prepared for the
15 CEO's review and approval; right?

16 A. This one was.

17 Q. So this document is reflective of careful
18 planning for the project, isn't it?

19 A. Yes.

20 Q. Okay.

21 A. I mean, I -- we would hope it is, yeah.

22 Q. Right. Another thing that you mentioned --
23 I'm going to switch gears a little bit, but the -- we
24 may come back to this document.

25 One thing that you mentioned in your summary

1 was that the Company is seeking -- I think you called
2 it an eagle permit. Do you recall mentioning that
3 yesterday?

4 A. Yeah, the U.S. -- the U.S. fish and game --
5 I can't think of the exact organization, but
6 Mr. Van Engelenhoven, that is his first Q&A in his
7 first rebuttal testimony about that. U.S. Fish and
8 Wildlife department, I believe it's called.

9 Q. And so did you mean to suggest in your
10 summary that something about that project -- that
11 permit is going to create some type of delay in the
12 project?

13 A. It made me question it because why other --
14 what other reason would the Company, you know,
15 have -- have the opening Q&A for Mr. Van Engelenhoven
16 on this topic? And plus, in reading those investment
17 appraisal documents and the DPU Set 18 that you sent
18 me, you know, it was -- it was mentioned. It was
19 mentioned in the Carbon County permit -- permit areas
20 or conditional permit areas, that the Company had
21 made a donation of \$400 towards the birds that had
22 been killed or for avian purposes.

23 So, yeah, it made me -- yeah. I mean, it
24 was something that -- it was apparent that needed to
25 be resolved before you finalized the project.

1 Q. Okay. So I -- just so we're on the same
2 page, I believe you're referring to an eagle
3 incidental take permit from the US Fish and Wildlife
4 Services; is that right?

5 A. Yes.

6 Q. Okay. Do you understand that that permit is
7 not required by US Fish and Wildlife Services, or any
8 federal agency does not require that that permit be
9 in place in order for the Pryor Mountain wind project
10 to be placed in service?

11 A. No, I'm not -- I'm not aware of that.

12 Q. Okay. You understand that the Company
13 seeking that permit as -- essentially as it's listed
14 in the APR document, that's basically a risk
15 mitigation strategy?

16 A. Again, it was listed in the check -- in the
17 table, in the APR documents of, you know, things the
18 Company needed to do for major development and
19 permitting and what the status of them were. So I
20 interpreted that to mean that it was something that
21 needed to be acquired or -- or achieved or waived by
22 the Company or the organization.

23 Q. Okay. I believe you're referring to page 8
24 of the APR document, in that table at the top of that
25 page; is that correct?

1 A. One, two, three -- I -- at four rows down?
2 Is that what you're looking at?

3 Q. I'm looking at the second row from the
4 bottom where it says Eagle or Protected Species Take
5 Permit.

6 A. That is what I was referring to.

7 Q. Okay. And it says there in that table that
8 if the permit is determined necessary by the Company,
9 it could be pursued post-closing; is that correct?

10 A. I'm still looking for it, to be honest with
11 you.

12 Can you repeat what it says in there again?

13 If --

14 Q. Sure. And to be clear, I'm on page 8 of the
15 APR document. It's the second row from the bottom,
16 on the table on that page, referring to the Eagle or
17 Protected Species Take Permit. And it says:

18 If determined necessary by the Company,
19 pursue post-closing.

20 Is that right?

21 A. I recall reading that. So I can't jump to
22 that -- that exact table.

23 Q. Okay. You know what? I don't want to
24 belabor to point. We can move on.

25 A. Yeah. Oh, no, I actually do have it now.

1 Q. Okay.

2 A. And what page did you say? I have it in
3 front of me now. What page did you say that was?

4 Q. Eight.

5 A. See, I think that's part of the problem is
6 because this 6/21 document, they're all labeled
7 page -- they're pages 1 out of 16. But that was
8 on -- found on page 9. So there's not -- there's,
9 like, four page 9s, so it's a little confusing. But
10 I found --

11 Q. Sorry. I didn't mean to interrupt. I
12 don't -- we might be looking at a different document.
13 So I don't know if it would be helpful for your
14 counsel to send you the one that's been marked so
15 we're all looking at the same version. It might be
16 helpful.

17 But did you see the point that -- on the
18 table that I just read?

19 A. I did see that one.

20 Q. Okay.

21 A. If determined necessary by the Company,
22 pursue post-closing. So...

23 Q. Okay. I'm going to move on to a slightly
24 different topic.

25 You could -- I mean, similar to this that

1 you mentioned in your summary was that there were
2 impacts fees that must be paid to Carbon County.
3 That was mentioned in your summary yesterday; right?

4 A. Right.

5 Q. And is that in your prefiled testimony
6 anywhere?

7 A. I believe it is, but I found -- I'm looking
8 for the documents from my attorney. Okay. Here we
9 -- cross -- cross documents. This will make it
10 easier, that I have the right documents pulled up.
11 Okay. Let me see if that was in my testimony.

12 So it most likely was not in my direct
13 because my direct was the initial evaluation stating
14 that I would be going through these other documents
15 with a fine-tooth comb. So let me check in my
16 surrebuttal.

17 I didn't specifically list that. I didn't
18 specifically list that, but, you know, I said these
19 are some of the facts that I -- that were relevant in
20 this proceeding right now. Yeah. And that one --
21 that one's not called out.

22 Q. Okay. So the impact fee that you mentioned
23 in your summary, I believe that was pursuant to
24 the -- well, at least you said, I think, that it was
25 pursuant to the conditional use permit from the

1 **county; is that right?**

2 A. Right.

3 **Q. Okay. Have you reviewed that permit?**

4 A. I mean, I reviewed it, at one point, from
5 Carbon County to determine that it was required.

6 **Q. Okay. And it was obtained -- the permit's**
7 **been obtained; right?**

8 A. The -- excuse me? The permit what?

9 **Q. The permit has been obtained; correct?**

10 A. I don't know if the whole thing has been
11 paid. It mentioned that \$4 million of it had been
12 paid and there was another 2 million required to be
13 paid. So I don't know that -- the dates when you
14 guys paid that.

15 **Q. Okay. So was the point in your summary**
16 **yesterday that the entire impact fee has yet to be**
17 **paid? Is that the point you were trying to make?**

18 A. Well, I was trying to make two points. One
19 is that impact fee, I don't know if that was grouped
20 along with some of the other costs, like, in that APR
21 that we pulled up this morning for the lower number,
22 if it was grouped into that or if it was just an
23 incidental cost that -- that, you know, has not
24 been -- doesn't have a line item for. That was the
25 primary point of bringing it up.

1 I mean, and whether it was -- whether --
2 whether you paid the 4 million, the full 6 million, I
3 think, was secondary. The point was that there were
4 these costs that would be line items, and I don't
5 know if you paid them as it -- as a predevelopment
6 right or if they remain to be added to the project.

7 Q. Okay. Well, if you reviewed the CUP, you
8 might have seen that the -- it requires payment of
9 impact fees and installment.

10 Does that ring a bell?

11 A. What ring -- what I recall is that you had
12 up to three years to pay it, is what stands out in my
13 mind. Is that correct?

14 Q. Well, so there's nothing unusual about the
15 fact that one installment on the total impact fee is
16 what has been paid to date; right?

17 A. No. I just don't know, you know, where --
18 where -- where it would have been accounted for and
19 if...

20 Q. And the APR document that we've been looking
21 at, it lists permits that would be required for the
22 project starting on page 7, and it specifically lists
23 the conditional use permit; right?

24 A. Of the investment appraisal document?

25 Q. No, the APR document. I apologize if I

1 **misspoke.**

2 A. Not the Bowler Flats one, but the -- the
3 June -- not the main one, but the June APR? Is that
4 -- is that --

5 **Q. Correct.**

6 A. -- the one you were referring to?

7 **Q. Yep. What we've marked as Cross Exhibit 10.**

8 A. Okay. I have the June 21 pulled up again.
9 And what page?

10 **Q. Starting on page 7 is where I see the**
11 **permits listed.**

12 A. Again, I really apologize that I -- I don't
13 have my second screen. I could just keep this up and
14 be looking at it, so...

15 **Q. No worries. We're all just doing the best**
16 **we can here.**

17 A. Yeah. Yeah. Okay. Yeah, transfer to the
18 Company upon closing in May, currently being amended
19 by the county. That's what it says.

20 **Q. Okay. You see that the conditional use**
21 **permit was identified as a permit that would be**
22 **required and it was planned and budgeted for under**
23 **this APR document; right?**

24 A. I just see on page 7, it says it was
25 transferred to the Company upon closing in May 2019,

1 currently being amended by the county.

2 So I don't know if there's another place in
3 here that it says it was planned and budgeted for,
4 but that's what -- that's what's listed here on
5 page 7.

6 Q. Okay. Well, the APR document is the
7 planning and budgeting document, right, and the CUP
8 is listed in here so we can -- it's fair to say that
9 that was planned for; right?

10 A. Yes. Yes.

11 Q. Okay. I'm going to shift topics again and
12 talk about the WTG equipment or the wind turbine
13 equipment. You made a few assertions about that
14 equipment in your summary and in your surrebuttal
15 that I'd like to ask you about. And you raised a
16 couple of different points with respect to the wind
17 turbine equipment.

18 And one of the points I think you made was
19 that the Company had limited time to secure the
20 equipment, the turbines, get them to the jobsite, and
21 then erect them in order to qualify for the full
22 production tax credit.

23 Do you recall that --

24 A. Yes.

25 Q. -- line of your testimony?

1 Okay. And, in fact, that's what made this
2 opportunity a time-limited opportunity, right, that
3 there was that pending expiration of the PTC; right?

4 A. Yes.

5 Q. Okay. And did you hear Mr. Van Engelenhoven
6 testify, both at the hearing and in his written
7 testimony, as to how the Company formulated a plan to
8 address the logistics and the market constraints
9 associated with that timing issue?

10 A. Yes. You mean -- you're talking the
11 COVID -- the adjustments because of COVID?

12 Q. No. I'm talking about the concern that you
13 raised about -- between the time the company acquired
14 the project and the time to get the project in
15 service in order to qualify for the PTCs. Even
16 setting aside COVID, Mr. Van Engelenhoven explained
17 that the Company developed a plan to address that
18 timing and supply issue that you raised a concern
19 with.

20 Do you recall his testimony on that point?

21 A. I do recall him talking about -- I don't
22 know if the word is "commissioning," because -- but
23 doing them in groups, in circuits, like -- yeah,
24 three different circuits rose.

25 Q. Okay. So I think we're talking about two

1 different things. I'm talking about the plan to
2 acquire the equipment and get it to the jobsite, and
3 it sounds like you were just talking about bringing
4 the circuits in service.

5 So I might just pull up
6 Mr. Van Engelenhoven's testimony so we can --

7 A. Okay.

8 Q. -- get to the -- get on the same page here.
9 Hold on. I've got this two-screen situation going
10 on. Let me see if I can share my screen from my
11 other laptop. One second.

12 Okay. Are you able to see
13 Mr. Van Engelenhoven's testimony here on the screen?

14 A. Yeah. Just give me one minute because I'm
15 trying to pull up my summary statement, as well, so I
16 have that. Just one minute.

17 Q. Okay. I would like to direct you to
18 starting on page -- line 132 of his surrebuttal where
19 he says:

20 PacifiCorp secured the benefits of the
21 project for customers by acquiring the
22 components from BHER --

23 -- which I think we understand is the
24 Berkshire Hathaway entity --

25 A. Uh-huh.

1 Q. -- and avoided equipment supply limitations,
2 construction issues, and price volatility.

3 Do you see that? And then I would also
4 refer you to line --

5 A. Okay. Oh, okay. I -- I'm -- I'm sorry. I
6 have it pulled up now. I really am juggling a lot of
7 documents. So will you just repeat that line number
8 you want me to look at? It was --

9 Q. I was looking at line 132, which I've
10 highlighted on the screen here so that's easier for
11 you.

12 A. Okay. Yes.

13 Q. And then I would also direct you to
14 line 141.

15 PacifiCorp had an opportunity to acquire
16 components that were already manufactured and
17 in storage from Berkshire Hathaway at cost,
18 which was the competitive market price at
19 their time of purchase in 2016.

20 Do you recall that testimony --

21 A. Yes.

22 Q. -- from Mr. Van Engelenhoven?

23 A. Yes. Thank you for pulling that up.

24 Q. No problem. So you mentioned, I think, in
25 your testimony and in your summary that it was a risk

1 that the Company would not be able to get the
2 turbines to the jobsite.

3 Do you think, in light of
4 Mr. Van Engelenhoven's testimony, that the Company
5 developed an appropriate plan to be able to secure
6 that WTG equipment and deliver it to the site?

7 A. Yes, especially when you mentioned yesterday
8 that the -- they're already manufactured and they're
9 being stored in Colorado, which is just a couple
10 days' drive from there. Yes.

11 Q. Okay. And that -- this was an issue that
12 the Company identified from the outset in its APR
13 document, and it formulated a plan to address the
14 concern about obtaining the WTG equipment; right?

15 A. Yes.

16 Q. Okay. And it's true, isn't it, that the
17 Company was, in fact, able to secure all of the
18 turbines that it needed for the project; right?

19 A. Right. That's, I think, another point of
20 misunderstanding, that when -- when the Company
21 talked -- and it talks about the WTG safe harbor
22 equipment, I think probably Mr. Hayet, as well as I,
23 you know, we're thinking that's the wind turbine
24 generator and the blade and the hub. So you pointed
25 out that that is the nacelles and the -- like, the

1 rotors and other parts, not the blades. So yes.

2 Q. Okay. But my question is, sitting here
3 today, what we know is that the Company was able to
4 secure and have delivered all 114 of the turbines --
5 or at least I think Mr. Van Engelenhoven's testimony
6 was that they are being delivered this week or next
7 week.

8 So we don't have a concern, sitting here
9 today, that the Company wasn't able to secure the
10 necessary number of turbines; right?

11 A. Right. I think that's been resolved.

12 Q. Right. And that's even in the midst of the
13 pandemic, which, as you mentioned, did create delays
14 and disruptions to the supply chain; right?

15 A. Right. Right.

16 Q. Now, you also mentioned, and I would like
17 some clarification on this point, that the Company
18 had to do a competitive bid for the fallen turbines.

19 Were you offering that as a criticism of the
20 project in any way?

21 A. When I -- when I wrote that testimony and my
22 summary on that, it was -- it was different than
23 after Mr. Van Engelenhoven had explained this. It
24 wasn't so much a criticism, it was that I -- I was
25 under the impression that, you know, they bought all

1 the safe harbor equipment in 2016 at the market price
2 then, which would have been a lot lower than it was
3 in 2019.

4 And it wasn't clear -- what wasn't clear to
5 me is that the Company took all of the 73 -- the
6 other parts that it had and grouped them together
7 into a Vestas turbine supply agreement that kind of
8 encompassed everything. So -- and then it -- at a
9 whole new pricing scheme that was negotiated. So
10 I -- the Company never submitted the Vestas turbine
11 supply agreement, so I was not aware at the time that
12 they had grouped these together, you know, at the
13 time of the market in 2019.

14 So initially, yes, that -- my -- to answer
15 your question, yes, I think that could have been a
16 criticism, taking that they're out on the market here
17 at the very last minute and they're going to be
18 paying premium top prices to get the rest of this.
19 But now, from his testimony, I can see that whatever
20 parts that Vestas had and you guys had, it was all
21 negotiated into one turbine supply agreement.

22 **Q. Okay. So does that address your concerns**
23 **that you previously had?**

24 A. Yes. Yes. I mean, I would have liked to
25 see the turbine supply agreement as, you know, we --

1 I still don't know, you know, the price that you
2 ended up paying for that. If -- if that, you know,
3 was a good deal for ratepayers or not, but it does
4 address the fact that you were able to get all 114
5 turbines and parts.

6 Q. Okay. I want to address something else that
7 you said in your summary and your surrebuttal. You
8 said that the Company did not consider alternatives
9 to the project.

10 I'm curious what your support is for that
11 assertion. Are you relying on something in the
12 documents, the APR or the investment appraisal?

13 A. Yes.

14 Q. Can you point me to what you were relying
15 upon?

16 A. Sure. If you bear with me while I...

17 Q. Sure.

18 A. So it would have been in the APR, in
19 DPU 6.1-10, the project proposal and APR requests.

20 Q. Is there something specific in that document
21 you can point me to that you relied upon?

22 A. Yeah. I mean, it's -- I found that in
23 several documents where this -- it was repeated the
24 same time. So this is with the project proposal in
25 DPU6.1.10 dated June 21st, 2019, paragraph 8. It

1 says:

2 The Pryor Mountain project includes --

3 Oh, wait. That was not the alternatives.

4 Hang on. That was the contingency. Okay. The
5 alternatives were -- should be in the same document.

6 I found the one reference, but this isn't -- this
7 isn't indicative of the other one. There is one in
8 the June 21st document. In paragraph 4, it says:

9 Alternatives Considered --

10 The Company just says:

11 The Company evaluates potential wind
12 development sites as they become available.
13 Focusing on the ultimate goal of determining
14 the site could provide an economically viable
15 renewable energy resource that aligns with
16 the requirements of PacifiCorp's IRP and/or
17 provides a net benefit.

18 That's a more broad one, so let me find the
19 one where you specifically talk about it.

20 **Q. So I don't know if I can help you out here.**
21 **I could not find that specific mention of that in the**
22 **DPU 6.1-10, but I did see something along those lines**
23 **mentioned in DPU 18.2, which was -- as we talked**
24 **about, was the appraisal for the interconnect portion**
25 **of the project.**

1 **Is that what you're looking for in that**
2 **document?**

3 A. Yeah, that probably would have been one of
4 them. Mm-hmm.

5 **Q. On page 3, paragraph 4, is that what you're**
6 **referring to -- of the DPU 18.2 document, the**
7 **appraisal document?**

8 A. Yeah. But that would have just been the one
9 with respect to transmission alternatives.

10 **Q. Yeah. And I guess that was my question, is**
11 **that -- I didn't know if that's what you were relying**
12 **on because I think this document says no alternatives**
13 **were considered, but that's referring to the**
14 **transmission line; right?**

15 A. Right. So that was one example. No
16 alternatives considered.

17 Okay. So I'm going back to DPU 6.1-10,
18 where there were like a half a dozen different APRs
19 or project change notices. So that's where I'm
20 looking right now because I believe that's where
21 the -- they were contained -- they're contained. But
22 basically the Company said that it didn't consider
23 any alternatives.

24 **Q. It sounds like you're looking at something**
25 **other than what we've marked as Cross Exhibit 10. Am**

1 **I following you?**

2 A. Yeah. It's part of Set 18. But it may not
3 have been just 18 point -- it may have been broader
4 than just 18.2.

5 **Q. Are you still looking, or should I move on?**

6 A. No, I -- okay. Sorry. Okay. I pulled up
7 18, and -- let me see if 18.1 -- I believe 18.1 is
8 the same as your response to 6-1-10; is that correct?

9 **Q. I don't have that in front of me, so I**
10 **can't --**

11 A. Yeah, it is. Because I pulled that -- this
12 one up, and that -- it is the same. It has the same
13 sentence that I just read to you. So let me just
14 stick with the other documents in 18 -- Set 18.

15 **Q. Okay. Well, I think we can confirm and**
16 **clarify for the record that the statement that no**
17 **alternatives were considered is in the transmission**
18 **document, meaning that the Company didn't consider an**
19 **alternative transmission route or connection**
20 **mechanism for the project; right?**

21 A. It is in there. But it is also in other
22 documents for the -- not just the transmission
23 project.

24 **Q. Okay. But you didn't cite to any other**
25 **documents in your testimony; right?**

1 A. So I'm looking at the investment appraisal
2 document from -- the 2015 to 2020, which is part of
3 Set 18 provided to the Division. And on -- let me
4 see what page. Page 3 of 6, No. 4, this one says:
5 No alternatives were considered as part of
6 this project as a customer request.

7 **Q. Correct. And that's referring to the**
8 **interconnect request; right? The customer request is**
9 **the request from PacifiCorp to Rocky Mountain Power**
10 **to connect the Pryor Mountain facility to the grid;**
11 **right?**

12 A. Yes, mm-hmm. So it's in that one.

13 **Q. Okay.**

14 A. And I think it -- I think it -- I think it's
15 in each of those.

16 **Q. Okay. And those documents that were**
17 **produced in response to its -- Set 18 were**
18 **transmission documents, so I think we can move on**
19 **from that. I just want to -- let me ask you a**
20 **follow-up question that hopefully doesn't rely on any**
21 **documents.**

22 You heard Mr. Link's testimony that he --
23 well, did you listen to Mr. Link's testimony?

24 A. I heard parts of it.

25 **Q. Okay. Did you hear him explain that when he**

1 analyzed the Pryor Mountain project, he's analyzing
2 the system with the project versus the system without
3 the project; right?

4 A. Oh, I read his -- yeah, I read that in his
5 testimony. Mm-hmm.

6 Q. Okay. So that's considering an alternative;
7 right?

8 Considering not building the project is an
9 alternative to building the project; right?

10 A. Yeah. I mean, considering not doing nothing
11 versus to doing something doesn't mean that the
12 something is -- you know, is -- produces benefits.
13 So that doesn't really -- that doesn't really tell us
14 a lot.

15 Q. Well, Mr. Link's analysis shows the system
16 benefits of the project as compared to not building
17 it.

18 That's what his analysis endeavored to show;
19 right?

20 A. Yes.

21 Q. Okay. You mentioned in your testimony about
22 the production tax credits expiring in 10 years.

23 Do you recall that portion of your
24 testimony?

25 A. Yes.

1 Q. And you understand that Mr. Link's analysis
2 assumed that to be the case, right, the 10-year
3 duration of the production tax credit that's built
4 into his analysis; right?

5 A. Correct.

6 Q. Okay. And you made a statement that you
7 believe the project is uneconomic without the REC --
8 the production tax credit benefits and also the REC
9 benefits associated with this project.

10 Is that your testimony?

11 A. That's what the Company -- that's what the
12 Company responded to me in a data request. And yes,
13 it is.

14 Q. Okay. But those are not speculative
15 benefits; right?

16 The project will qualify for the production
17 tax credits; right?

18 A. Yeah. We would hope so. We would like a
19 guarantee that it does.

20 Q. Okay. And you understand that's a binding
21 contract with Vitesse whereby they will have
22 purchased the REC credits associated with the
23 project?

24 A. Yes.

25 Q. Okay. So it's sort of a hypothetical to

1 analyze the project without those RECs and production
2 tax credit benefits; right?

3 A. Yes.

4 Q. Now, you also mentioned in your testimony
5 that there -- you mentioned in your summary several
6 administrative tasks that the Company will need to do
7 in order to get transmission interconnections to the
8 project.

9 Do you recall what -- those items that you
10 mentioned in your summary?

11 A. I do recall those. And based on
12 Mr. Van Engelenhoven's testimony already and
13 Mr. Hemstreet's testimony, I have a little bit
14 clearer understanding of that.

15 And in the repowering docket, Mr. Hemstreet
16 talked about how, you know, they would -- they might
17 have to go one and one and hook it up and then
18 disconnect it and hook it up and disconnect it
19 because the transmission wouldn't be built yet.

20 But it -- it appears now that because of the
21 COVID, that's one benefit in that it buys time for
22 you guys to get enough transmission infrastructure in
23 there that you can do a circuit at a time, like was
24 explained yesterday, and keep it energized, and then
25 do the next circuit.

1 So yes, I have a clearer understanding of
2 that than what would have been the case without the
3 transmission available.

4 **Q. Okay. So you're talking about, I believe,**
5 **bringing the circuits online in groups, and you feel**
6 **like that concern has been addressed adequately by**
7 **Mr. Van Engelenhoven; is that correct?**

8 A. Yes, although the only concern is -- and I
9 don't know if he knew this, but what additional costs
10 would be by doing it -- by, you know, doing --
11 energizing it that way.

12 **Q. Okay. And so you had also mentioned the**
13 **precommissioning issue. I just want to make sure**
14 **we're clear -- well, and then a third issue that you**
15 **raised in your summary was IRS certification.**

16 So I just want to be clear, those are three
17 **distinct things, right; the IRS certification,**
18 **commissioning, and then energizing and bringing**
19 **online. Right?**

20 A. I understood the -- the IRS commissioning to
21 be when, as Mr. Van Engelenhoven discussed -- or it
22 could have been Hemstreet yesterday, but the two --
23 two people, they climb up the tower, they check all
24 the circuits, they do some telemetry testing and, you
25 know, make sure they're energized and that they're

1 working, and they check off the boxes, and there's
2 power to them. And that's -- I kind of understood
3 that to be two of the -- two-in-one things. That was
4 my understanding of the commissioning.

5 Q. Okay. So I agree with what you just said,
6 that that is what Mr. Van Engelenhoven described as
7 the commissioning component. But when you mentioned
8 IRS certification, that is just an application that
9 you file with the IRS.

10 Do you understand that?

11 A. I didn't. I just thought at the time that
12 they commissioned, that the IRS certification was
13 just, you know, a check or -- or whoever verified it,
14 whoever was there, sends a report and says, Okay,
15 this has been done.

16 Q. Okay. I just want to make sure we're not
17 conflating two concepts here or talking past each
18 other.

19 And so the commissioning which
20 Mr. Van Engelenhoven described, you understand that
21 can only be done turbine by turbine, you send a
22 person up there to turn it on, basically?

23 A. Yeah, that's been my understanding all
24 along.

25 Q. Okay. And that was the costs associated

1 with commissioning as part of that -- you understand
2 that that's part of the agreement with Vestas, that
3 that cost is sort of baked into that contract?

4 A. No, I didn't, because like I say, I didn't
5 realize until yesterday that, you know, you guys kind
6 of regrouped all of this into one big contract. And
7 it was never to -- it was never supplied to the
8 Division to review as part of the project's
9 demonstration of prudence. So I did not understand
10 that. But -- but I -- I mean, I take your word that
11 that's how it's done.

12 Q. Okay. Well, Mr. Van Engelenhoven's word;
13 right?

14 A. Yeah. His word, yes.

15 Q. Okay. Okay. And then as far as replacing
16 the circuits in service circuit by circuit,
17 Mr. Van Engelenhoven, I think, explained that there's
18 not an additional cost associated with that; right?

19 A. I don't know that he outlined any costs.
20 No, I -- yeah. I don't -- I mean, it was probably
21 part of the Vestas supply agreement. Right?

22 Q. Well, that's the commissioning. So now
23 we're talking about the placing in service and
24 energizing. That's part of the process of bringing
25 the project online. And doing it circuit by circuit,

1 which Mr. Van Engelenhoven explains, does not result
2 in incremental costs as opposed to doing it all at
3 once; right?

4 A. Yes. Yes.

5 Q. Okay. And, in fact, the bringing it online
6 circuit by circuit is what allows the project to
7 start delivering energy and benefits to the customers
8 as soon as the circuits are available; right?

9 A. Right.

10 Q. So you -- on the topic of --

11 COMMISSIONER LEVAR: Ms. Shurman?

12 MS. SHURMAN: Yes?

13 COMMISSIONER LEVAR: Why don't we take a
14 break right now and come back in about 15 minutes and
15 continue.

16 MS. SHURMAN: Sure. Thank you.

17 COMMISSIONER LEVAR: Thank you.

18 (A brief recess was taken.)

19 COMMISSIONER LEVAR: Why don't we begin the
20 transcript, and, Ms. Shurman and Ms. Zenger, we can
21 continue.

22 MS. SHURMAN: Okay. I'm ready.

23 BY MS. SHURMAN:

24 Q. Dr. Zenger, are you there?

25 A. I'm here.

1 Q. Okay. I just have very few more questions
2 on the transmission issues that we were discussing.

3 You had mentioned in your summary that the
4 Company needed to amend the large generator
5 interconnection agreement or the LGIA.

6 Do you recall mentioning that in your
7 summary?

8 A. Yes.

9 Q. There's no incremental cost associated with
10 doing that, is there?

11 A. I would think there are costs, yeah.

12 Q. What are you basing that on?

13 A. Well, if a customer wants to apply to get
14 service, PacifiCorp transmission doesn't do the --
15 the system impact study in these LGIAs for free.

16 Q. Well, the need to amend the LGIA was because
17 there was previously one with the prior developer,
18 but there was no project developed.

19 You understand that; right?

20 A. That was a little tricky because I had to go
21 through each one and determine if EverPower had
22 canceled it, and then they froze it for four years,
23 and then they opened it again, and then they changed
24 the name, and that's -- that's the point when I
25 thought PacifiCorp had taken over the project, so

1 that was a little confusing.

2 Q. I understand. You understand now, though,
3 that it was just an amendment to the agreement that
4 the prior QF developer had had for interconnection?

5 A. Yeah. The amendment to group all projects
6 as one project, is that what you mean?

7 Q. Correct.

8 A. Mm-hmm. Yes.

9 Q. And you don't have any evidence to show that
10 there was any cost associated with that, do you?

11 A. Yeah, I -- I do believe there were costs.
12 In fact, I recall the Oregon PUC disallowed those
13 costs, in fact. At least, you know, in their
14 post-closing briefs, they did. That issue was never
15 resolved. So there were -- there were costs for
16 those -- to do an -- the study. And I believe part
17 of it was they had to do some type of remedial action
18 scheme to test -- or a RAS test that was
19 approximately \$800,000.

20 And when they moved the point of
21 interconnection from Wyoming up into Montana, another
22 15 miles, I think they had to restudy that
23 configuration.

24 Q. That's correct. Because the prior
25 developers had wanted to put the substations out in

1 Wyoming so they could get the Wyoming QF rates;
2 right?

3 A. Right.

4 Q. And they were going to run the transmission
5 down from Wyoming up to Montana, to the project site;
6 right?

7 A. Right.

8 Q. Okay. So then when the Company purchased
9 the project, it no longer needed to do that; right?

10 It decided instead to build the substation
11 right on the project site; right?

12 A. Right.

13 Q. So that eliminated the need to run that
14 transmission line from Montana down to Wyoming;
15 right?

16 A. Correct.

17 Q. Okay. So that resulted in a cost savings to
18 the project, didn't it?

19 A. It -- it did. But taken as a whole, there
20 were -- there were still some transmission costs in
21 there.

22 Q. Okay. And --

23 A. Interconnection agreement costs, you know,
24 the studies, things like that.

25 Q. Okay. And there's transmission costs

1 **associated with any new wind project; right?**

2 A. Right. At least to interconnect and...

3 **Q. Right. And Mr. Link's analysis would have**
4 **accounted for the costs associated with getting**
5 **transmissions to the project; right?**

6 A. Yes.

7 **Q. Okay. Thank you, Dr. Zenger. I have no**
8 **further questions.**

9 A. Okay. Sorry it took me -- it was a little
10 difficult to find everything, so thanks for being
11 patient with me.

12 **Q. No problem.**

13 MS. SHURMAN: And actually, at this point,
14 Mr. Chairman, I would move for the admission of Rocky
15 Mountain Power Cross Exhibit 10, which was the APR
16 document that was produced as CPU6.1-10. And then
17 I'll move for the admission of Rocky Mountain Power
18 Cross Exhibit 11, which is the investment appraisal
19 that was produced as CTU 18.2. And both of those are
20 confidential documents.

21 COMMISSIONER LEVAR: Okay. And just to
22 clarify, both are in the record already as DPU
23 exhibits; is that correct? Or are they DPU exhibits
24 from different dockets?

25 MS. SHURMAN: They were produced in this

1 docket. They're not attached to anybody's testimony.

2 COMMISSIONER LEVAR: Okay. Okay. And then
3 with the clarification for the court reporter that
4 these are confidential exhibits, let me just ask if
5 there's any objection to that motion?

6 I'm not seeing or hearing any objection, so
7 the motion is granted.

8 (Exhibits admitted.)

9 COMMISSIONER LEVAR: And with that, I'll go
10 back to Mr. Jetter if you have any redirect for
11 Dr. Zenger.

12 MR. JETTER: I do have a few redirect
13 questions.

14

15 REDIRECT EXAMINATION

16 BY MR. JETTER:

17 Q. Dr. Zenger, you referred earlier to your
18 surrebuttal testimony. There was some
19 cross-examination questions regarding a slide from
20 the 2019 IRP. And that slide showed an entry there
21 for a 240-megawatt wind facility in Wyoming.

22 Do you recall that?

23 A. I recall that.

24 Q. Okay. Where is the Pryor Mountain wind
25 farm?

1 A. Where is -- I'm sorry. You cut out. Where
2 is what?

3 **Q. Where is the proposed Pryor -- or the**
4 **actually under construction Pryor Mountain wind farm?**

5 A. Yes. So it's in Montana. My understanding
6 is it's, you know, roughly up to 15 miles from the
7 Frannie location in Wyoming.

8 **Q. Okay. And would you have reason to know**
9 **that a 240-megawatt Wyoming wind project that was in**
10 **the 2019 IRP was, in fact, a Montana wind project?**

11 A. No. I mean, the Company's -- this is the
12 first wind project the Company has attempted to
13 acquire in Montana, so, you know, that -- that's news
14 to all of us.

15 **Q. And so one reference slide in 2019 may not**
16 **have given you meaningful notice that a project in**
17 **Montana was under development?**

18 A. Correct. Especially, you know, if it was a
19 Friday, it was incidental in one bullet point, and it
20 did say "Wyoming," so I don't think it caught
21 people's attention.

22 **Q. Okay. Thank you. And I'd like to ask**
23 **another question that's a little bit different but**
24 **also related to the IRP process.**

25 **When the Company goes through the**

1 development of a preferred portfolio for the IRP,
2 they don't evaluate each potential project on its own
3 merits as a thumbs-up or thumbs-down revenue
4 requirement comparison, do they?

5 A. No. Yeah, in fact -- yeah, they don't take
6 each project, whether it's this or a solar project in
7 Wyoming -- or Utah, and run the model and then run it
8 without the model and then with the model. That's
9 not the way it -- yeah. The model is -- that's the
10 point of the model, to optimize -- the model
11 optimization is that all the inputs are in the model,
12 and the system optimizer runs and optimizes, and out
13 of all the possible supply site and demanded
14 resources, the model selects the least-cost,
15 least-risk resource. So yes, that's --

16 Q. Is it a fair characterization that you could
17 potentially have 100 projects that pass the -- pass
18 the test, I guess you'd call it, individually, but
19 the Company only needs 10, and so the IRP would
20 select the 10 best?

21 A. Yes.

22 Q. Is that right?

23 A. Yes.

24 Q. And so there's a little bit more to it than
25 a decision of build or not build?

1 A. Correct. Exactly.

2 Q. It's a comparison to other alternatives that
3 may be more economical?

4 A. Yes. And it's a -- it's a comparison of a
5 point in time. So for this given point in time,
6 we've put in all these inputs and gas prices and
7 forecasts, and the model selects the least costly
8 source -- resource.

9 Q. Okay. Pryor Mountain was conducted outside
10 of the IRP, to your knowledge, unless it was the
11 Wyoming-identified wind project that's actually in
12 Montana?

13 A. Yes. Correct.

14 Q. Okay. Thank you. Those are all of my
15 questions.

16 COMMISSIONER LEVAR: Thank you, Mr. Jetter.

17 I'll ask if any of the other parties other
18 than Rocky Mountain Power have any recross, to please
19 indicate to me that they do.

20 I'm not seeing or hearing any desire for
21 recross from the other parties, so I'll go to
22 Ms. Shurman.

23 Do you have any recross?

24 MS. SHURMAN: Very quickly. Thank you,
25 Mr. Chairman.

1 RE CROSS EXAMINATION

2 BY MS. SHURMAN:

3 **Q. Dr. Zenger, you understand that the Pryor**
4 **Mountain wind project ties into the Company's**
5 **transmission grid through the -- through Wyoming?**

6 A. Yes, it -- yeah. It's -- they are building
7 a tie-in up in that area of Frannie, Yellowtail, is
8 the way it's described.

9 **Q. So it makes sense that the Company**
10 **categorizes it as a Wyoming wind project because it**
11 **ties into the grid through Wyoming, doesn't it?**

12 A. Yes, it does.

13 **Q. Okay. No further questions. Thank you.**

14 COMMISSIONER LEVAR: Thank you, Ms. Shurman.
15 Commissioner Allen, do you have any
16 questions for Dr. Zenger?

17 COMMISSIONER ALLEN: No questions. Thank
18 you.

19 COMMISSIONER LEVAR: Thank you,
20 Commissioner.

21 Commissioner Clark, do you have any
22 questions?

23 COMMISSIONER CLARK: I have no questions.
24 Thanks very much.

25 COMMISSIONER LEVAR: Okay.

1 COMMISSION QUESTIONS

2 BY COMMISSIONER LEVAR:

3 **Q. I'll just ask, Dr. Zenger, does anything**
4 **that's been discussed this morning lead you to change**
5 **any of your recommendations in your testimony?**

6 A. Yes, it does. Like I say, it's been the
7 Division's understanding, through discovery, that the
8 Company's decision to pursue this project was made in
9 June of 2019. And that changes a lot of things that
10 happened from June 2018 to 2019, so if all of these
11 things have already been done and this due diligence
12 has been done, then that -- that's a whole different
13 decision when it comes to the -- was the Company's
14 decision to pursue this project at this time, in
15 June, whether a reasonable utility had would have
16 pursued this. And I would say yes.

17 **Q. Okay. Thank you. I don't have any further**
18 **questions. Thank you for your testimony yesterday**
19 **and today. And thank you for your patience with our**
20 **technology issues.**

21 A. Oh, well, thank you for my issues with
22 technology. Thank you.

23 COMMISSIONER LEVAR: Mr. Jetter, anything
24 else from the Division of Public Utilities?

25 MR. JETTER: We have nothing further for

1 this hearing. Thank you, Chairman.

2 COMMISSIONER LEVAR: Okay. I'll go to the
3 Office of Consumer Services, then, for your first
4 witness.

5 MR. SNARR: Thank you. The Office would
6 like to first call Alyson Anderson as a witness.

7 COMMISSIONER LEVAR: Good morning,
8 Ms. Anderson. Do you swear to tell the truth?

9 You are muted still. You're showing on my
10 screen as still being muted, and we can't hear you.
11 I cannot unmute you from my end.

12 MR. SNARR: If we could have just a minute,
13 we'll help Alyson get connected up with us. Okay?

14 COMMISSIONER LEVAR: Sure.

15 Ms. Anderson, if you're using a browser,
16 typically you have to move the cursor around near the
17 bottom of the screen before the buttons pop up. It's
18 a little tricky to get them to pop up that way.

19 MR. SNARR: Could we have just about a
20 three- or four-minute break? I think we have
21 technical staff that could assist her in getting that
22 going.

23 COMMISSIONER LEVAR: Sure. That would
24 probably be better. Why don't we take a five-minute
25 recess.

1 MR. SNARR: Thank you.

2 (A brief recess was taken.)

3 COMMISSIONER LEVAR: Ms. Anderson, do you
4 swear to tell the truth?

5 MS. ANDERSON: I do.

6 COMMISSIONER LEVAR: Okay. Thank you.

7 Mr. Snarr, go ahead.

8 MR. SNARR: Thank you.

9

10 DIRECT EXAMINATION

11 BY MR. SNARR:

12 Q. Ms. Alyson, could you please state your name
13 and spell your name for the record.

14 A. My name is Alyson Anderson, A-L-Y-S-O-N,
15 A-N-D-E-R-S-O-N.

16 Q. And could you please state your employment
17 in connection with the Office.

18 A. I'm employed by the Utah Office of Consumer
19 Services as a utility analyst.

20 Q. And in connection with your work as a
21 utility analyst, have you participated in the
22 Office's preparation for presentations in this
23 proceeding?

24 A. I have.

25 Q. And in that connection, did you prepare

1 Phase 1 revenue requirement direct testimony that was
2 submitted on September 2?

3 A. I did.

4 Q. And you also prepared Phase 1 revenue
5 requirement surrebuttal testimony that was submitted
6 on October 29; isn't that correct?

7 A. Yes.

8 Q. Is it also correct that you submitted direct
9 testimony for the Phase 2 proceeding that will yet
10 come to hearing in this case?

11 A. Yes.

12 Q. Now, let's focus on the revenue requirement
13 testimonies, those submitted on September 2 and
14 October 29th.

15 Do you have any corrections to that
16 testimony?

17 A. I do not.

18 Q. And if you were asked the questions
19 presented there, today, under oath, would your
20 answers be the same?

21 A. They would.

22 MR. SNARR: With that in mind, we'd like to
23 offer the admission of Phase 1 revenue requirement
24 direct testimony submitted by Alyson Anderson on
25 September 2nd, as well as the Phase 1 revenue

1 requirement surrebuttal testimony submitted on
2 October 29th of this year. And just for
3 clarification, there are no separate exhibits that
4 are attached to either one of those testimonies.

5 MS. ANDERSON: Correct.

6 COMMISSIONER LEVAR: Thank you. If anyone
7 objects to that motion, please indicate your
8 objection.

9 I'm not seeing or hearing anyone, so the
10 motion is granted.

11 (Simultaneous speaking.)

12 MR. MOSCON: Can you hear me, Mr. Chairman?

13 COMMISSIONER LEVAR: Yeah. Who's speaking?

14 MR. MOSCON: I'm sorry. This is
15 Matt Moscon. I apologize that we were on mute. The
16 power company has no objection to the admission of
17 Ms. Anderson's testimony, her direct testimony,
18 lines 1 through 59, which essentially introduce the
19 OCS's position and the witnesses that are testifying.
20 The remainder of her testimony, from line 61 to the
21 conclusion, and her surrebuttal deal entirely with
22 the subscriber solar program, and they rebut
23 witnesses or direct testimony that the Company had
24 proposed to put forward, but, in fact, the Company
25 did not admit onto the record. Therefore, it would

1 be improper to have on the record a testimony
2 rebutting nonexistent testimony because none of the
3 Company subscriber solar testimony was ever admitted
4 onto the record, as that was withdrawn.

5 So we just -- again, we don't have an
6 objection to her introductory testimony, but we think
7 it should be limited to that, and the subscriber
8 solar portion should not be admitted as an actual
9 piece of testimony on the record.

10 COMMISSIONER LEVAR: Mr. Snarr, would you
11 like to respond to that?

12 MR. SNARR: I can respond. And the
13 representations made by the Company are true, and
14 we -- we're not going to pursue any subscriber solar
15 testimony. And Ms. Anderson was going to make that
16 clear in her summary, but I think it is probably
17 appropriate to excise those lines as far as what's
18 being admitted today. I apologize we haven't had
19 that excised previously, but I do not object to the
20 motion made by the Company in this regard.

21 COMMISSIONER LEVAR: Okay. Thank you. So
22 with that clarification, we have a motion to admit,
23 am I correct, lines 1 through 61 of Ms. Anderson's
24 direct testimony?

25 MR. SNARR: Yes.

1 COMMISSIONER LEVAR: Okay. If anyone
2 objects to that motion, please indicate your
3 objection.

4 I'm not seeing or hearing any, so that
5 motion is granted.

6 (Testimony admitted.)

7 COMMISSIONER LEVAR: Go ahead, Mr. Snarr.

8 MR. SNARR: If we need to clean that up in
9 terms of the actual submission, we can do so. But I
10 think the record is clear. Ms. Anderson --

11 COMMISSIONER LEVAR: If anyone --

12 MR. SNARR: Go ahead.

13 COMMISSIONER LEVAR: To respond to that, if
14 anyone feels the record needs to be clarified, feel
15 free to submit a motion to that effect. Otherwise,
16 we'll consider it covered.

17 MR. SNARR: Thank you.

18 BY MR. SNARR:

19 **Q. Ms. Anderson, have you prepared a summary of**
20 **your testimony as it relates to those items that are**
21 **not part of the subscriber solar?**

22 A. I have.

23 **Q. Could you please present that at this time.**

24 A. Yes. Thank you.

25 Good morning. My testimony provides the

1 OCS's policy on the Company's proposed expansion of
2 the subscriber solar program, and it also introduces
3 the Office of Consumer Services witnesses in the
4 Rocky Mountain Power general rate case.

5 Rocky Mountain Power has removed the expense
6 of the subscriber solar program from this stage, and
7 so now my testimony simply introduces the other OCS
8 witnesses in this phase of the general rate case.

9 Dr. J. Randall Woolridge previously
10 presented the OSC's recommended costs of capital,
11 6.9 percent, including a return on equity of
12 9 percent and a 50/50 capital structure.

13 Witness Donna Ramas presents the OCS's rate
14 base and net operating income adjustments and
15 provides the analysis behind the OCS's proposed
16 revenue requirement.

17 Witness Phil Hayet presents the OCS's
18 recommended adjustments to base net power costs and
19 for the disallowance of certain wind resources.

20 Ultimately, the OCS is recommending a
21 reduction of \$37,257,110 in Rocky Mountain Power's
22 Utah revenue requirement.

23 And that concludes my summary.

24 MR. SNARR: Thank you. Ms. Anderson's
25 available for cross-examination.

1 COMMISSIONER LEVAR: Thank you, Mr. Snarr.
2 Mr. Jetter, do you have any questions for
3 Ms. Anderson?

4 MR. JETTER: I do not have any questions.
5 Thank you.

6 COMMISSIONER LEVAR: Thank you.
7 Mr. Russell?

8 MR. RUSSELL: No questions. Thank you.

9 COMMISSIONER LEVAR: Mr. Holman?

10 MR. HOLMAN: No questions. Thank you.

11 COMMISSIONER LEVAR: Mr. Sanger?

12 MR. SANGER: No questions. Thank you.

13 COMMISSIONER LEVAR: Mr. Boehm?

14 MR. BOEHM: (No audible response.)

15 COMMISSIONER LEVAR: Mr. Moscon, any
16 questions?

17 MR. MOSCON: No questions. And I apologize
18 for the interruption, Ms. Anderson. Thank you.

19 COMMISSIONER LEVAR: Thank you.

20 Commissioner Clark, do you have any
21 questions for Ms. Anderson?

22 COMMISSIONER CLARK: I have no questions.
23 Thank you.

24 COMMISSIONER LEVAR: Commissioner Allen?

25 COMMISSIONER ALLEN: I also have no

1 questions. Thank you.

2 COMMISSIONER LEVAR: Thank you. I don't
3 either, so thank you for your testimony this morning.

4 And, Mr. Snarr, you may --

5 MS. ANDERSON: Thank you.

6 COMMISSIONER LEVAR: -- call your next
7 witness.

8 MR. SNARR: Thank you. The Office would
9 like to next call Ms. Donna Ramas as a witness.

10 COMMISSIONER LEVAR: Ms. Ramas, do you swear
11 to tell the truth?

12 MS. RAMAS: I do.

13 COMMISSIONER LEVAR: Thank you.

14

15 DIRECT EXAMINATION

16 BY MR. SNARR:

17 **Q. Ms. Ramas, will you please state your name**
18 **and spell your name for the record.**

19 A. My name is Donna Ramas, D-O-N-N-A,
20 R-A-M-A-S.

21 **Q. And could you tell us where you're employed**
22 **and what your relationship is with the Office.**

23 A. I'm self-employed as a regulatory
24 consultant, and I work as a consultant for the Office
25 of Consumer Services.

1 Q. Thank you. And in connection with that
2 assignment, have you participated in this proceeding
3 and prepared testimony and exhibits for submission?

4 A. Yes, I have.

5 Q. And does that include direct testimony that
6 was submitted on September 2nd, including various
7 exhibits numbered 1, 2, 3, and 4, with subparts?

8 A. I had Exhibits No. 3.1D through 3.22D that
9 was filed with my direct testimony.

10 Q. Okay. I maybe used a different label. I'm
11 sorry. And with your -- you also filed a surrebuttal
12 testimony; is that right?

13 A. Yes, I did.

14 Q. And could you identify the exhibits attached
15 to your surrebuttal testimony.

16 A. Exhibits OCS 3.1S through 3.5S.

17 Q. All right. And in connection with the
18 testimony that's been prepared and submitted, first
19 let me ask, do you have any corrections to the
20 testimony as it has been submitted?

21 A. Yes, I have a couple typographical errors in
22 my direct testimony that I would like to go over at
23 this time.

24 Q. Please go ahead.

25 A. Okay. The first -- I have two corrections

1 on page 52; the first one on line 1132. The
2 \$2,387,635 should be changed to \$2,398,736. On the
3 following line, 1133, the 56,100,427 should be
4 changed to \$56,095,326. And this does not impact the
5 overall recommended revenue requirements as it deals
6 with the AMI program that was updated by the Company
7 in it's rebuttal.

8 The next changes are page 53, line 1148.
9 The \$101.3 million should be \$110.3 million. And
10 down at the bottom of that same page, line 1166, the
11 same change: 101.3 million should be 110.3 million.
12 And this does not impact the revenue requirement
13 calculation.

14 And then one final change, on page 78,
15 line 1715, the year 2020 should be changed to 2021.

16 And that completes the corrections.

17 **Q. Thank you. And if you were asked all those**
18 **questions today, in your testimony, would your**
19 **answers be the same as presented there and as**
20 **corrected per your comments this morning?**

21 A. Yes, they would.

22 **Q. All right.**

23 MR. SNARR: The Office would move for the
24 admission of Ms. Ramas' direct testimony that was
25 submitted on September 2 with its accompanying

1 exhibits, as well as its -- the surrebuttal testimony
2 that was submitted on October 29th with the
3 accompanying exhibits.

4 COMMISSIONER LEVAR: Please indicate if
5 anyone has an objection to that motion.

6 I'm not seeing or hearing any, so the motion
7 is granted.

8 MR. SNARR: Thank you.

9 (Testimony and exhibits admitted.)

10 BY MR. SNARR:

11 **Q. Ms. Ramas, have you prepared a summary of**
12 **your testimony for presentation today?**

13 A. Yes, I have.

14 **Q. Would you please provide that now.**

15 A. Yes, thank you.

16 Good morning, Chairman LeVar,
17 Commissioners Clark and Allen, and others attending
18 this hearing.

19 The facts and circumstances of this case
20 show that Rocky Mountain Power's current rates should
21 be reduced and not increased. Due to delays in
22 portions of the Pryor Mountain and TB Flats wind
23 projects, the Company has proposed a two-step change
24 in rates in its rebuttal position, and OCS did not
25 object to this two-step approach. As indicated in my

1 surrebuttal testimony, the recommendations of the OCS
2 in this case result in a recommended reduction in
3 current rate -- or in current revenues of
4 approximately \$37.3 million after both step changes
5 are considered. This consists of a recommended
6 reduction in current rates of approximately
7 \$50.9 million effective January 1st, 2021, followed
8 by an increase in revenue requirements of
9 \$13.67 million effective with the step two of rate
10 change. These two changes result in the overall
11 reduction of current rates of approximately
12 \$37.3 million.

13 As explained in my surrebuttal testimony,
14 many of the issues raised in my direct testimony have
15 been resolved by this phase of the case. With the
16 Office and Rocky Mountain Power now in agreement in
17 many areas, the Company has agreed to several of the
18 recommendations made in my direct testimony, and the
19 OCS does not take issue with many of the revisions
20 made by the Company in its rebuttal filing.

21 My surrebuttal testimony discusses several
22 issues that remain in dispute in this proceeding, and
23 I will briefly summarize my position on several
24 outstanding issues in the order in which they appear
25 in my surrebuttal testimony.

1 The first issue is the transmission power
2 delivery bad debt expense issue. Base year expenses,
3 which carry forward to the future projected test
4 year, included approximately \$980,000 for amounts
5 recorded in a general ledger account for transmission
6 power deliver bad debt expense with a portion of
7 these costs allocated to the Utah jurisdiction.

8 In response to discovery, the Company
9 explained that the costs recorded in this account is
10 for bad debt expense associated with transmission
11 power delivery customers including interconnection
12 study costs that exceed customers' deposits and
13 customer collections which were then written off.
14 The amount written off included \$922,000 associated
15 with a single customer.

16 The transmission power deliver customer
17 suspended the project involved and has challenged the
18 amount due to the Company. The Company is still
19 pursuing options to resolve the issue under the
20 agreement with the transmission power delivery
21 customer. I recommend that the transmission power
22 delivery bad debt expense the Company allocated to
23 Utah in its filing not be included in the revenue
24 requirements and passed on to Utah customers in this
25 case.

1 The next issue is generation overhaul
2 expense. These expenses fluctuate from year to year
3 depending on the timing of plant overhauls, the
4 extent of the overhaul at work, and whether the costs
5 are capitalized or expensed and how that spread is.
6 For determining the amount of generation overhaul
7 expense to include a revenue requirement, the Office,
8 Rocky Mountain Power, and the Division are in
9 agreement that the amount should be based on a
10 four-year historic average cost level.

11 The issue for the Commission to decide in
12 this case is whether or not those historic costs
13 should be escalated prior to averaging. This issue
14 has been addressed extensively in prior proceedings
15 and again in this proceeding. In the two proceedings
16 in which the Commission addressed the issue in an
17 order, the Commission determined that the historic
18 costs should not be escalated. I recommend that the
19 Commission continue this practice and not escalate
20 the costs prior to averaging.

21 It is my view that the application of
22 inflation to the historic amounts does not factor in
23 productivity outsets, experience gain from prior
24 overhauls that leads to efficiencies in cost-savings
25 measures, nor does the application inflation take

1 into account the potential impacts of approaching
2 plant retirements and early retirements on the extent
3 of future overhaul work.

4 The next issue I address is the escalation
5 of nonlabor O&M expenses. In its initial filing, the
6 Company escalated these nonlabor O&M expenses using
7 industry-specific escalation factors developed by IHS
8 Markit in its fourth quarter 2019 forecast that was
9 released in February 2020.

10 In my direct testimony, I recommended those
11 factors be updated based on a more recent forecast
12 released by IHS Markit. These more recent factors
13 result in negative escalation rates for some but not
14 all of the FERC accounts. My recommendation to
15 update for the more recent escalation factors
16 forecast by IHS Markit were consistent with
17 PacifiCorp's position in an ongoing Oregon rate case.

18 Rather than agreeing to also reflect updated
19 factors in this Utah proceeding as it did in the
20 Oregon proceeding, the Company instead removed the
21 application of escalation factors in its rebuttal
22 filing. I continue to recommend that the base year
23 nonlabor O&M expenses be escalated to test year
24 levels, and that is the forecast period levels, using
25 the more recent industry specific escalation factors.

1 The application of escalation factors to
2 base year nonlabor O&M expenses is consistent with
3 prior Rocky Mountain Power rate case proceedings,
4 consistent with PacifiCorp's approach in the
5 concurrent Oregon rate case, and consistent with the
6 Commission's findings on this issue that was recently
7 affirmed in a Dominion Energy Utah rate occasion.

8 The next issue addresses the Deer Creek Mine
9 closure regulatory asset. OCS is in agreement with
10 Rocky Mountain Power that a portion of the protected
11 property plant and equipment EDIT amortization
12 regulatory liability -- this is the tax benefit
13 regulatory liability -- it should be used to offset
14 various regulatory assets in this cause. The only
15 difference between the Office and the Company
16 regarding the amount of regulatory assets that should
17 be offset pertains to a single component of the Deer
18 Creek Mine closure regulatory asset. That component
19 is the estimated recovery-based royalties included by
20 the Company. As explained in my testimonies, these
21 recovery-based royalties are not yet known and
22 measurable and have not yet been paid by the Company.

23 The Company indicated, in response to
24 discovery that I believe was attached to my direct
25 testimony, that it had not yet begun negotiations

1 with the Office of Natural Resources Revenue to
2 settle the amount owed. Rather than offset these
3 estimated future potential payments with the known
4 existing regulatory liability, I recommend that the
5 recovery-based royalties be addressed in a future
6 rate case after the amounts are known and have
7 actually been paid. There is no harm to the Company
8 in deferring the costs, and there is the potential
9 that the Company will receive overriding royalties on
10 coal produced from fossil rock coal reserves that
11 would offset these costs.

12 The next issue that remains in dispute is
13 the treatment of the Utah out in the -- or advanced
14 meter and infrastructure AMI project. Due to delays
15 in the project, the Company has substantially reduced
16 the amount included in the average test year plan
17 service that was forecast, going from approximately
18 56 million in its direct filing to 12.4 million in
19 that average plan service in its rebuttal filing.

20 While the Company has included a portion of
21 the estimated project costs in the test year, it has
22 not included any of the anticipated cost savings or
23 anticipated resolving increase in revenues. As
24 explained in my testimony, the Company has indicated
25 in response to discovery that none of the identified

1 benefits associated with AMI functionality and none
2 of the ways in which the project drives a more
3 customer-driven delivery strategy will be realized
4 during the test year. Such benefits are not
5 anticipated by RMP to be realized until 2023.

6 While RMP Witness Mansfield revised this
7 position slightly in his rebuttal testimony,
8 indicating that a few of the benefits for some of the
9 customers are anticipated to begin during the test
10 year, none of the potential cost savings were
11 included in the test year. I recommend that the Utah
12 AMI project be excluded from the test year as the
13 benefits of the project are largely not expected
14 until 2023 when the project is fully implemented, the
15 purported benefits are not reflected in the test
16 year, and the project will not be fully used and
17 useful in the test year.

18 The next issue and several following issues
19 pertain to pension expense. The key issue in the
20 case is how a projected 2021 settlement loss should
21 be treated for purposes of determining the amount of
22 pension expense that should be included in revenue
23 requirements resulting from this proceeding. As
24 background, certain actuarial gains and losses that
25 result from changes in the actuarial assumptions and

1 the difference between the actual and expected
2 pension plan experience are not recognized fully in
3 the period they are incurred.

4 Rather, and in general, the actuarial gains
5 and losses are amortized and recognized as part of
6 the pension cost calculations over the average
7 remaining life expectancy of the pension plan
8 participants. This smooths the impacts of both
9 actuarial gains and losses on the annual pension cost
10 and helps to avoid extreme fluctuations in the
11 resulting annual pension costs that would otherwise
12 be caused by changes in actuarial assumptions and
13 plan experience deviating from what was projected.

14 Under the Company's pension plan, certain
15 nonunion retiring employments can elect to either
16 receive a lump sum cash distribution or an actual
17 equivalent life annuity upon their retirement. If
18 the aggregate lump sum cash distribution to plan
19 participants in a given calendar year exceeds or is
20 greater than a certain threshold amount, a portion of
21 the previously unrecognized actuarial gains and
22 losses must be recognized immediately instead of
23 amortized over time.

24 This is what causes the projected settlement
25 loss for the 2021 test year in this case. The

1 Company anticipates that the lump sum cash
2 contribution to be paid to retiring employees during
3 2021 will exceed the threshold. In this case, the
4 Company has proposed to include the full amount of
5 the projected 2021 settlement loss totaling
6 \$11.9 million on the total Company basis as a
7 component of pension expense included in the revenue
8 requirements.

9 I recommend that on a going-forward basis
10 beginning with the test year, the Commission allow
11 the Company to defer settlement losses or settlement
12 gains that are triggered by the annual lump sum cash
13 distributions exceeding the threshold and to
14 recognize such deferred settlement losses or gains as
15 part of annual pension costs over the remaining life
16 expectancy of plan participants.

17 In other words, the actuarial losses or
18 gains would continue to be recognized in the annual
19 pension costs the same way that they would have
20 otherwise been recognized if the settlement loss had
21 not been triggered. Under this recommendation, the
22 Company's estimated test year settlement loss of
23 11.9 million would be amortized over a 21-year
24 period. This is consistent with the treatment that
25 the Company requested in Docket No. 18-035-48. While

1 the establishment of this deferral method of
2 accounting may not have been appropriate as part of a
3 request for accounting order in that docket, such
4 consideration is appropriate and reasonable in the
5 context of a general rate case proceeding.

6 The next issue around pensions is the
7 pension balancing account. The Company has requested
8 a balancing account for the first time in its
9 rebuttal filing as an alternative proposal. Under
10 this proposal, the Company would still include the
11 full projected 2021 settlement loss and pension
12 expense instead of amortizing the amount as
13 recommended by the Office and UAE, both.

14 Under this new alternative proposal,
15 starting with the rate effective date of this case,
16 the Company would defer the difference between the
17 amount of pension expense included in revenue
18 requirements in the amount that it actually books,
19 resulting in a regulatory asset or regulatory
20 liability.

21 I do not recommend that the Commission adopt
22 this 11th-hour approach presented by RMP in its
23 rebuttal filing less than one month prior to the
24 start of hearings in this case. It would result in a
25 substantial shift in how the pension costs are

1 treated for rate-making purposes in Utah.

2 The Company has accounted for pension
3 expense using the actuarial or the accrual method of
4 accounting for over 30 years, and the pension expense
5 has been included in revenue requirements based on
6 that accrual method of accounting for a long, long
7 time. I do not recommend that now, many years after
8 the transition to accrual accounting and now that
9 those plans are close to new participates with the
10 benefits frozen, that a new balancing account
11 approach be implemented.

12 The next issue addresses the net pension and
13 postretirement welfare plan prepaid asset. In this
14 case, the Company has included the projected test
15 year prepaid pension asset and accrued other
16 postretirement assets net of the associated
17 accumulated deferred income taxes as a component of
18 rate base. This results in a \$110.3 million on a
19 Utah basis being included in rate base in this case.

20 RMP first proposed to include in that
21 prepaid pension asset and rate base in its prior --
22 most recent prior rate case, which was resolved in a
23 settlement which was silent on this issue.
24 Consistent with my position in that last rate case, I
25 continue to recommend that the net prepaid asset and

1 other postretirement asset be excluded from rate
2 base.

3 As background, the prepaid pension asset and
4 other postretirement asset is the difference between
5 the cumulative total amount of pension expense and
6 postretirement benefit expense recognized by the
7 Company for accounting purposes on its books and the
8 cumulative total amount of cash contributions made to
9 the defined benefit plans.

10 In other words, the balance of the prepaid
11 asset is based on a running tally of the total amount
12 of cash contributions made to these plans less the
13 total amount of expenses recorded over time on the
14 Company's books for the plans. Over the duration of
15 those retirement plans, the total amount of cash
16 contributions will ultimately equal the total amount
17 of expense associated with these plans.

18 The difference between the total cumulative
19 cash contributions to the plans and the total
20 cumulative booked expense can result in either a
21 prepaid asset or an accrued liability to the Company
22 on its books. For many past years, the Company was
23 in an accrued liability position, and during that
24 time, the associated liability was not included as a
25 component that would have offset rate base.

1 To the best of my knowledge, the Company
2 never requested to include either a prepaid asset or
3 the accrued liability as a component of rate base
4 until the last rate case, in which there was a net
5 asset balance. In my opinion, it would be unfair to
6 change rate -- to charge ratepayers a return now that
7 the Company is in a net prepaid position when
8 ratepayers did not benefit through reduction to rate
9 base during the many past years in which the net
10 accrued a liability existed.

11 Additionally, as explained in my testimony,
12 the Company has not demonstrated that the net prepaid
13 balance for the test year was funded by shareholders.
14 This is in part because the amount of pension expense
15 and postretirement benefit expense included in rates
16 is not reset annually, while the actual expense
17 booked by the Company does, in fact, change annually.
18 It can be -- it cannot be determined that the prepaid
19 balance on the Company's books was funded by
20 shareholders and not ratepayers.

21 As also explained in my testimony, negative
22 pension expense causes the amount of prepaid pension
23 asset to increase in years in which zero dollars is
24 being contributed to the pension plan; a negative
25 pension expense booked for accounting purposes will

1 cause a prepaid pension asset balance to grow.

2 It is my opinion that inclusion of the net
3 prepaid balance in rate base is not fair or
4 reasonable. I recommend that the net prepaid pension
5 asset and accrued other postretirement assets
6 continue to be excluded from rate base.

7 There is one remaining issue that I wish to
8 discuss in this summary for the Commission, and that
9 is what should be done with the remaining protected
10 property plant and equipment EDIT amortization
11 regulatory liability that is not being used to offset
12 the various regulatory assets in this proceeding.

13 The Company has proposed that the remaining
14 balance be flowed back to customers over a two-year
15 period to mitigate the impact of its proposed
16 increase and rates in this case. Since the Office is
17 recommending a reduction in rates in this case
18 instead of an increase, I recommended that the
19 remaining regulatory liability balance instead be
20 amortized back to ratepayers over an initial period
21 of 10 years with the unamortized balance being
22 reflected as a reduction to rate base. The balance
23 remaining at the time of the next rate case could
24 then be reconsidered to determine the best use of the
25 remaining balance of that regulatory liability.

1 As explained in my direct testimony, there
2 are many options available to the Commission for
3 returning this regulatory liability to Utah
4 ratepayers. If the amount of revenue requirement
5 resulting from the Commission's findings in this case
6 results in a rate increase instead of a decrease
7 recommended by the Office, the Commission could
8 select a shorter amortization period than the 10
9 years presented in my direct testimony.

10 During the current public health emergency,
11 it would be reasonable for the Commission to take
12 into account the overall change in revenues resulting
13 from its findings in this case when selecting the
14 period over which to return that regulatory liability
15 to customers. This is a great mitigation tool at the
16 Commission's disposal that can be used to assist Utah
17 ratepayers during these challenging times.

18 And that concludes my summary. Thank you.

19 MR. SNARR: Thank you. Ms. Ramas is now
20 available for cross-examination.

21 COMMISSIONER LEVAR: Thank you. I'll go to
22 the Division of Public Utilities first.

23 Do you have any questions for Ms. Ramas?

24 MR. JETTER: No questions. Thank you.

25 COMMISSIONER LEVAR: Thank you.

1 Mr. Russell?

2 MR. RUSSELL: No questions. Thank you.

3 COMMISSIONER LEVAR: Mr. Holman?

4 MR. HOLMAN: No questions. Thank you.

5 COMMISSIONER LEVAR: Thank you.

6 Mr. Sanger?

7 MR. SANGER: I have no questions. Thank
8 you.

9 COMMISSIONER LEVAR: Mr. Boehm?

10 MR. BOEHM: No questions, Your Honor. Thank
11 you.

12 COMMISSIONER LEVAR: Okay. Thank you.

13 Rocky Mountain Power?

14 MR. SABIN: Yes, I'm here. Mr. Sabin. I'll
15 be doing this, and I -- as has Ms. Shurman, I've
16 moved over to the witness computer. Hopefully that
17 will help so everybody can see.

18

19 CROSS-EXAMINATION

20 BY MR. SABIN:

21 Q. Ms. Ramas, thank you for being here today.

22 I just have a couple of questions. And I'd like to
23 start with one issue you didn't address in your
24 summary, which was the question of property taxes.

25 You did address those in your surrebuttal

1 **testimony; correct?**

2 A. Yes, briefly.

3 **Q. Okay. And my understanding of your**
4 **surrebuttal testimony is that you don't accept the**
5 **Company's tax -- property tax update from its**
6 **rebuttal testimony; is that correct?**

7 A. I don't believe that's quite what I said.
8 So let me get to that page. It was more that I
9 wasn't -- oh, I'm sorry.

10 **Q. No, no, no. You go ahead. You go ahead, if**
11 **you need to. Absolutely.**

12 A. Yeah, it's a little difficult, virtually, to
13 see who's talking.

14 **Q. Sure. For sure. Take whatever time you**
15 **need because, as you've seen, it's been hard for**
16 **everybody, I think, involved. So no problem.**

17 A. Yeah. I'm not quickly finding the page
18 reference, but...

19 **Q. I think I was referring, if it helps you, to**
20 **page 9. I read in your surrebuttal that -- toward**
21 **the bottom of page 9 -- and maybe I have**
22 **misinterpreted you, and if I have, then please, by**
23 **all means, please correct me.**

24 A. Yes, I believe you have. I -- what I
25 indicate is that I haven't reflected it in the

1 revenue requirement. Based on where the issue stood
2 at that point in the case, I didn't have enough
3 information to determine if I agreed this update was
4 reasonable or not; so therefore, I didn't include it.
5 I did issue some data requests to try to get some
6 more information from the Company on its rebuttal
7 position on that large increase in its rebuttal.

8 And I was under the assumption that perhaps
9 the Division would have filed a surrebuttal testimony
10 addressing -- that would shed more light on it for
11 me. And that didn't occur, so I don't have a
12 recommendation for the Commission on that issue, if
13 it should accept the Company's direct position, its
14 surrebuttal position -- or its rebuttal position or
15 Mr. Alder's position. I don't have a recommendation
16 on that.

17 **Q. Okay. So you're just -- to the best of what**
18 **you're saying here is you're not taking a position**
19 **one way or the other whether they should or**
20 **shouldn't?**

21 A. Whether it should be updated or not, no, I'm
22 not. I'm not familiar enough with the issue to weigh
23 in.

24 **Q. Okay. Okay. Thank you. I'd like to switch**
25 **now to the transmission power delivery bad debt**

1 expense question, which I think is actually where you
2 did start your summary. I want to be clear of a
3 couple of points here as we start off on this issue.

4 You would agree, wouldn't you, that the
5 goal -- our goal in establishing a reasonable test
6 year is we're trying to anticipate reasonably
7 expected costs during that period of time; right?

8 A. Yes.

9 Q. Okay. And a secondary portion for the
10 Company, in particular, is that the Company, in that
11 test year, is trying to ensure that it's going to be
12 able to cover its prudently incurred costs; right?

13 A. Yes, I would agree.

14 Q. And if I understand your testimony on this
15 bad debt expense that -- this transmission power
16 delivery bad debt expense -- I really tried to come
17 up with a better acronym for this because it's so
18 long to repeat that every time. If I just say "bad
19 debt expense," do you understand what I mean?

20 A. I understand what you mean as long as the
21 Commission is very clear that this is related to
22 transmission power delivery customers and not your
23 Utah distribution customers.

24 Q. Yeah. Unfortunately, there's no vowels in
25 the -- any of the words, so coming up with an acronym

1 made it very cumbersome. So, anyway, I'll just refer
2 to it as bad debt expense. Okay?

3 That bad debt expense, I take it you don't
4 say anywhere in your testimony that you're alleging
5 that the Company didn't act prudently in all respects
6 with regard to those particular transmission
7 relationships that resulted in a bad debt expense;
8 right?

9 A. No. The issue was more that it shouldn't
10 be -- it's my view they shouldn't be recovered from
11 the Utah customers.

12 Q. Okay. And I'll shift to that question now,
13 which is, if I understand your position, you're
14 saying that if we were to look at the column for the
15 test year under the line item for bad debt expenses
16 on this issue, you would put a zero there?

17 A. No, not entirely. If you turn to page 28 of
18 my direct testimony, I have a table there on
19 line 600.

20 Q. Hang on. Let me -- I'm sorry. Let me get
21 there. Hang on. Did you say 28?

22 A. Yes, page 28 of my direct testimony at
23 line 600.

24 Q. Okay. I'm there. Go ahead.

25 A. Okay. This shows a breakdown of all of the

1 uncollectible expenses that are allocated using the
2 CN or customer account factor. This would exclude
3 the bad debt expense specific to Utah customers. So
4 these are only the bad debt expenses that are
5 allocated by the Company to multiple jurisdictions
6 using the customer account calendar.

7 And if you look on this table, there's
8 several general ledger accounts that the Company
9 includes in that subtotal in account -- FERC account
10 904. My adjustment only pertained to the amount
11 associated with general ledger account 550775 bad
12 debt expense - transmission power delivery. I didn't
13 adjust remaining subaccounts that would go into
14 there. So I guess I wouldn't agree that I would say
15 the amount is zero because I do allow for the amount
16 in there. There's three other lines there which
17 would leave, I believe, about 6- -- \$6,500 in the
18 test year.

19 **Q. Well, let me just focus on -- I'm on your**
20 **page 28. Let's just focus on account 550775; right?**
21 **You follow me?**

22 A. Yes, mm-hmm.

23 **Q. In that line item, you, in your proposal,**
24 **would zero out that line; you would say there's**
25 **nothing there; right?**

1 A. Yes, because based on responses by the
2 Company, those pertain to power delivery transmission
3 power delivery customers, and the way the Company
4 described it in response to discovery is that
5 pertains to items such as interconnection study costs
6 where the amount collected from the customer didn't
7 fully recover those transmission study costs. And
8 it's my view that those shouldn't be passed on to
9 Utah customers.

10 Q. I understand. For our limited purposes now,
11 I just want to make sure, the difference between you
12 and Mr. McDougal is that Mr. McDougal says there
13 should be a number in that line -- whatever that
14 number is, we'll come to in a minute -- and you're
15 saying there should be a zero?

16 A. Yes.

17 Q. Okay.

18 A. That's my summary, yes.

19 Q. And I apologize if you hear pounding. The
20 window washers in this building apparently have
21 chosen the worst possible moment to clean the windows
22 in the building. And if you see somebody actually
23 hanging from a rope behind me, a shadow in the
24 window, I'm -- it's actually really hard to focus on
25 my questions.

1 A. It's hard for me to focus on you because I
2 see his shadow behind you.

3 Q. It looks -- if this was Halloween -- maybe
4 that would be better if this was Halloween, right,
5 somebody hanging from the outside window.

6 This is -- anyway, I'm sorry about the
7 distraction. I apologize.

8 COMMISSIONER LEVAR: Would it be an
9 appropriate time to break for lunch anyway? We're a
10 few minutes early, but with that distraction, should
11 we just go ahead and do that?

12 MR. SABIN: I'm happy to do whatever is
13 convenient for the parties. I didn't -- I just
14 didn't want people to think -- I wanted to make sure
15 I had an explanation of what was going on here.

16 COMMISSIONER LEVAR: I'm assuming you're not
17 going to be able to finish your cross-examination
18 before lunch anyway --

19 MR. SABIN: No.

20 COMMISSIONER LEVAR: -- so why don't we go
21 ahead and break.

22 MR. SABIN: Okay. We'll do that. Thank you
23 very much.

24 COMMISSIONER LEVAR: Thanks. Okay.

25 (A lunch recess was taken.)

1 COMMISSIONER LEVAR: Okay. Thank you.
2 We'll go back on the record and continue with
3 Mr. Sabin's questions for Ms. Ramas.

4 BY MR. SABIN:

5 Q. Ms. Ramas, can you hear me okay?

6 A. Yes, I can.

7 Q. Great. I can hear you much better now
8 without the banging behind me, so thank you --

9 A. You're welcome.

10 Q. -- for understanding.

11 Okay. When we left off, we were looking at
12 page 28 of your -- I think it was your direct; right?
13 No, excuse me. Yeah, it was your direct. And you
14 had pointed me down to a chart at the bottom of
15 page 28.

16 Are you still there?

17 A. Yes, I am. I am now.

18 Q. And we had been talking about line
19 item 55- -- or Account No. 550775 entitled Bad Debt
20 Expense Transmission PD; right?

21 A. Correct.

22 Q. And I was -- I had just asked the question,
23 as between you and Mr. McDougal, the difference of
24 opinion, as I understand it, is he puts a number in
25 that account line item whereas you would say it would

1 **be zero. And I think you said yes; correct?**

2 A. Yes, I recommend zero; he recommends an
3 amount based on a three-year average.

4 **Q. If I heard your summary correctly, you**
5 **acknowledge that there was -- at least with respect**
6 **to the \$900,000 item -- it's \$981,000 expense item in**
7 **2019, that you acknowledge that the Company has, in**
8 **fact, written that off?**

9 A. Yes, they've written it off, but they are
10 still pursuing recovery of that based on a data
11 response to the record. But for book purposes, they
12 wrote it off.

13 **Q. All right. And you have an accounting**
14 **background. And for book purposes, when somebody**
15 **writes off an item, typically that means they don't**
16 **have an expectation of recovery; isn't that right?**

17 A. It means they think it more likely than not
18 that they won't recover it, but they are still
19 pursuing it.

20 **Q. Okay. And I'll -- I take it you're not**
21 **taking the position that they're likely to recover**
22 **that amount; right?**

23 A. I don't challenge how they accounted for it,
24 no.

25 **Q. Okay.**

1 A. No way to know. I don't disagree with how
2 they accounted for it.

3 Q. And do I understand your testimony correctly
4 that you don't also dispute that in the five years --
5 or five or six years that the Company provided
6 information about this particular line item, that in
7 each of those years, the Company has had some level
8 of expense on that particular account; right?

9 A. Yes. Extremely low, with the exception of
10 the test year and, I believe, 2016, where there was
11 another specific customer amount written off in that
12 single year, another power delivery customer.

13 Q. Right. So there's been an item in there
14 every year, but it's fluctuated a great deal.

15 Do we agree on that?

16 A. Yes. For most years, it's extremely low.
17 But they were certainly substantial amounts in two of
18 the years presented pertaining to two specific
19 customers.

20 Q. Okay. And you acknowledge that this is an
21 expense item that ultimately comes out of the
22 Company's bottom line.

23 It has to -- it has to come up with that
24 either out of its own pocket or out of -- or it's
25 treated as a normal expense and recovered through

1 **rates; right?**

2 A. Yes, it's an item that's expensed on the
3 Company's books.

4 **Q. Okay. And I want to be clear, under your**
5 **proposal, then, the Company would get no recovery of**
6 **any of these expenses in the test year, even though**
7 **in every year, it has had a number in that column?**

8 A. In that specific subaccount, yes. It's my
9 position, as I indicate in my testimony, the Company
10 hasn't provided reasonable explanation for why these
11 amounts are being pursued to be recovered from Utah
12 ratepayers. Again, these are transmission power
13 delivery customers and didn't pertain to
14 interconnection studies. And I still didn't see an
15 explanation in the Company's rebuttal or in response
16 to discovery on why those should be passed on to the
17 Utah customers using the CN allocation.

18 **Q. Were you present during Mr. McDougal's**
19 **testimony where he explained that very issue?**

20 A. Yes, but I did not recall him explaining why
21 those costs should be amounts that should be
22 recovered from Utah ratepayers as opposed to
23 transmission customers.

24 **Q. Okay. But you acknowledge this is not a --**
25 **this isn't a transmission -- well, I -- I'll just**

1 leave it at that.

2 You heard his explanation, and you haven't
3 changed your position despite that?

4 A. Correct. I haven't changed my position.

5 Q. Okay. Ms. Ramas, it is common, is it not,
6 in regulatory rate making, where we have expenses
7 that vary greatly over from year to year, to use an
8 average over that period of time and to -- because we
9 can't anticipate exactly what it's going to look
10 like, we will take a multiyear period, then we will
11 look at them and we will decide on a yearly period
12 and we'll set an average; right?

13 A. For certain select costs, yes. For example,
14 the generation overhaul expenses.

15 Q. Right. That can vary wildly from year to
16 year.

17 Do we agree?

18 A. Yes, I agree with that.

19 Q. Okay. Just as this expense varies wildly
20 from year to year; right?

21 A. Yes, I agree that expense varies wildly, but
22 that does not mean I agree that those costs should be
23 passed on to Utah customers due to the nature of the
24 costs.

25 Q. Okay. And we agree, also, that

1 Mr. McDougal's rebuttal proposes to use an average
2 over a three-year period; right?

3 A. Yes, that's what he recommends.

4 Q. Okay. And a final question on that point,
5 if we don't have some category or some way to -- some
6 number in there, the Company won't be able to collect
7 any of this expense.

8 You agree with that; right?

9 A. Not necessarily. Because, again, the
10 Company is including this in an account that it
11 applies the CN allocation factor that it charges to
12 Utah. I presume the Company could allocate this cost
13 differently. It is -- it does pertain to
14 transmission power delivery customers. So just
15 because it's not included in Utah rates through use
16 of the customer account allocation factor doesn't
17 mean the Company doesn't have another way to recover
18 those costs.

19 Q. But as we said today, that's not how the
20 Company -- that's not how this rate case has played
21 out. This is an item of expense that the Company has
22 included, and you've said it should be excluded.

23 A. Correct.

24 Q. Okay. I'd like to shift now to talk briefly
25 about the AMI issue. And you may or may not have

1 been present.

2 Were you present when Mr. Mansfield
3 testified?

4 A. I was listening in. I wasn't in the hearing
5 room, but I watched it on the live stream.

6 Q. And if I understood your opening statement,
7 I was a little confused by it because it almost made
8 it sound like you hadn't heard his testimony.

9 Do you understand him to have clearly stated
10 that the Company is only seeking in this rate case to
11 recover those costs associated with the benefits that
12 will actually be deliverable and available to
13 customers prior to the end of the test year?

14 A. It's my understanding that it's only related
15 to those assets that the Company anticipates to place
16 in service during the test year. So some customers
17 will be use -- and some number of AMI meter customers
18 will be using those assets. I would agree with that.

19 Q. Right. And he -- and if I have the number
20 right, he anticipated about 35,000 customers, at
21 least, in -- would have that available to them. And
22 he said "if not more."

23 Do you agree with me that he did -- he was
24 asked to kind of quantify that, and he said it would
25 be at least 35,000, but it could be more?

1 A. Yeah. I recall 34,000-something. But
2 again --

3 **Q. Okay.**

4 A. -- I took it out of my testimony. It is
5 not -- I acknowledge in my testimony that some will
6 be placed into service during the test year, but the
7 cost savings associated with this project are not
8 included in the test year. The Company's included
9 some of the plant going into service, and it's my
10 opinion that does not properly match the benefits of
11 those projects with the costs in the filing. There
12 are none of the cost savings reflected in the test
13 year.

14 **Q. Okay. Well, let's just start here.**
15 **Customers will -- it's right, isn't it, that**
16 **customers will be able to use the service and will be**
17 **able to derive benefits. We can argue about what**
18 **level of benefit, but they will be deriving some**
19 **benefit from this service prior to the end of the**
20 **test period; correct?**

21 A. Yes. A small amount of customers -- oh, I'm
22 sorry. Was someone else speaking?

23 **Q. I don't think so, but go ahead.**

24 A. Okay. I'm sorry. I thought I heard someone
25 else speaking.

1 No, some customers will have those AMI
2 meters in place by the end of the test year. I agree
3 with that. They'll be using those AMI meters. But
4 the whole driver of this project, if you look at the
5 requisition and the project approval forms, is
6 because it's supposed to deliver benefits in the form
7 of cost savings. It offsets the cost of the project.
8 So it's my opinion that while they're used and
9 useful, they're not fully used and useful because the
10 ratepayers -- there's none of the contin- -- or the
11 offsetting benefits reflected in this case.

12 **Q. Okay. I understand your position. I**
13 **appreciate you clarifying.**

14 A. No problem.

15 **Q. All right. I'd like to move now to the**
16 **pension settlement question with you first. And I'll**
17 **refer to the pension settlement loss issue just by**
18 **that term, and then I will refer to the other as just**
19 **pension in rate base. I'll try to talk about that**
20 **separately from this first issue. I know you've**
21 **treated them separately in your summary.**

22 So as it relates to pension settlement
23 losses, as I understand your surrebuttal testimony
24 and direct testimony, you don't dispute that the
25 Company went out and figured out, using its best

1 available information, what that settlement loss
2 would be, what the amount would be.

3 Do we agree on that?

4 A. Yes. They came up with their best estimate
5 in consolidation with their outside actuarial firm.

6 Q. Okay. And you're not arguing, I take it,
7 that the estimate's not a reasonable calculation or
8 that it's not that the Company won't incur any
9 settlement loss during this period of time at issue?

10 A. No. I'm not challenging the estimate they
11 came forward with for the test period.

12 Q. And you're not asserting that it's -- that
13 these are imprudent costs; right?

14 A. No, absolutely not.

15 Q. Okay. So I think we can agree that because
16 they're prudently incurred costs and the Company has
17 done its level best using all the information
18 available to it to identify these costs, that there
19 is a loss -- there is a cost item that the Company
20 needs to recover somehow.

21 Do we agree on that?

22 A. Yes. I agree that it's reasonable to allow
23 recovery of those costs as part of the test year.

24 It's --

25 Q. Okay. And I'm just going to read a quote,

1 and we can turn there if you'd like, but I think it
2 might speed things up if I just read this. This is
3 out of Ms. Kobliha's testimony. I'm referring to
4 lines 51 through 56 if you want to follow along.
5 But -- and as a prelude to this quote, Ms. Kobliha
6 explains that because there is this cost that's been
7 incurred, there has to be some solution for
8 collecting it. And she says there's three
9 alternatives, and she lays them out. And then she
10 reads -- and then here's the quote:

11 Absent one of these alternatives, the Company
12 would not have the opportunity to recover
13 pension settlement losses which are merely
14 amounts that would have otherwise been
15 subject to recovery as part of net periodic
16 benefit costs absent the pension settlement
17 counting trigger. Both Ms. Ramas and
18 Mr. Higgins acknowledge this, with
19 Mr. Higgins specifically stating that he does
20 not challenge the recovery of the forecast
21 settlement loss.

22 And that's the end of the quote. And today
23 we've just established you don't really -- you don't
24 argue either that -- you don't challenge that this
25 cost needs to be recovered either; right?

1 **That's right, isn't it?**

2 A. No. In fact, I made an adjustment that
3 would still allow for the recovery, just amortized
4 instead of all in a single year.

5 Q. Right. And so you agree, I take it, then,
6 that the Commission -- the issue before the
7 Commission is what's the best mechanism for the
8 Company to recover this cost going forward.

9 Do we agree on that?

10 A. Yes. As -- in context with an overall
11 revenue requirement determination for the test year,
12 what's the best way to incorporate that projected
13 pension expense in rates?

14 Q. Okay.

15 A. For recovery. Yes.

16 Q. And Ms. Koblaha's proposed alternative is to
17 use a balancing account for both pension settlement
18 losses as well as addressing all of the other pension
19 issues we'll come to from the -- the other pension
20 expenses that are being addressed here in this rate
21 case; right?

22 That's her idea is let's just have all of
23 them put into balancing accounts so we ensure both
24 expenses and benefits are properly allocated between
25 the Company and customers.

1 **Is that how you understand her proposal?**

2 A. She raises it as an alternative proposal, so
3 I didn't take that as her primary recommendation. I
4 took it as an alternative proposal for the Commission
5 to consider.

6 **Q. Okay.**

7 A. But that's my understanding, that it's
8 something -- one of the methods she's offered as a
9 way to address this issue.

10 **Q. Yeah. And I appreciate that. Actually, in**
11 **her direct testimony, she does say -- you're correct.**
12 **She says -- she initially proposes just to have the**
13 **pension settlement loss included in the rate recovery**
14 **in the revenue requirement; right?**

15 A. That's how it was presented in her direct
16 testimony position. It wasn't until the -- her
17 rebuttal testimony and Mr. McDougals's rebuttal
18 testimony that they raise this new balancing account
19 approach. And I still read it as she calls it an
20 alternative. So I took that as an option, not their
21 primary position.

22 **Q. Fair enough. And she was offering that**
23 **alternative because you and Mr. Higgins had raised**
24 **concerns about the idea of just including the figure**
25 **in -- entirely without some other way to deal with**

1 **other pension aspects; right? You were saying that**
2 **you can't just look at this in isolation.**

3 A. No, I was under the -- as I explained in my
4 testimony, if not for the unique circumstances
5 regarding the amount of retirees that take that lump
6 sum cash benefit compared to the -- what's the right
7 word -- the trigger that would cause part of those
8 past losses to be recognized, if not for that
9 occurring, these would have been amortized in as part
10 of pension expenses, gains and losses, over the
11 remaining life of employees.

12 So I simply recommend that, consistent with
13 what the Company asked for in the recent pension
14 docket, you treat those unrecognized gains in the
15 old -- or losses or potentially gains in the future
16 as though that triggering hadn't occurred, and just
17 continue to amortize those costs over the amortized
18 period -- amortization period that would otherwise
19 occur.

20 **Q. I understand. Thank you.**

21 **And the 2018 docket you just referenced,**
22 **that was only addressing pension settlement losses;**
23 **right? It wasn't addressing any other**
24 **pension-related issues; isn't that true?**

25 A. That was the Company's request, but I know,

1 for example, the Office's position was that it wasn't
2 appropriate to look at just that -- well, we had a
3 lot of positions, but --

4 **Q. I understand.**

5 A. Yes. But we did raise overall pension
6 expense in that docket and the resulting overall
7 pension expense, not just focusing only on net
8 settlement loss.

9 **Q. Well, but the Company's proposal on deferral**
10 **was related in that docket only to pension-related**
11 **settlement losses; correct? That's your rebuttal --**
12 **your surrebuttal states.**

13 A. Yeah, that proposed to take out that one
14 component of the determination of pension expense and
15 defer just costs associated with that one component
16 outside of a rate case proceeding.

17 **Q. Right. And the Office's position was**
18 **shouldn't be dealt with outside of a rate case; you**
19 **need to go deal with it in a rate case. Right?**

20 A. Yes. And I -- that's why I indicate in my
21 testimony that now is the correct time to consider
22 such an amortization approach.

23 **Q. Right. And the last thing I want to make**
24 **clear on this pension settlement loss point is**
25 **Ms. Koblaha's proposal for a balancing account is not**

1 limited as it was in the 2018 docket to just pension
2 settlement losses; she's trying to capture all of the
3 moving parts of the pension accounts to make sure
4 that not just losses but all pension expenses and
5 prepaid pension assets, all that, are properly
6 accounted for and that both the customer and the
7 Company are receiving the proper amount of benefit
8 and/or cost; right?

9 A. That's what she recommends, and I disagreed
10 with that recommendation in my testimony.

11 Q. Right. I understand -- I understand you
12 have a different proposal, and appreciate you
13 explaining that.

14 As it relates to the other pension -- I'm
15 going to shift now to the other pension issue, the
16 more -- more broadly, the pension-related expense
17 issue.

18 If I understood your testimony -- your
19 summary correctly, I think I heard you say that
20 the -- that with regard to that issue --

21 A. I'm sorry. You said other pension expense
22 issue? Are you referring to the balancing account or
23 to the rate base component?

24 Q. Sorry. The rate base component. Thank you
25 for clarifying. Yes, pension rate base component.

1 Yes.

2 A. Okay. Thank you.

3 Q. Let me just turn in my notes there.

4 So as it relates -- if I understood you
5 correctly during your -- your opening statement, you
6 raised a concern that -- or expressed a view, if I
7 understand you correctly, that negative pension
8 expense doesn't mean that the Company has incurred
9 any monetary consequence of that. That doesn't
10 necessarily mean the Company has to put out any
11 money.

12 Is that what I'm understanding you to say?

13 A. Well, this -- again, the summary was taken
14 from my presentations and my direct and surrebuttal
15 testimonies. And as I explained, the year where you
16 have zero cash contributions, the Company hasn't
17 actually outlaid cash into the pension plan but yet
18 it records negative pension expense on its books.
19 That would increase that prepaid pension asset that
20 the Company seeks to include in rate base.

21 Q. Yeah. That's what I thought I heard you
22 say. Okay.

23 So I just circulated an exhibit. It should
24 be Exhibit 12. And I'm not sure if your counsel has
25 forwarded that to you.

1 **Do you have Exhibit 12 there in your email?**

2 A. I have something -- let me go to the top to
3 see if it has an exhibit number. I have a file that
4 was called Douglas K. Stuver.pdf. I didn't see --

5 **Q. Yeah, that's the one. That's the one.**

6 A. Okay. So that's No. 12?

7 **Q. That's No. 12. Thank you. If I didn't --**
8 **if it's not in the email, please, everybody can note**
9 **that's No. 12. Okay?**

10 Would you open that testimony up? And let
11 me represent that this is -- Douglas Stuver was a
12 witness for the Company in the past -- in the last
13 rate case for the Company, and this very issue, this
14 very question that you are raising now in your
15 summary, was asked of him in his testimony, and I
16 want to read -- we're going to start on page 18 of
17 his testimony. It starts with line 399. And I've
18 highlighted it for your convenience. Hopefully
19 you've been able to see that.

20 MR. SNARR: I'd like to object. Are we
21 trying to bootstrap testimony from a prior rate case
22 into this case without bringing the appropriate
23 witnesses?

24 MR. SABIN: I believe part of the --
25 Mr. Chairman, why don't you -- you let me know.

1 COMMISSIONER LEVAR: Well, yeah. Mr. Sabin,
2 would you respond to Mr. Snarr?

3 MR. SABIN: Sure. Thank you.

4 So, no, I think that the -- that this issue
5 came up in the past -- last rate case, and for cross
6 purposes, I think I'm entitled to use an exhibit that
7 was presented in the last rate case on this very
8 question and that was part of the record in that last
9 proceeding.

10 MR. SNARR: Well, the point is I don't think
11 it comes through as valid testimony to be considered
12 in this proceeding, although you can ask questions of
13 Ms. Ramas about positions or comments taken by the
14 Company in the past. But it doesn't rise to the
15 level of testimony in this proceeding; it's just a
16 tool for -- if you're going to use it, it's just a
17 tool to cross-examine her.

18 MR. SABIN: And I don't think I ever
19 represented I was using it for any purpose other than
20 that.

21 MR. SNARR: Very well.

22 MR. SABIN: I'm not offering Mr. Stuver as a
23 witness here. He's not -- certainly not on the list.

24 With that, am I okay to proceed forward with
25 using this as a cross exhibit, Mr. Chair?

1 COMMISSIONER LEVAR: My understanding of
2 Mr. Snarr's objection would be to a motion to admit
3 this into evidence, which we don't have in front of
4 us right now, so -- and there doesn't seem to be an
5 objection to you asking Ms. Ramas questions relating
6 to that, so why don't you go ahead.

7 MR. SABIN: Okay. Thanks.

8 BY MR. SABIN:

9 **Q. Ms. Ramas, are you at line 399 there?**

10 A. Yes, I am.

11 **Q. Could you read the question --**

12 A. And I do recall -- I'm sorry. I do recall
13 him filing rebuttal. And I did not submit
14 surrebuttal because my recollection is the case
15 settled before I got to that point.

16 **Q. Okay. So would you read Mr. -- the question**
17 **there at 399, and then we'll talk about the answer.**

18 A. Aloud, or...

19 **Q. Yes, please. Aloud. Sorry. Thank you.**

20 A. Okay.

21 Dr. Powell asserts that the Company failed to
22 explain implications to the Company and
23 customers of negative pension expense.

24 Please explain these implications.

25 **Q. Okay. Now would you read the answer that**

1 **Mr. Stuver provided there.**

2 A. Okay.

3 Negative pension expense increases the
4 prepaid pension asset and is appropriate to
5 include in rate base because the Company's
6 cash position is reduced by the amount of
7 negative pension expense passed to customers.
8 For example, assume the Company has negative
9 pension expense of 10 million and no cash
10 contributions. Customers in that instance
11 receive a \$10 million revenue requirement
12 reduction, which directly translates into
13 10 million less in cash held by the Company.
14 Regardless of whether the Company has had
15 10 million less in cash because it
16 contributed 10 million to the pension trust
17 and had zero expense or contributed zero to
18 the pension trust and had 10 million in
19 negative pension expense, the Company's cash
20 position is 10 million less in either
21 circumstance and the financing needs of the
22 Company are the same. Since FAS 80 --

23 **Q. You can stop -- you can stop there for the**
24 **moment. You can stop there for the moment.**

25 **It's correct, isn't it, that the two**

1 hypotheticals he gives, you know, if the Company had
2 \$10 million in cash because it contributed -- I'm
3 going to start on line 408 there. He says regardless
4 of whether the Company has 10 million less in cash
5 because it contributed \$10 million to the pension
6 trust and had zero expense or, alternatively,
7 contributed zero to the pension trust but had
8 \$10 million in negative pension expense, it's true,
9 isn't it, Ms. Ramas, that in both of those
10 circumstances, the Company is -- the cash position of
11 the Company is \$10 million less for them? They have
12 to come up with it somewhere.

13 A. That would only be true if that negative
14 pension expense had been incorporated in rates in a
15 rate case. And to the best of my knowledge, I know
16 the Company, since the last rate case, has had
17 negative pension expense in several of those years,
18 but I'm not aware of negative pension expense ever
19 being included in rates charged to Rocky Mountain
20 Power ratepayers as of this point.

21 If you somehow tried it up each year and had
22 a mechanism where you tied the amount of pension
23 expense booked to the amount ultimately recovered
24 from ratepayers, then there would be more merit to
25 that.

1 Q. Okay. And that's -- and that is, in fact,
2 what Ms. Koblaha's proposing, right, through a
3 balancing account, is to do that very same mechanism
4 that you just referenced?

5 A. On a going-forward basis. But the problem
6 is, coupled with that, she wants to include
7 \$110 million on a Utah basis -- or 110.5 million for
8 historically accumulated prepaid pension assets net
9 of the accumulated deferred income taxes on the
10 Company's books. She's not proposing that going
11 forward, that now you start tracking it and then only
12 the rate base amount to include in the rate base be
13 based on it after that true-up is -- or balancing
14 account goes into effect. So that's a key
15 difference.

16 Q. You acknowledge, though, that she did do an
17 analysis all the way back for many years to determine
18 that that -- that looking over those past expenses
19 doesn't help customers because at the end of day, the
20 Company has put out more than customers should have
21 been offset; isn't that right?

22 A. That's what she claims, but I am not sure I
23 would agree with that because of how rates are set in
24 Utah. There's not a true-up each year. And in the
25 test years, where you're dealing with a test year in

1 a rate case where there were negative prepaid pension
2 assets -- or I'm sorry -- liabilities, pension
3 liabilities, those weren't offset to rate base. And
4 my recollection -- I haven't looked at Mr. Stuver's
5 summary in the last case, and I haven't looked at her
6 exhibit in this case in a while, but you almost have
7 to assume that that was trued up every year in rates,
8 and it's not. That's not how it's done.

9 **Q. I understand your point, but -- but let me**
10 **go back to my original question, which was, you**
11 **personally haven't done your own analysis to go back**
12 **and look at how pension -- how the pension account**
13 **went back and forth as between expense for the**
14 **Company or benefit to the customers; right?**

15 A. Yeah, I haven't gone back and -- well,
16 partly you can't do that because there have been so
17 many settled cases that you don't know exactly what
18 has been assumed in rates being collected from
19 customers for pension expense. So I don't think you
20 can go back today and do that and figure out what was
21 incorporated in rates in past cases compared to what
22 was booked as expense on the Company's books each
23 year. There's too many gaps for the years where we
24 had settlements without a specific amount identified
25 for pensions in those settlements.

1 I thought they tried to do that in a prior
2 case and realized there's an issue with that because
3 of the settlement years. And I believe prior to the
4 last case, the Company couldn't go back all the way
5 to the start of accrual accounting. I want to say
6 they had information going into sometime in the '90s.
7 So I just didn't have all the data you would need to
8 do that.

9 **Q. Right. But we agree, right, that**
10 **Ms. Kobliha has gone back and compared, over a period**
11 **of a number of years all the way up, I think, to the**
12 **last rate case, and calculated that out, has she not?**

13 A. Let me check her exhibit. I thought she had
14 done her exhibit based on what was expensed on the
15 books, and that was including revenue requirements
16 charged from customers.

17 **Q. I think -- are you looking at**
18 **Exhibit NLK-1RR?**

19 A. Yes. That showed what balance was recorded
20 on the Company's books for the prepaid pension
21 balance. But again, that doesn't show you what was
22 recovered in rates from customers and included in
23 revenue requirements in past rate cases to be able to
24 determine for that prepaid pension balance how much
25 of that could have been supported by ratepayers

1 compared to shareholders.

2 Q. Okay. And you raised in your statement,
3 your opening statement, that question of -- in your
4 mind, there's uncertainty between whether customers
5 are paying -- have paid or whether the Company has
6 paid; right?

7 If I understood your summary correctly, that
8 was one of the issues you raised?

9 A. Yeah. It's my opinion that the Company has
10 not demonstrated that it's shareholders that have
11 funded that prepaid pension balance.

12 Q. Can -- that uncertainty that you're
13 referencing could be completely solved if you had a
14 balancing account, would it not?

15 A. On a going-forward basis. And just for
16 comparing what's collected in rates versus the cash
17 contributions on a going-forward basis. That would
18 tell you that, but I still don't recommend that you
19 switch now, this late in the pension plan life, to a
20 balancing account approach. It wouldn't be my
21 recommendation.

22 Q. I understand it's not your recommendation.
23 I do appreciate that.

24 And the deferred accounting approach you're
25 proposing wouldn't -- you wouldn't be -- that

1 uncertainty would still continue to persist; isn't
2 that true?

3 You wouldn't know, necessarily, one -- from
4 one year to another -- at least it wouldn't solve
5 your concern you raised during your summary, isn't
6 that right, the deferred counting option?

7 A. Oh, going forward with regards to who's
8 funding the difference -- depending on what the --
9 you know, going forward -- no, it wouldn't.

10 Q. Right. So help me understand, what's the
11 negative of doing a balancing account? Why is
12 there -- why do you oppose that when it addresses the
13 very issues that you have highlighted in your summary
14 are problems?

15 A. In general, it's very rare -- extremely rare
16 that I recommend in cases that a balancing approach
17 be done. It sets a not good precedent going --
18 precedent going forward because then you have so many
19 items that you're trueing up between rate cases, and
20 I don't think that's a good way to go about
21 determining revenue requirements for utilities,
22 especially with pensions. I mean, if we, for the
23 settlement loss issue, amortize that, you're not
24 going to have the ability to sustain the volatility
25 that's caused by the settlement loss as you would if

1 you were to recognize it all in one year.

2 By amortizing it consistent with how we've
3 done otherwise, you're removing some that volatility.
4 So it's my opinion that there's not the level of
5 volatility where I would recommend a balancing
6 account. And, in fact, I've seen other jurisdictions
7 that had pension balancing accounts in the past that
8 have discontinued them. I just don't think now that
9 accrual accounting has been in place since, I think,
10 '87 or '88 for pension plans and the early '90s for
11 nonpension postretirement benefits, that now, 30-plus
12 years out, you should switch to a balancing account
13 for this. I don't -- I just -- it's my opinion that
14 it's not needed and it's not beneficial.

15 **Q. So let me ask two quick questions.**

16 **Do you see any -- there's no detriment on**
17 **the idea of doing that; right? You're going to be**
18 **ensuring things are properly accounted for on both**
19 **sides of the lender if you do that; isn't that right?**

20 **A. You would be. But again, I just don't think**
21 **that it's a good regulatory policy to shift**
22 **increasing amounts in types of costs into balancing**
23 **account approaches between rate cases. I just don't**
24 **think it's good policy.**

25 **Q. Okay. I understand.**

1 **Finally, on this question, you indicated**
2 **that you didn't see the need -- that balancing**
3 **accounts make sense where there's maybe some**
4 **volatility or unpredictability in an area.**

5 **Did I understand you correctly, that that's**
6 **one area where a balancing account might make sense?**

7 A. I'm not sure that I would recommend that,
8 still, for pension and other postretirement benefits.
9 Because, again, I've worked in cases in other
10 jurisdictions where it's been determined that the
11 Commission did not want to continue forward with that
12 approach. So I just don't recommend, now that we're
13 getting closer to the end of the life of these
14 pension plans that have been closed for a number of
15 years, new employees don't go into them, to now
16 switch significantly in the approach of how these
17 costs are recovered in Utah.

18 **Q. Yeah. I think my original question was**
19 **just -- weren't you saying a moment ago that**
20 **balancing accounts are -- can be an appropriate**
21 **mechanism when you're dealing with volatile or**
22 **unpredictable types of costs versus benefit analyses?**
23 **Isn't that what you were saying?**

24 A. In limited circumstances, like, for example,
25 for renewable energy credits here in Utah. I believe

1 around 2012, quite some time ago, there was a lot of
2 unknown and significant volatility in that account
3 where I agreed that at the time that balancing
4 account approach was put into place, it was
5 reasonable. You're going -- you were going from
6 50 million one year to 20-some million in another
7 year, and now we're down to around 3 million a year.

8 So historically, under very limited
9 circumstances, I would agree that balancing accounts
10 can be reasonable and appropriate. I just don't
11 agree that pension expense is one of those items that
12 I would think we should move to a balancing account
13 approach at this time.

14 **Q. And Ms. Koblaha, in her testimony, and**
15 **including her summary, highlighted the fact that --**
16 **that she anticipated that there will be a lot more of**
17 **the pension settlement loss activity than there has**
18 **been in the past. In other words, there's not been a**
19 **lot of pension settlements in the past, but she**
20 **anticipates there will be going forward because of**
21 **the nature of the pension -- the way the pension**
22 **account is now closed and the way interest rates are**
23 **moving.**

24 Do you -- that's true, isn't it, that it's
25 likely that there will be more pension settlements,

1 given the economic circumstances and the nature of
2 the pension account, now than there has been in the
3 past?

4 A. Yes. And that's why the recommendation I
5 made for the treatment of that, as well as that made
6 by UAE Witness Higgins, would allow for those costs
7 to be amortized over the life of the remaining plan
8 participants. It would take care of that. It would
9 still allow the Company to recover those costs, just
10 as they would have otherwise been treated absent that
11 unique circumstance that triggered the settlement
12 loss.

13 So under the method I proposed, which is the
14 same as the Company had proposed previously in the
15 pension docket, if there are settlement losses such
16 as this between rate cases, say, one in 2021, yet
17 another one, let's say, for example, 2023, you would
18 still then take that amortization approach for those
19 so it would still smooth out that volatility and
20 allow for recovery of those costs.

21 Q. Right. My point was just simply that
22 whereas in the past there has really not been a lot
23 of pension settlement activity, we anticipate that's
24 about to change, and it's going to -- you know,
25 Mr. Higgins even says he thinks it's unpredictable

1 and speculative, and therefore you ought to have some
2 way of dealing with it in the -- going forward.

3 That's right, isn't it?

4 A. Yes. And that's why both him and I
5 recommended that these now be deferred and amortized
6 consistent with how they would have been treated
7 absent that settlement loss/gain trigger. That's, in
8 my opinion, a fair and reasonable way to address
9 those and still allow the Company recovery of those
10 costs.

11 Q. Okay.

12 MR. SABIN: Mr. Chair, if you could give me
13 just one minute, I just want to make sure I've
14 covered everything, and I'll be right back. Is that
15 okay?

16 COMMISSIONER LEVAR: Sure. Should we do a
17 brief recess or...

18 MR. SABIN: That's fine. I'm happy to or
19 happy to just be right back to you. Whatever you
20 prefer.

21 COMMISSIONER LEVAR: Okay. We'll just hold
22 on.

23 MR. SABIN: Okay.

24 COMMISSIONER LEVAR: Thanks.

25 (Pause in proceedings.)

1 MR. SABIN: Okay. I think we're done.
2 Thank you, Mr. Chair.

3 Thank you, Ms. Ramas, as well. Appreciate
4 it.

5 MS. RAMAS: You're welcome. Thank you.

6 COMMISSIONER LEVAR: Okay. We'll go back to
7 Mr. Snarr for any redirect.

8 MR. SNARR: No redirect.

9 COMMISSIONER LEVAR: Okay. Thank you,
10 Mr. Snarr.

11 Commissioner Clark, do you have any
12 questions for Ms. Ramas?

13 COMMISSIONER CLARK: I'm chuckling because
14 sometimes these buttons just want my cursor to chase
15 them around.

16 But I have no questions. Thank you,
17 Ms. Ramas.

18 MS. RAMAS: You're welcome.

19 COMMISSIONER LEVAR: Okay. Thank you,
20 Commissioner Clark.

21 Commissioner Allen, any questions?

22 COMMISSIONER ALLEN: Thank you. I have no
23 questions.

24 COMMISSIONER LEVAR: Thank you.

25 And I don't either, so thank you for your

1 testimony today, Ms. Ramas.

2 MS. RAMAS: You're welcome.

3 COMMISSIONER LEVAR: Mr. Snarr?

4 MR. SNARR: Thank you. The Office would
5 like to next call Mr. Philip Hayet as a witness.

6 MR. HAYET: I'm here. Can you hear me?

7 COMMISSIONER LEVAR: I can hear you. Thank
8 you for joining us.

9 MR. HAYET: Thank you.

10 COMMISSIONER LEVAR: Do you swear to tell
11 the truth?

12 MR. HAYET: I do.

13 COMMISSIONER LEVAR: Thank you.

14

15 DIRECT EXAMINATION

16 BY MR. SNARR:

17 **Q. Mr. Hayet, will you please spell your name.**

18 A. Yes. It's H-A-Y-E-T.

19 **Q. And would you tell us where you're employed**
20 **and the association you have with the Office of**
21 **Consumer Services.**

22 A. I'm an employee of Jay Kennedy and
23 Associates, vice president of Jay Kennedy and
24 Associates, and I'm a regulatory consultant working
25 on behalf of the Office of Consumer Services.

1 Q. And in connection with your employment by
2 the Office of Consumer Services, have you had
3 occasion to study the submissions made by Rocky
4 Mountain in this case?

5 A. Yes, I have.

6 Q. And have you prepared testimony for
7 submission in this case?

8 A. I have.

9 Q. And did that include direct testimony
10 submitted on September 2nd with accompanying
11 exhibits?

12 A. Yes.

13 Q. And did it also include surrebuttal
14 testimony submitted on October 29th with accompanying
15 exhibits?

16 A. Yes.

17 Q. Do you have any corrections or additions to
18 any of the testimony or exhibits that you previously
19 submitted?

20 A. Yes. I have a couple of small corrections
21 to my direct testimony. It's actually the same
22 correction, and I would correct lines number 40 --
23 I'm sorry. I have a list here. 40 -- on line number
24 48, 60, 95, and 106, where it has "MPC," that should
25 read "revenue requirement."

1 **Q. Okay. And with those corrections, if you**
2 **were asked today the questions in your testimony,**
3 **would you provide the same answers for -- in**
4 **connection with the hearing today?**

5 A. I would.

6 MR. SNARR: Based on that response,
7 Chairman LeVar, we'd like to move the admission of
8 the direct testimony and exhibits that were submitted
9 by Mr. Hayet on September 2nd as well as the
10 surrebuttal testimony and exhibits submitted by
11 Mr. Hayet on October 29th.

12 COMMISSIONER LEVAR: Thank you. If anyone
13 objects to that that motion, please unmute yourself
14 and state your objection.

15 I'm not seeing or hearing any, so the motion
16 is granted. Thank you.

17 (Testimony and exhibits admitted.)

18 BY MR. SNARR:

19 **Q. Mr. Hayet, have you prepared a summary of**
20 **your testimony for this hearing today?**

21 A. Yes, I have.

22 **Q. Will you proceed to provide that?**

23 A. Yes. Thank you.

24 Good afternoon, Commissioners LeVar, Clark,
25 and Allen.

1 On behalf of the OCS, I initially
2 investigated and discussed in my direct testimony
3 issues related to net power costs, wind resources,
4 and generating unit outages. My surrebuttal
5 testimony provides the OCS's ultimate recommended
6 adjustment to base net power costs, it is -- supports
7 a disallowance of the Pryor Mountain wind resource,
8 and includes a disallowance for a long Lake Side 2
9 generating unit outage.

10 Some of the issues raised in direct
11 testimony have now been resolved. There remains a
12 single net power cost issue, and it relates to the
13 Pryor Mountain wind resource located in Montana. The
14 OCS recommends a disallowance of the cost of Pryor
15 Mountain because there's a lack of evidence
16 demonstrating that it was a prudent investment
17 decision.

18 The OCS includes an adjustment to net power
19 costs associated with the disallowance of the wind
20 resource.

21 The OCS recommends disallowance of the Pryor
22 Mountain cost because, one, it is more expensive than
23 other recent acquisitions the Company made in
24 seven -- in Docket 17-035-40, the new wind docket;
25 number 2, significant components of the wind turbine

1 generators were based on affiliate transactions that
2 have not been fully justified; number 3, it is not
3 strictly needed to satisfy Rocky Mountain Power's
4 resource requirement; and four, the net benefits --
5 benefit results the Company identified are not
6 compelling.

7 (Audio distortion.)

8 (Reporter clarification.)

9 COMMISSIONER LEVAR: Mr. Hayet? Sorry,
10 Ms. Harmon, I don't mean to cut you off, but I think
11 we're both saying the same thing. We lost a little
12 bit, so maybe you can go back two or three sentences
13 and repeat yourself.

14 MR. HAYET: Okay. I'd be happy to.

15 MR. SNARR: If you start right after the
16 list of four items, I think that's where you were,
17 Mr. Hayet.

18 MR. HAYET: Okay. I'm sorry.

19 The OCS is not suggesting a different
20 standard for approval of Pryor Mountain due to its
21 lack of preapproval. Rather, since no review of
22 prudence has been made to date, a full prudence
23 review of both planning decisions and construction
24 costs must take place in this proceeding. Rocky
25 Mountain Power bears the full burden of proof to

1 demonstrate prudence, which it has not done.

2 Furthermore, the Company provided limited
3 evidence supporting a need for generating capacity.
4 It provided no analysis of the net benefit of the
5 project considering the cost overrun and the project
6 delay. And as we have now learned, more of the
7 project will be delayed into the 2021 test year than
8 had been expected when the Company filed its rebuttal
9 testimony. It is certainly possible that additional
10 delays could be announced after this proceeding is
11 over.

12 With regard to the affiliate transaction,
13 the Company has provided no evidence to prove that
14 the acquisition of components of the wind turbine
15 generators from an affiliate was truly priced at the
16 lower cost of market. The fact is the only evidence
17 of any cost comparison of the project is a comparison
18 that I provided that indicated the capital cost of
19 the Pryor Mountain project, when stated on a
20 dollar-per-kW basis, is substantially greater than
21 the cost of the Energy Vision projects that are being
22 reviewed for cross recovery in this proceeding.

23 This gets to the question of the cost paid
24 to PacifiCorp's affiliate, and ultimately, Rocky
25 Mountain Power provided no evidence that paying cost

1 to an affiliate was a fair price for Pryor Mountain
2 based on the lower of the cost of market standard.
3 However, as mentioned, there is evidence in this case
4 that suggests that other resources were recently
5 acquired at a lower cost.

6 Finally, the net benefits discussed in the
7 Company's testimony are not compelling and are out of
8 date as it relates to the current and increasing cost
9 of the project. Again, there is no critical need to
10 add Pryor Mountain -- the Pryor Mountain project, and
11 this is particularly significant given that
12 PacifiCorp knew it would soon engage in another
13 competitive solicitation process which is currently
14 underway that would likely add additional renewable
15 resources to its system.

16 OCS recommends that the PSC should find that
17 the Company has failed to demonstrate the prudence of
18 its decision to move forward with the Pryor Mountain
19 project and has not shown that it is least-cost
20 resource.

21 MR. SNARR: May I interrupt at this point in
22 time?

23 Chair LeVar, that constitutes the summary of
24 Mr. Hayet's treatment of the Pryor Mountain project.
25 He does have one other issue that he'll be treating.

1 We have a summary as it relates to that, but it would
2 likely involve confidential information as it relates
3 to the Lake Side 2 outage.

4 We would like to merely identify that to you
5 and ask for guidance on how you'd like to proceed,
6 both for the summary that he would provide at this
7 point and as to how we might deal with the questions
8 that would follow along from that in
9 cross-examination.

10 COMMISSIONER LEVAR: Considering that we've
11 already dealt with the substance of the Lake Side 2
12 outage and whether that -- you know, whether that
13 still remains confidential, and we've already made
14 the decision that it does warrant confidential
15 treatment, it seems to me it might be more efficient
16 to do cross-examination on the Pryor Mountain issue,
17 and then come back and start over again with
18 Mr. Hayet on the Lake Side issue, if that's
19 acceptable to both of you.

20 MR. SNARR: That's acceptable. We can do it
21 in that fashion. We just wanted guidance and to
22 alert everyone to the two issues: One of them being
23 more confidential in nature, the other one not. So
24 with that guidance, unless there's other direction,
25 he's ready for cross-examination on the Pryor

1 Mountain issue.

2 COMMISSIONER LEVAR: Let me just see if
3 there's any objection from any other party to
4 splitting up his testimony in that way.

5 I'm not seeing or hearing any objection, so
6 with that, I'll go to Mr. Jetter.

7 Do you have any questions for Mr. Hayet at
8 this point?

9 MR. JETTER: I have no questions. Thank
10 you.

11 COMMISSIONER LEVAR: Thank you.

12 Mr. Russell?

13 MR. RUSSELL: No questions. Thank you.

14 COMMISSIONER LEVAR: Mr. Holman?

15 MR. HOLMAN: No questions. Thank you.

16 COMMISSIONER LEVAR: Mr. Sanger?

17 MR. SANGER: No questions. Thank you very
18 much.

19 COMMISSIONER LEVAR: Mr. Boehm?

20 MR. BOEHM: (No audible response.)

21 COMMISSIONER LEVAR: Ms. Shurman?

22 MS. SHURMAN: Good afternoon. Thank you.

23 ///

24 ///

25 ///

1 CROSS-EXAMINATION

2 BY MS. SHURMAN:

3 Q. Good afternoon, Mr. Hayet.

4 A. Good afternoon.

5 Q. I do have some questions for you. I'm going
6 to start with something that you mentioned in your
7 summary and also in your surrebuttal about the
8 prudence standard. You mentioned just now that the
9 review and analysis that Rocky Mountain Power
10 performed of the Pryor Mountain project does not take
11 into account any delays or cost overruns associated
12 with the project.

13 You understand that the statutes that we're
14 operating under in this proceeding call for the
15 Commission to determine whether the utility was
16 reasonable, judged from the -- judged from that -- at
17 the time the action was taken; isn't that true?

18 A. Yes, I believe that's true.

19 Q. And you understand here that the Company
20 made the decision to pursue the Pryor Mountain
21 project in 2019; correct?

22 A. That's correct.

23 Q. Okay. And that was before COVID or any
24 delays associated with COVID were foreseeable; right?

25 A. Yeah. As we've heard, there was no

1 contingency considered, no consideration of a delay
2 consideration of the project at the time. Based on
3 what was known at the time, the project would be
4 completed by December. And so if we use the
5 information that was known at the time, the -- it was
6 known that the project had very -- had absolutely no
7 wiggle room in case of a delay, and therefore had it
8 been delayed because of factors that could -- right
9 now we don't know if it's all entirely COVID. It may
10 be that it's entirely COVID, but it -- at the time,
11 it wasn't known. All that was known was that it
12 would be completed in December. And that was right
13 before the PTCs -- 100 percent of PTCs would expire.
14 Any delay at that point, when the decision was made,
15 in this project was going to result in not achieving
16 the goal of having 100 percent of the PTCs. That's
17 what was known at the time.

18 **Q. Okay. So did you listen to my conversation**
19 **with Dr. Zenger this morning?**

20 A. (Audio distortion) -- what you're referring
21 to.

22 **Q. Sorry. You're breaking up a little bit. I**
23 **didn't hear that response.**

24 A. Yes, I did listen to the conversation,
25 but -- so I think that's your answer. I was just

1 asking what part was -- what specifically you're
2 referring to.

3 Q. All right. I'll get there.

4 A. Oh, I -- I think I can help. I meant to use
5 my -- my apologies. I hope -- I hope this helps.

6 Q. Okay. We'll give it a shot.

7 So I was going to ask, the discussion I had
8 with Dr. Zenger this morning, we established that
9 there was the APR document, the planning document for
10 the budget approval and appropriation request.

11 Do you recall my conversation with her about
12 that?

13 A. Yes.

14 Q. Okay. And we reviewed that document and
15 established that at the time the project was
16 submitted for approval -- and we can take a look at
17 it again if this would be helpful to you, the
18 document -- the Company had already had a plan to
19 secure all the turbines; is that correct?

20 A. Yes.

21 Q. Okay. And the only evidence in the record
22 regarding the delays are related to COVID; isn't that
23 true?

24 A. Well, I don't think we know that. The
25 project hasn't been completed. We know that COVID

1 has had an impact. We don't know the full
2 information about the project, so it could be that
3 the project could be delayed for other reasons, and
4 these kinds of reasons could have been discussed when
5 people had enough -- if -- had people had an
6 opportunity to consider risk, they may have been --
7 I'm not saying COVID, necessarily, but there could be
8 other issues that are -- that would have gotten
9 discussed at the time that preapproval would have
10 been considered.

11 Q. Okay. So as I discussed with Dr. Zenger
12 this morning, the availability of turbines and the
13 ability to deploy them was a risk that was identified
14 by the Company in plans for the project, wasn't it?

15 A. Yes.

16 Q. And they developed a mitigation strategy to
17 address that risk; correct?

18 A. Yes.

19 Q. Okay. And sitting here today, we know that
20 all the turbines have either been delivered or are in
21 the process of being delivered to the project; right?

22 A. Yes.

23 Q. Okay. I would like to ask you about the
24 capacity need that you mentioned in your testimony
25 and in your summary.

1 A. Yes.

2 Q. You said that the project was not strictly
3 needed. Are you familiar with the Company's 2019
4 IRP?

5 A. Yes, I am.

6 Q. And you're familiar with the planning that
7 goes into formulating the IRP?

8 A. Yes.

9 Q. And you understand that the IRP describes
10 the Company's preferred portfolio?

11 A. Yes.

12 Q. And what is your understanding of what the
13 preferred portfolio is?

14 A. The preferred portfolio considers proxy
15 resources. It evaluates those proxy resources by
16 analyzing proxy CTs, proxy -- the mine cycle
17 resources over the study period. Generally comes up
18 with the idea of the type of resources that would be
19 best suited to be constructed by the Company over the
20 period based on the information and on the time.

21 The next step, typically, in the process
22 after the IRP is a competitive solicitation because
23 you -- you'll hear from utilities across the country
24 that they generally never select a resource
25 specifically as included in the IRP; they identify

1 resources through a competitive solicitation process.

2 Q. Okay. And it's your understanding that the
3 preferred portfolio is the least costly portfolio
4 that the Company, along with its stakeholders, has
5 identified?

6 A. Yes. And in terms of identifying the type
7 and timing of resources, based on what's known at the
8 time, based on considering proxy resources, it's
9 considered to be the least-cost resource plant at the
10 time. However, as I mentioned, no decisions are made
11 normally by any utility without then taking the next
12 step of going through a competitive solicitation
13 process. That's a normal process that -- I'm not
14 saying that that's the only way the resources are
15 ever acquired, but that's been the way it's been
16 acquired, mostly, here in Utah for many years, since
17 I've been involved. And typically that's the way
18 it's done by other utilities.

19 MS. SHURMAN: Did the court reporter have a
20 -- want to make a comment? I saw her pop up.

21 THE COURT REPORTER: Yeah, I did. There's
22 just a couple times he's been freezing. I do think
23 I'm getting everything, but I -- if there are some
24 things that are not being heard by you, every once in
25 a while, I'm not 100 percent confident I'm getting

1 every word when he freezes. Sometimes I feel like it
2 fills it in, and sometimes I'm not sure. So if
3 you --

4 MR. HAYET: I apologize.

5 THE COURT REPORTER: That's okay. It's not
6 your fault.

7 But if he freezes and somebody doesn't think
8 we're hearing every single word, please ask him to
9 repeat.

10 MS. SHURMAN: Okay. We'll move on and give
11 it our best shot.

12 MR. HAYET: Okay.

13 BY MS. SHURMAN:

14 **Q. You mentioned the competitive solicitation**
15 **process. You acknowledge that under Utah's Energy**
16 **Resource Procurement Act, there's no competitive**
17 **solicitations process required for a renewable**
18 **resource under 300-megawatt nameplate capacity;**
19 **right?**

20 A. I agree, but I would mention, this is a very
21 expensive resource. This is not an inconsequential
22 cost. This is -- this is a resource that compares to
23 the cost of the combined cycled resources that the
24 Company -- you know, over time. So it's substantial.

25 **Q. Okay. So going back to the IRP and the**

1 preferred portfolio, the Office that you're
2 testifying on behalf of, they participate in the IRP
3 process; right?

4 A. Yes.

5 Q. Okay. And you're familiar with the new wind
6 resources that were identified in the 2019 preferred
7 portfolio?

8 A. Yes.

9 Q. Okay. I think I'm going to try to share my
10 screen here. Let's see if this works. It's not --
11 how do I share an internet thing?

12 Thanks for bearing with me. I didn't
13 realize the Chrome tab sharing option.

14 So I've pulled up the Company's 2019 IRP.
15 Do you see that?

16 A. Yes.

17 Q. Okay. And I'm going to scroll down a few
18 pages, where it talks about the preferred portfolio.
19 Let's see here. I think that's it down here. Get to
20 the preferred portfolio highlights section.

21 Can you just read the section that I've
22 highlighted there?

23 A. By the end of 2023, the preferred portfolio
24 includes nearly 3,000 megawatts of new solar
25 resources and more than 3,500 megawatts of new wind

1 resources, inclusive of resources that have come
2 online by the end of 2020 that were not in the 2017
3 IRP.

4 Q. Okay. And then if we scroll down a little
5 bit further, you can see this was the graph of the
6 preferred portfolio of all resources; correct?

7 A. Yes.

8 Q. And the wind resources are in green.

9 And you can see that there is the new wind
10 resources that were just mentioned in that sentence
11 you read; correct?

12 A. Yeah.

13 Q. Okay. And then the blue is front office
14 tractions, FOTs? Is that your understanding of what
15 FOT stands for?

16 A. Yes.

17 Q. Okay. And if we scroll down a little bit
18 further, I think we can get to this graphic depiction
19 of the new wind resources. And again, this is
20 showing that the preferred portfolio includes more
21 than 3,500 megawatts of new wind generation by the
22 end of 2023; correct?

23 A. Yeah.

24 Q. And let's see. If we scroll down a little
25 bit further -- I wanted to get to the discussion of

1 the front office transactions, which I believe is
2 this -- pages 11 through 12. And this -- let me just
3 have you read this part. Sorry I didn't highlight
4 the whole thing.

5 A. Okay.

6 Figure 1.9 shows an overall decline in
7 reliance on wholesale market firm purchases
8 in the 2019 IRP preferred portfolio relative
9 to the market purchases included in the 2017
10 IRP preferred portfolio.

11 Is that a question, or are you just asking
12 me to read?

13 Q. I was asking you to read it. I'm going ask
14 you a question now.

15 Am I understanding your testimony correctly,
16 it was in your surrebuttal testimony, your position
17 is that you acknowledge there was a capacity need,
18 but your position is that the Company should have
19 filled that capacity need with front office
20 transactions?

21 A. Well, can you possibly make this bigger? I
22 can't -- so I can see the graphs?

23 Q. Sure.

24 A. Okay. As you notice, 2019 relied on 1,000
25 megawatts of front office transactions. The system

1 didn't suffer outages, as far as I'm aware, for a
2 lack of having -- for lack of having intermittent
3 renewable resources. 2020 still shows a considerable
4 amount of front office transactions. Again, there's
5 no expectation that that number -- the system will
6 suffer any significant problems for lack of the
7 intermittent renewable resource, similarly in 2021.

8 And I'd submit to you that the only impact
9 of the Pryor Mountain is it alters that bar that we
10 see in 2021 by -- (audio distortion) megawatts. So
11 there will still be a considerable need for front
12 office transactions. So the company has always
13 relied on front office transactions.

14 (Reporter clarification.)

15 MR. HAYET: I think I mentioned that the
16 front office transactions would only adjust the 500
17 megawatts we see here in front office by
18 approximately 55 megawatts or thereabouts. So it
19 doesn't have a significant impact on the system. So
20 nobody should be under the illusion that without
21 Pryor Mountain, the Company has a critical need for
22 capacity and that it can't continue to rely on front
23 office transactions.

24 BY MS. SHURMAN:

25 **Q. Okay. So my question was, though, that's**

1 your position, is that it -- rather than pursue the
2 Pryor Mountain project, the Company could have
3 satisfied the capacity need with front office
4 transactions.

5 That's what you say in your surrebuttal;
6 right?

7 A. That's what I say, and certainly there is a
8 competitive solicitation process underway right now,
9 and we will know what the least-cost resources are
10 from the competitive solicitation.

11 Q. Okay. And you don't dispute that the
12 Company in consultation with its share --
13 stakeholders identified in the 2019 IRP that the
14 preferred portfolio would call for a reduction in the
15 reliance on front office transactions; right?

16 A. No. I think the graph shows that there's a
17 significant dependence on front office transactions;
18 however, it is declining.

19 Q. And that IRP -- I'm going to scroll down --
20 it also called for coal retirement.

21 Do you see that?

22 A. Yes.

23 Q. You understand that the Company is planning
24 to retire certain coal-generating assets?

25 A. Yes, I do understand that.

1 Q. And the preferred portfolio calls for the
2 replacement of the capacity due to the retirement of
3 those coal-generation assets with renewable
4 resources; right?

5 A. I understand that it does anticipate
6 renewable resources to replace it.

7 Q. It wouldn't be prudent to fill a shortfall
8 capacity caused by the retirement of a coal
9 generation unit with -- entirely with front office
10 transactions, would it?

11 A. Well, if you could go back up again to the
12 graph, again, 2020, we don't have the front office.
13 Sorry. 2020, we don't have the Pryor Mountain
14 project. And while front office transactions are
15 dropping, I submit, once again, there's no
16 reliability issue with the system. There hasn't
17 been.

18 The Company has made the point that front
19 office transactions satisfy the needs for
20 reliability. If that hasn't been -- if that wasn't
21 what the Company told the Commission and other
22 regulatory commissions for many years, I suppose I
23 might have a different position, but that has been
24 the position presented to this Commission for a
25 very -- and other commissions for a very long time.

1 Q. And if the Company had taken your approach
2 and decided to fill the capacity shortfall identified
3 in the IRP with front office transactions rather than
4 a wind resource, that would have been inconsistent
5 with the recommendations in the IRP in the preferred
6 portfolio; right?

7 A. It would have been inconsistent with the
8 finding in the IRP. I grant you that, but I don't
9 even think that the IRP truly has any significant
10 discussion of the resource that we're talking about
11 that's now located in Montana. We -- we -- we
12 perhaps -- if you could just do a search using
13 Ctrl S -- F and search for "Pryor Mountain," I think
14 you'll find there's a single reference to Pryor
15 Mountain in the entirety of this IRP report. And as
16 far as I understand, the only consideration was a
17 discussion of Wyoming wind.

18 And I heard the discussion with Dr. Zenger
19 this morning about -- about the location, Montana
20 versus Wyoming, but it was no true effort to really
21 inform parties. I don't know why. That's not been
22 the way that PacifiCorp has acted in the past.
23 There's been significant discussion on resources that
24 the utility would acquire, and the Company was
25 looking at this since 2008. There's no reason that

1 the Company didn't bring this up as part of the 2019
2 IRP in a significant way. I'm not sure what the
3 Company was afraid of had it really brought it up.

4 It could have even done an expedited
5 proceeding -- proceeding to have a -- a rule, if it
6 wanted to. It chose not to. I'm not sure why it was
7 motivated not to. I understand some reasoning the
8 Company's given, but I'm not entirely certain why it
9 didn't do it as it did in the past with Chehalis.

10 **Q. Were you at the stakeholder meeting that**
11 **Dr. Zenger testified about, the May 2019 stakeholder**
12 **meeting?**

13 A. I was not. I do know people that were at
14 that meeting.

15 **Q. Okay. Well, we'll just rely on Dr. Zenger's**
16 **testimony for that point.**

17 **Did you listen to Mr. Link's testimony**
18 **yesterday?**

19 A. Yes.

20 **Q. Okay. And you heard him explain that his**
21 **analysis demonstrated that the Pryor Mountain project**
22 **was a more economical alternative to purchasing those**
23 **megawatts through front office transactions?**

24 **Do you recall his testimony on that point?**

25 A. Yes, I believe so.

1 **Q. Okay. And you haven't done any analysis to**
2 **refute his math on that point?**

3 A. Well, I accept the results that Mr. Link
4 produced. I found that the case that I find to be
5 significant to factor into my analysis is the
6 Low Gas/Zero CO2 case, and I found that not to be
7 compelling. Furthermore, the analysis that I
8 presented, which was -- I don't recall seeing any
9 rebuttal to -- was the -- (audio distortion) -- of
10 the Pryor Mountain project is significantly more
11 expensive than any of the new wind projects.

12 COMMISSIONER LEVAR: Mr. Hayet? Sorry. I
13 think Ms. Harmon's jumping in, and I missed it too.
14 I think if you can go back a little bit, we missed a
15 few words that I think were important words.

16 THE WITNESS: Okay. I do apologize. I'm
17 hearing everybody perfectly well, so I'm sorry.

18 THE COURT REPORTER: If you want to start
19 with "Furthermore, the analysis that I presented."

20 THE WITNESS: Okay. Furthermore, the
21 analysis that I presented, which evaluated the cost
22 of this project against alternatives -- and the
23 alternatives are those projects that are being
24 approved in this proceeding, that is the cost
25 recovery is being approved in this -- or is being

1 accepted as part of this proceeding for rate recovery
2 methodology -- those projects are significantly lower
3 in cost. And so the -- (audio distortion) -- the
4 customers should pay for a project because maybe one
5 penny beneficial compared to the IRP analysis doesn't
6 consider the possibility that there could be other
7 projects out there that are even less expensive. And
8 we won't know that without conducting a competitive
9 solicitation of the type that the Company is
10 conducting right now. It's in the middle of --
11 (audio distortion).

12 MS. SHURMAN: I think you cut out there
13 again.

14 THE COURT REPORTER: I'm sorry. I'm still
15 missing some.

16 COMMISSIONER LEVAR: Sorry, Ms. Harmon.

17 THE WITNESS: Should I attempt to move my
18 location? I'm sitting -- I'm actually sitting in the
19 best place I could possibly sit. Does it help if I
20 talk slower or --

21 MS. SHURMAN: Not really. I think it's --

22 MR. HAYET: Should I go through a telephone?

23 COMMISSIONER LEVAR: Yeah. Maybe calling
24 into a phone connection is the best solution. I
25 don't think it's the speed of your voice; it's just

1 your internet connection seems to be a little bit
2 intermittent.

3 THE WITNESS: Okay. I would be happy to
4 call the phone number. Bear with me. I apologize.

5 COMMISSIONER LEVAR: And just be sure to
6 mute your microphone once you're on the phone so we
7 don't get feedback from them working against each
8 other.

9 (Pause in proceedings.)

10 MR. HAYET: Can you hear me on the phone?

11 COMMISSIONER LEVAR: I can --

12 MS. SHURMAN: I can hear you.

13 MR. HAYET: Can you hear me?

14 MS. SHURMAN: Yes.

15 COMMISSIONER LEVAR: Yes.

16 MR. HAYET: Okay. So I think I have you on
17 my phone, and I should be on the screen, but I guess
18 I'm not showing up on the screen very well. But I
19 can fix that. Okay. I think I fixed it. Tell me if
20 you can see me on the screen.

21 MS. SHURMAN: I think you have. I think
22 we're in luck.

23 MR. HAYET: Okay. Do we need to repeat
24 anything or...

25 COMMISSIONER LEVAR: Is it too much

1 inconvenience just to go back to the last question
2 that Ms. Shurman asked and start over with that
3 question? I know we were quite a ways into his
4 answer.

5 THE WITNESS: I'd be happy to. I hope I
6 give the same answer.

7 MS. SHURMAN: Sorry. I don't even remember
8 what the question was, to be honest.

9 MR. HAYET: I might not -- need to be
10 reminded of that too.

11 (Whereupon, the record was read by the
12 court reporter as requested.)

13 MR. HAYET: Sorry. I believe I said no, I
14 did not refute his point on that, his math. However,
15 I -- I believe what I also talked about was the fact
16 that that wasn't the only consideration. First of
17 all, to present the result -- and I think even in
18 his -- in his rebuttal testimony, I recall Mr. Link
19 saying something to the effect that a project should
20 go forward even if it has a small net benefit, which
21 under at least one of the natural gas CO2 scenarios,
22 it has a very small benefit. In fact, it's even
23 negative.

24 The point I would make is that that doesn't
25 consider the potential that there could be other

1 projects that are least cost. The competitive
2 solicitation process gets to that, and the Company
3 right now is conducting the competitive solicitation
4 and will have the very information that would answer
5 this question.

6 So the Company has really provided no
7 information to prove that the acquisition of the most
8 important component of a wind turbine was done at the
9 lower cost of market, and the only information
10 presented is basically what I showed.

11 BY MS. SHURMAN:

12 Q. Okay. So there's a couple of issues in that
13 response that I want to address. Hopefully I
14 remember each of them.

15 Are you familiar with the concept under the
16 statute that a Company can pursue a time-limited
17 opportunity outside of the solicitation process?

18 A. Yes, they can.

19 Q. And that's true even for significant energy
20 resources; right?

21 A. Yes, they can. However, they do that
22 realizing that it results in a higher burden of proof
23 on their part. They really need to prove out that
24 this resource is necessary and that this resource
25 will lead to least cost. And I just don't think that

1 they've done that.

2 Q. So you mentioned that the Company has a
3 higher burden of proof. Is that found in the
4 statutes?

5 A. That's -- that's what I would suggest is --
6 is required of the process.

7 Q. Okay. So that's your suggestion; that's not
8 grounded in the actual statutes?

9 A. That's correct. I think that's a very --

10 Q. Okay.

11 A. I think that's a very reasonable
12 requirement, that the Company must present
13 significant burden -- you know, substantial evidence
14 to prove that it's a good resource.

15 Q. For purposes of the rate proceeding and the
16 statute we're under, though, we're subject to the
17 prudence review set forth in the statute; right?

18 A. Yes.

19 Q. Okay. You mentioned that the Company is
20 doing a solicitation process for new wind projects
21 currently. Those wind projects that will be part of
22 that RFP, they are not eligible for 100 percent of
23 the production tax credits.

24 Is that your understanding?

25 A. Yes. As the production tax credits stand

1 right now, they're not. But as you -- as we know,
2 the projects become more efficient and larger, and
3 that leads to price savings. And we have all seen
4 significant drops in renewable resource costs over
5 time.

6 **Q. Well, the Company is analyzing those credits**
7 **assuming that they're going to be subject to the**
8 **phasedown of production tax credits, and Pryor**
9 **Mountain, on the other hand, will be 100 percent --**
10 **eligible for 100 percent of those production tax**
11 **credits; right?**

12 **A. Yes.** And like I say, they're also
13 considering the fact that there -- you know, what's
14 going on with prices in the market and things like
15 renewable resources. All types of renewable
16 resources are dropping in price. We -- that -- I
17 encounter that across the country.

18 And, you know, every case I'm in, I'm
19 told -- we are told about the significant drops in
20 the cost of renewables and the efficiency gains and
21 the larger sizes of the turbine blades that lead to
22 efficiency on the wind turbines.

23 **Q. So speaking of the efficiency of the wind**
24 **turbine, you are comparing -- when you say that this**
25 **project is more expensive than the other projects**

1 that are being reviewed in this rate case, you're
2 comparing dollars per megawatts based on the
3 nameplate capacity of those projects?

4 A. Yeah.

5 Q. Okay. And there's -- would you agree with
6 me that each wind project is unique?

7 A. Well, you'll recall that, you know, the
8 Company looked at proxy resources, and so we tend to
9 look at, you know, wind resources and try -- attempt
10 to compare them on a kW basis.

11 Q. So there's reasons why one project might be
12 more expensive than another due to, for example,
13 whether roads need to be constructed, the proximity
14 to transmission, things of that nature; right?

15 A. Certainly.

16 Q. And you haven't done any analysis that sort
17 of breaks out those particular factors and compares
18 prices across projects factor by factor, have you?

19 A. No, but that's why -- a competitive
20 solicitation process does do that, and that's the
21 best way to do it. And the evidence that we do have
22 is these are rather expensive projects. And we know
23 that their affiliates -- they're being purchased from
24 the affiliate, and we know that there's other
25 motivations of -- of the affiliate who, you know,

1 wants to make sure that they get a proper price, as
2 high of a price they can possibly get for that
3 resource. We don't know if it was a fair price.

4 Q. We'll come back to that issue, but I'm
5 talking about your comparison of project to project,
6 the cost of those projects, you're also not taking
7 into account any efficiencies associated with the
8 project, either due to the particular turbines that
9 are used or the location?

10 I mean, you're just basing it on nameplate
11 capacity, not the expected capacity; right?

12 A. Right. And I would expect the cost to go
13 down in time as projects get larger and more
14 efficient.

15 Q. Okay. So you haven't compared the net
16 system benefits project to project, have you?

17 A. Well, I think that's what was presented
18 in -- I'm not sure I'm following your question. I
19 thought that there was a net benefit calculation
20 performed by Mr. Link.

21 Q. Correct. And you haven't -- he did that for
22 all the projects; right?

23 And so you haven't compared the net benefits
24 across projects; you're just comparing dollar per
25 megawatt across projects; right?

1 A. Right. And again, if a project has -- you
2 know, just take it at the lowest. If a project has a
3 \$1 benefit, you know, that was effectively the
4 argument Mr. Link gave, that if a project has -- I
5 don't think he said \$1; he said low benefits or when
6 a project is good, then it should go forward.

7 I disagree that that's the automatic
8 go-forward process. And that's basically all we have
9 here, is the situation where the Company presents,
10 "This project says that it has net benefits."
11 They're small in certain cases, but they're not
12 comparative to other alternatives. They've not
13 conducted an evaluation comparing it to other
14 resources that the Company's already acquired that
15 are getting -- that are part of this proceeding. And
16 they didn't do it through a competitive solicitation
17 which is ongoing.

18 Ratepayers could find that they'd have a
19 bigger benefit waiting and accepting front office
20 transactions for the small amount of megawatts for,
21 you know, a short period of time and acquiring the
22 resources in the -- in the competitive solicitation.

23 **Q. So you mentioned the competitive**
24 **solicitation that's happening now. Do you have --**
25 **given the timeline that you're aware of for the Pryor**

1 Mountain project, it wasn't feasible to include that
2 project in the RFP process that's happening now, was
3 it?

4 A. Well, it -- maybe it didn't have to be
5 included at all.

6 Q. Well, and isn't that what Mr. Link's
7 analysis looked at, the comparison of not going
8 forward with the project versus going forward with
9 the project?

10 A. In a comparison of proxy resources, Mr. Link
11 showed that this resource is -- is lower than the
12 cost of the proxy resources that will fill out this
13 system's return. In a comparison, a utility never
14 makes an investment decision, generally, on --
15 strictly on -- and I want to clarify that. They
16 don't generally -- because we know that's the case
17 here in Utah and elsewhere. They generally don't
18 make an investment decision strictly on the basis of
19 an IRP-type analysis. They go through to the next
20 step and conduct a competitive solicitation to find
21 the actual resources that they typically want to add
22 for their system.

23 Q. Okay. So I want to ask a question about
24 the -- a couple questions about the turbines.

25 COMMISSIONER LEVAR: Ms. Shurman?

1 MS. SHURMAN: Yes?

2 COMMISSIONER LEVAR: This might be a good
3 time for a short break. Why don't we take a quick
4 recess and then return to your questions starting
5 with this topic.

6 MS. SHURMAN: Okay. Thank you.

7 (A brief recess was taken.)

8 COMMISSIONER LEVAR: Okay. Thank you.
9 We'll go back to Ms. Shurman and Mr. Hayet to
10 continue questions. And Mr. Hayet, thank you for
11 changing your connection. I think that has taken
12 care of the issues that we were having.

13 MR. HAYET: Very good. Thank you.

14 MS. SHURMAN: I do see your face twice
15 though. That's good. I don't know what happened
16 there, but that's fine. We'll go with it.

17 MR. HAYET: Oh. You have my face twice?

18 COMMISSIONER CLARK: You're signed in twice,
19 Mr. Hayet. I only emphasize that because I did it
20 yesterday and it created tons of feedback for me.
21 And I was only by the good nature of Chair LeVar that
22 he straightened me out on that. So if it's not
23 causing problems, I'd delete one. Thank you.

24 MR. HAYET: I did. Thank you very much for
25 telling me.

1 MS. SHURMAN: No problem.

2 BY MS. SHURMAN:

3 Q. Okay. So I think we were going to talk
4 about the turbine equipment for the Pryor Mountain
5 project. I just want to confirm a few hopefully
6 basic points on that.

7 You don't dispute that the acquisition of
8 turbines from the Berkshire Hathaway affiliate
9 disallowed the project to qualify for 100 percent of
10 the production tax credits, do you?

11 A. No.

12 Q. Okay. And you acknowledge that under the
13 applicable IRS guidelines that if the Company has
14 purchased all the turbines from an unrelated party
15 for the project, it would not have qualified for
16 production tax credit eligibility; right?

17 A. Yes.

18 Q. Okay. Did you listen to
19 Mr. Van Engelenhoven's testimony about the benefits
20 associated with -- the additional benefits associated
21 with those turbines including the proximity to the
22 jobsite and the fact that they were in storage close
23 by and could be transported to the site?

24 A. Yeah, I think I recall that. I heard a lot
25 of testimony, but yeah. Yes.

1 Q. Okay. And do you also recall
2 Mr. Van Engelenhoven testified that the Company did a
3 follow-on competitive bid for -- or did a competitive
4 bid for follow-on turbines for the project?

5 A. Yes. I believe I heard him say that.

6 Q. Okay. And I believe he testified that the
7 price of the follow-on turbines were comparable to
8 the price paid for the Berkshire Hathaway components
9 and turbines.

10 Do you recall that?

11 A. I'm -- subject to check. I can't remember
12 everything he said, but subject to check.

13 Q. Okay. So if -- the fact that the Company
14 was able to acquire those turbines from a close-by
15 source, deliver them to the project to get them
16 constructed in time to qualify for full production
17 tax credit eligibility, seems like a prudent use of
18 that equipment, doesn't it?

19 A. Would you repeat that? Sorry.

20 Q. Yeah. It really wasn't the most --

21 A. I actually -- I actually heard you. It
22 wasn't a connection issue. I just wanted to --

23 Q. It was my inarticulate -- that's okay.

24 The fact that the Company was able to
25 procure the turbines from Berkshire Hathaway that

1 were in close proximity to the site and be able to
2 deploy them in a way that secured 100 percent tax --
3 production tax credit eligibility for the project
4 seems like a reasonable use of those turbines, does
5 it not?

6 A. I -- I'm not criticizing the use of those
7 turbines, per se. It's the pricing of the turbines
8 and the fact that there's no real significant
9 evidence that was -- that the Company was able to
10 file with any testimony that really proved that those
11 turbines are lower than cost of market.

12 Q. Okay. I want to ask about Mr. Link's
13 analysis and your concerns about analysis.

14 You understand that the analysis that
15 Mr. Link performed of the Pryor Mountain project was
16 the same analysis that he used to analyze the EV 2020
17 project?

18 A. Yes, I do.

19 Q. Okay. And you -- sorry. I didn't mean to
20 cut you off. Did you --

21 A. Well, I -- I'll -- I think you had more of a
22 question to ask, so I'll wait for your...

23 Q. Okay. And you understand that he analyzed
24 the Pryor Mountain project using a
25 Medium Gas/Medium Carbon scenario and the

1 **Low Gas/No Carbon scenario?**

2 A. Yes.

3 **Q. Okay. And you would acknowledge that it**
4 **would be prudent for a utility to consider a range of**
5 **possibly future scenarios in determining whether to**
6 **pursue a project?**

7 A. Yes. But I think I heard you say -- and
8 you'll correct me, but I think I heard you say in
9 evaluating the EV 2020 project? Is that what you did
10 say?

11 **Q. I was asking that -- the first question was**
12 **if you understood that Mr. Link's analysis here for**
13 **Pryor Mountain is the same type of analysis he did**
14 **for the EV 2020 project.**

15 A. Right. And that's why I sort of raised that
16 is because as you recall or may recall, the EV 2020
17 projects were evaluated against each other. So Ekola
18 and TB Flats and so forth were evaluated using a
19 similar process. Here, we have more of the IRT
20 evaluation using similar tools.

21 So there is a difference in the evaluation
22 in that an IRP-style evaluation is proxy resources.
23 And this is a proxy resource evaluation. But when
24 you get to a competitive solicitation such as the
25 EV 2020, you were comparing the actual bids. That

1 was the data that you had. And so that's why I
2 suggest that a utility usually goes through an IRP
3 process. And once it determines the type and timing
4 resources, the next step is to do a competitive
5 solicitation. That's what you typically base your
6 resource acquisition decision on.

7 Q. Right. And when the Commission reviewed the
8 EV 2020, it looked at the present value revenue
9 requirement differential for each of the projects,
10 and that's the same calculation Mr. Link has
11 performed with respect to Pryor Mountain; right?

12 A. Well, I can't say right because my whole
13 caveat I just gave you applies.

14 Q. Okay. This Commission, in the EV 2020
15 docket -- or in -- and the repowering docket that
16 went alongside that, it acknowledged that the purpose
17 of the sensitivity modeling is to consider a range of
18 possible future scenarios; right?

19 A. Yes.

20 Q. And that -- even acknowledging that not all
21 those scenarios are equally likely to occur; right?

22 A. Yes.

23 Q. Okay. And am I understanding --

24 A. Wait. Would you repeat that? I'm sorry.
25 Sorry. Repeat that question. I'd like to hear that

1 again.

2 Q. Sure. My question was, the Commission
3 acknowledged that the purpose of the sensitivity
4 modeling that we're discussing is to consider a broad
5 range of possible future scenarios, even if we
6 recognize that all those scenarios may not be equally
7 likely to occur.

8 A. I'm not sure about the last point. Is there
9 something that you can draw my attention to on that
10 that you're referring to? I mean, there's a whole
11 commentary that could be made on whether or not one
12 believes that a certain scenario is more likely than
13 the next. I'm not sure.

14 Q. I do have something I can share on my
15 screen. It would be -- one second. So I'm going to
16 pull up the -- this would be the order on the EV 2020
17 preapproval docket, 17-035-40. And I think what I
18 was referring to -- I'll just scroll down to page 22.

19 Well, first let me ask this predicate
20 question. Do you recall in that docket the
21 intervenors argued that it was more reasonable to
22 rely on the low-price scenario in the analysis that
23 Mr. Link performed?

24 A. Yes, I have a -- you know, it was a few
25 years ago, but I have a recollection of that.

1 Q. Okay. And the Commission's discussion of
2 that is down here towards the bottom of page 22 where
3 it says:

4 We find PacifiCorp's economic analysis to be
5 thorough and extensive. We acknowledge the
6 results of the projections may vary
7 significantly. If the modeling inputs change
8 or the facts that eventually materialize are
9 materially different than forecast
10 variables...

11 And then the last sentence of what's
12 highlighted there says:

13 We recognize each of these scenarios may not
14 be equally likely to occur, but PacifiCorp's
15 economic modeling shows net customer benefits
16 in the vast majority of potential outcomes.

17 So do you agree with what the Commission
18 said here?

19 A. Well, I do. I agree. And I'm sort of
20 honing in on sentences that -- that the decision
21 among nine different potential future outcomes, with
22 respect to carbon and gas, I -- I do agree. They may
23 not equally -- might not be equally likely to occur.
24 I certainly agree with that. And it also says that
25 PacifiCorp not only shows net benefits in the vast

1 majority of potential outcomes. We don't have
2 results showing that there are benefits in the vast
3 majority of the outcomes. In the Low Gas/Zero CO2
4 case, we have two results, and one of them shows that
5 it will cost ratepayers money; the other case shows
6 fairly low benefits. So we don't have the vast
7 majority of potential outcomes showing that Pryor
8 Mountain will be economic.

9 I might also draw your attention to the 39
10 docket with regard to what the Commission had to say
11 about the Leaning Juniper project. And in that, the
12 Commission recognized that the Low Gas/Zero CO2 case,
13 while it did not intend to give greater weight to
14 that case, necessarily, it was one of the factors
15 that it considered in reaching a decision not to
16 approve, at that time, Leaning Juniper.

17 **Q. Right. And do you recall how that -- the**
18 **present value revenue requirement differential for**
19 **Leaning Juniper compared to -- at least at the time**
20 **it was presented in this docket, which -- I'm sharing**
21 **my screen to pull it up here -- how those -- the**
22 **present value revenue requirements for Leaning**
23 **Juniper at that time compared to the Pryor Mountain**
24 **present value revenue requirement differential?**

25 **A. I think as -- you know, as I recall, I think**

1 that Leaning Juniper had negative present values just
2 like there's at least one case in this proceeding
3 with Pryor Mountain that has negative as well. And
4 there's another case in which it's low.

5 **Q. Okay. My recollection was that Leaning**
6 **Juniper, at that time -- I'm trying to scroll down**
7 **and find it -- had resulted in net system costs in**
8 **most of the scenarios, and that's at a break-even.**
9 **That's pretty different than what we've seen for**
10 **Pryor Mountain; right?**

11 **A. Well, I don't know if that's 100 percent**
12 **true because I think more cases were brought in at**
13 **that time. Certainly as you run more cases, you can**
14 **find more positive or more negative cases just by**
15 **virtue of having more cases run.**

16 **In this proceeding, the Company ran the**
17 **Medium/Medium Gas/CO2 and also the Low Gas/Zero CO2**
18 **cases. And at least in the Low Gas/Zero CO2, there**
19 **were negative costs, just like with Leaning Juniper.**

20 **Q. So the present value revenue required a**
21 **differential. I just want to make sure we're on the**
22 **same page. That's just the difference in the revenue**
23 **requirement to the system for having the project**
24 **versus not.**

25 **So if it's a negative, a negative revenue**

1 **requirement is a benefit to customers; right?**

2 A. Well, it's -- that's a convention of how one
3 might show numbers. And I do believe you're right
4 that the convention the Company shows in -- when it
5 writes its testimony is that it -- but it always
6 explains it. It will say a negative means benefit; a
7 positive means a cost.

8 My typical jargon when I, you know, talk
9 about negative benefits, I'll say when it is a cost
10 to ratepayers, it has negative benefits. So that's
11 how I've been using the wording. So we've got to get
12 our -- if we're on the same page with a convention,
13 then I think we can be in sync.

14 Q. Okay. Sorry, I was just trying to pull up
15 this -- what -- you mentioned Leaning Juniper. It
16 had either a net cost of \$3 million to the system,
17 or, even under the Medium Gas/Medium CO2, it has
18 break even.

19 And so here -- I'm going to stop sharing
20 that for a second -- if we look at Mr. Link's
21 analysis, the range for Pryor Mountain in gas
22 scenario, Medium Gas/Medium Carbon scenario is a
23 benefit to the system of \$82 million, and worst-case
24 scenario, under Low Gas/No Carbon is a cost of
25 1 million; correct?

1 A. Right. And I don't know if you have that
2 that you could show. That might be a helpful aid so
3 that I can speak from it because I might have some
4 more to say about it. From what I think I heard, I'm
5 not sure that I heard -- I mean, I'm not sure that
6 you misrepresented what Mr. Link shows, but my
7 recollection of what Mr. Link shows is that the
8 Low Gas/Zero CO2 case which we've been in for quite
9 some time, and which there's no reason to believe in
10 the near future that we're not going to be in that
11 same situation, shows negative benefit -- shows a net
12 cost to customers.

13 **Q. I can pull up Mr. Link's -- I don't think**
14 **this page has confidential information. I was just**
15 **checking.**

16 **Is this what you're referring to?**

17 A. Yes. So if you look at the Low Gas/No CO2,
18 which, again, is the -- what we've been in for the
19 past -- more than the past 10 years, and there's no
20 reason to think that any time soon that's changing,
21 it shows you that there's a -- effectively no benefit
22 under one case, and there's a negative net benefit to
23 customers -- sorry. There's a -- it's a wash under
24 one case and a very small benefit under the other
25 case.

1 Q. Okay. So I think that was Mr. Link's point.
2 The words -- you agree that the LN is the most
3 conservative model that the Company forecasts; right?

4 A. Well, let's not forget, of course, that the
5 Company is doing extrapolation and the Company has
6 this terminal value that it's including. But -- and
7 I don't think I'll agree with Mr. Link's terminology
8 that it's the worst case. It certainly seems to be
9 the case that we've had for the past 10 years, and it
10 certainly seems to be not a case that we're changing
11 from in -- any time soon.

12 Q. But my question was it's the most
13 conservative model that the Company uses and that the
14 Commission said we need to consider a range, and the
15 LN is the most conservative; right?

16 A. It's the most conservative in terms of
17 having the smallest -- it would result in the
18 smallest benefit; however, it has all those other
19 factors that I mentioned. And it's a comparison that
20 we're making against proxy resources.

21 Q. Okay. But I --

22 A. Not a conserve --

23 Q. Yeah. I just want to make a follow-up --
24 make a follow-up question to what you just said, that
25 the most -- under the most conservative scenario, we

1 have a break-even scenario. Under -- if conditions
2 become more favorable and we're in the MM scenario,
3 we see a projected benefit of \$82 million to the
4 system; right?

5 A. And if the gas prices go down, we're going
6 to see a negative net benefit. If terminal benefits
7 never come to play, we're going to see negative net
8 benefits. And there may be more attractive options
9 that are available that we're not even giving the
10 opportunity for the customers to get because we're
11 logging into this resource which -- I don't think
12 they can pick it. So we can't -- we simply can't
13 compare it to other options that could be -- and, you
14 know, customers have to pay for this. They have
15 limited funds.

16 You know, you -- just because there's an
17 opportunity, like Mr. Link said, even for small
18 benefits, they -- it doesn't necessarily mean that
19 that should be done.

20 Q. Well, so the decision here would have been
21 to not pursue the project or pursue it and risk
22 having a break-even scenario or an \$82 million
23 benefit; right?

24 A. No. Pursue other projects, compare them to
25 this project, and seek the least-cost alternative for

1 the ratepayers over the long term.

2 Q. You understood Mr. Link explained the method
3 by which those scenarios are formulated, that those
4 are kind of derived from the IRP process and they
5 pull their input in that?

6 A. Yes. It's a process --

7 Q. Okay.

8 A. It's a process that depends on proxy
9 resources.

10 Q. And so you're not disputing the inputs that
11 he used in formulating those models; is that correct?

12 A. No. You have to -- you'd have to look at
13 the assumptions that he used at the time that he did.
14 The assumptions constantly change. And locking in
15 the decision, necessarily, at the time that he did, I
16 don't quarrel with the assumptions that he used other
17 than things like -- I have some concerns about the
18 terminal value, just like UAE brings up, though I
19 don't really speak about it in this case. We did
20 that in the -- in the 39 and 40 dockets.

21 The -- the issues that I bring up are the
22 fact that this is a comparison of proxy resources.
23 We don't know if this is the least-cost resource for
24 ratepayers. We do know that there is a proceeding
25 going on right now to acquire resources, and we don't

1 have a significant need for a 55-megawatt resource
2 when there's significant amount of front office
3 transactions that we're still going to have to depend
4 on.

5 **Q. Okay.**

6 MS. SHURMAN: Mr. Chairman, if I may just
7 have a moment to check my notes and see if I have
8 anything further on this topic.

9 COMMISSIONER LEVAR: Sure. We'll just hold
10 on while you're checking that.

11 MS. SHURMAN: Okay.

12 (Pause in proceedings.)

13 MS. SHURMAN: Okay. Thank you. I don't
14 have any further questions on this topic. I know you
15 have another summary that you're going to prepare, so
16 I would reserve the right to do additional cross
17 after hearing that summary.

18 COMMISSIONER LEVAR: Thank you, Ms. Shurman.

19 Mr. Snarr, any redirect at this time?

20 MR. SNARR: Yes. Just a little bit, if I
21 might.

22

23 REDIRECT EXAMINATION

24 BY MR. SNARR:

25 **Q. Mr. Hayet, you've been asked a lot of**

1 questions about the IRP process where there's
2 planning and possible projects by type or kind were
3 discussed, and the various different scenarios were
4 assumed. Let me take a page out of Justin Jetter's
5 book.

6 Assume you have -- I'll just use 50
7 projects, not 100. Assume you have 50 projects, all
8 of similar type, and you want to determine whether or
9 not they should be built. If you do a
10 with-or-without kind of analysis under a Low Carbon
11 and Low Gas scenario and each one produced a net
12 benefit, would you suggest that we ought to build all
13 50?

14 A. No, I would not.

15 Q. And how would you go -- how would you go
16 about determining which one is the least-cost
17 alternative of those various different projects?
18 Again, for our assumption, let's assume low-carbon
19 and low-gas scenarios so we don't mix the different
20 analytical factors.

21 A. Well, certainly I would attempt to do a
22 competitive solicitation in which I would try to seek
23 the lowest-cost bids. And I would then use the
24 Company's method of using low- -- Low Gas/Zero CO2
25 and all the other scenarios making up the matrix of

1 nine cases, and I would evaluate all those projects.
2 But I would seek the least-cost project that might be
3 available.

4 Q. And you recall Mr. Link's testimony, when he
5 was questioned about this, he said that he did a
6 with-or-without comparison and found that with the
7 pursuit of the Pryor Mountain project, he saw net
8 benefits and so he concluded that he should proceed;
9 isn't that right?

10 A. Yes. And --

11 Q. And there wasn't any further comparative
12 analysis with other contemporaneous projects; isn't
13 that right?

14 A. There was none.

15 Q. All right. Now, with respect to the
16 purchase of equipment from Berkshire Hathaway, are
17 you aware of any evidence that's been presented in
18 this case where there's been a comparison of the
19 price of the turbine equipment secured from
20 competitive sources was made to the price being paid
21 for the Berkshire Hathaway equipment?

22 A. No, I haven't seen any evidence. Raised the
23 issue in my direct testimony about the facility.
24 It's -- certainly raised it in my surrebuttal
25 testimony too.

1 Q. Let me just ask some clarifying questions on
2 the issue of the burden of proof. Now, counsel for
3 the Company has pointed to a statute that -- a
4 statute that suggests that the question about whether
5 or not a prudent decision is one that needs to be
6 measured by the facts and circumstances at the time
7 the decision is made.

8 Do you recall that line of questioning?

9 A. Yes.

10 Q. And for purposes of my next set of
11 questions, I'm going to ask you to presume that we're
12 not questioning the initial decision of prudence, but
13 how does that relate to the possible prudence of cost
14 overruns that are being sought for recovery in this
15 proceeding?

16 A. Well, the Company has -- first of all, we're
17 not going to question the -- the question of prudence
18 by statute or the higher burden of proof. However,
19 the Company has the burden to present evidence in the
20 case. And certainly, there's no evidence in this
21 case of the net benefit of the cost overrun. They
22 have provided no support for it. And if -- the
23 statute actually does say if they were to go through
24 the normal process, the normal statute, it does say
25 that they have to support any cost overruns. And the

1 Company is just treating it like, Well, there will
2 just be cap adds. It will be -- flow through the
3 regulatory process the way capital additions flow
4 through.

5 You know, the point they make is, Once we
6 evaluated the initial cost, that's all we have to do
7 to justify.

8 MR. SNARR: I have no further questions.

9 COMMISSIONER LEVAR: Thank you, Mr. Snarr.

10 Any recross from anyone other than
11 PacifiCorp? Unmute yourself and let me know if you
12 have recross, any of those parties.

13 Okay. I'm not seeing or hearing any.

14 Ms. Shurman, do you have any recross?

15 MS. SHURMAN: No. Thank you.

16 COMMISSIONER LEVAR: Okay.

17 Commissioner Allen, do you have any
18 questions for Mr. Hayet at this point?

19 COMMISSIONER ALLEN: I do not have any
20 questions. Thank you. I don't have any questions.
21 Thanks.

22 COMMISSIONER LEVAR: Thank you.

23 Commissioner Clark?

24 COMMISSIONER CLARK: No questions. Thank
25 you.

1 COMMISSIONER LEVAR: Okay. I don't have any
2 further questions, so I think at this point, we were
3 going to move into Mr. Hayet's testimony on the
4 Lake Side plant outage. I think I can rule that the
5 Commission has already made the necessary finding
6 previous in this hearing under Utah Code
7 Section 54-3-21. So with that, I think we're
8 prepared to close the hearing to the public unless
9 any commissioner or party has any further comment on
10 this issue before we take that step.

11 COMMISSIONER CLARK: I support closing the
12 meeting. This is Commissioner Clark.

13 COMMISSIONER ALLEN: I agree.

14 COMMISSIONER LEVAR: Okay. Thank you.

15 We will then, pursuant to that statute,
16 close this meeting to the public. I'll ask
17 Ms. Paschal to discontinue to streaming and ask
18 everyone to just take a moment to look at the list of
19 the participants. If you see a name or a phone
20 number that causes you any concern -- the 770 phone
21 number, is that you, Mr. Hayet?

22 MR. HAYET: Yes.

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14 COMMISSIONER LEVAR: Mr. Hayet, thank you
15 for you testimony this afternoon.

16 MR. HAYET: Thank you very much.

17 COMMISSIONER LEVAR: Anything further from
18 the Office of Consumer Services, Mr. Snarr?

19 MR. SNARR: No. That will conclude our
20 presentation. Thank you.

21 COMMISSIONER LEVAR: Okay. Thank you.

22 Mr. Russell, we'll go to you next.

23 MR. RUSSELL: Thank you. On behalf of the
24 Utah Association of Energy Users, I call
25 Kevin Higgins to be sworn in.

1 COMMISSIONER LEVAR: Okay. Mr. Higgins, are
2 you with us?

3 MR. HIGGINS: Yes, I am.

4 COMMISSIONER LEVAR: Do you swear to tell
5 the truth?

6 MR. HIGGINS: Yes, I do.

7 COMMISSIONER LEVAR: Okay. Thank you.
8 Go ahead, Mr. Russell.

9

10 DIRECT EXAMINATION

11 BY MR. RUSSELL:

12 Q. Good afternoon, Mr. Higgins. Could you
13 state and spell your name for us, please.

14 A. My name is Kevin C. Higgins. K-E-V-I-N,
15 H-I-G-G-I-N-S.

16 Q. And could you tell us who you work for,
17 please.

18 A. I'm a principal in the consulting firm
19 Energy Strategies.

20 Q. And on whose behalf do you offer testimony
21 in the proceeding?

22 A. I'm here on behalf of the Utah Association
23 of Energy Users, or UAE.

24 Q. And, in fact, you've offered testimony in
25 both the revenue requirement portion of the general

1 rate case docket, Docket No. 20-035-04, and in the
2 depreciation docket, Docket 18-035-36; is that right?

3 A. That is correct.

4 Q. Okay. Let's go ahead and identify that
5 testimony. In the general rate case, you've offered
6 direct testimony identified as UAE Exhibit RR1 along
7 with exhibits UAE Exhibit RR1.1 through 1.1A; is that
8 right?

9 A. That is correct.

10 Q. And you've also offered rebuttal testimony
11 which has been labeled as UAE Exhibit RR3; correct?

12 A. That is correct.

13 Q. And, in addition, you've also filed
14 surrebuttal testimony identified as UAE Exhibit RR5
15 along with attached exhibits, UAE Exhibit RR5.1
16 through 5.18; right?

17 A. Yes.

18 Q. Okay. And in the depreciation docket, you
19 have filed direct, rebuttal, and surrebuttal
20 testimony; is that right?

21 A. Yes.

22 Q. Okay. And with respect to all of that
23 testimony in both of those proceedings, do you have
24 any corrections to that prefiled testimony to make
25 today?

1 A. I do not.

2 Q. Okay. And if you were asked the same
3 questions today as were posed in that prefiled
4 testimony, would your answers be the same?

5 A. Yes.

6 Q. Okay.

7 MR. RUSSELL: At this point, Mr. Chairman,
8 I'll move for the admission of Mr. Higgins' prefiled
9 testimony in both of those dockets.

10 COMMISSIONER LEVAR: Please indicate if any
11 party has an objection to that motion.

12 I'm not seeing or hearing any objection, so
13 the motion is granted.

14 (Testimony admitted.)

15 MR. RUSSELL: Thank you.

16 BY MR. RUSSELL:

17 Q. And, Mr. Higgins, have you prepared a
18 summary of your testimony for us today?

19 A. Yes, I have.

20 Q. Please proceed.

21 A. Thank you. Good afternoon, Commissioners
22 and parties that are present. I offer the following
23 conclusions and recommendations in my testimony and
24 provide a brief summary of it.

25 Number one, I agree with Rocky Mountain

1 Power's acceptance of 11 specific adjustments
2 proposed by UAE and the Office of Consumer Services
3 as identified on lines 174 to 207 in my surrebuttal
4 testimony.

5 Number two, I do not oppose certain Rocky
6 Mountain Power rebuttal adjustments as identified on
7 lines 467 to 471 in my surrebuttal testimony.

8 Number three, I agree with Rocky Mountain
9 Power's acceptance of my pro forma capital additions
10 adjustment and do not oppose the Company's expansion
11 of that adjustment to A, include new plant that is
12 expected to be in service during the test period that
13 was not included in plant in service in the Company's
14 direct filing; B, update the costs of its new wind
15 projects coming into service; and C, remove the
16 delayed plant associated with phase 2 of the TB Flats
17 and Pryor Mountain wind projects.

18 Number four, I recommend that the Commission
19 reject Rocky Mountain Power's proposal to calculate
20 the revenue requirement for the delayed portions of
21 the TB Flats and Pryor Mountain wind plants using a
22 full year's worth of costs rather than the costs that
23 reflect their expected service during only part of
24 the test period.

25 Under the Company's proposal, the effected

1 test period -- the effective test period for the
2 delayed facilities is July 1st, 2021 through
3 June 30th, 2022, whereas the test period for all
4 other aspects of the case is January 1st, 2021
5 through December 31st, 2021. In essence, Rocky
6 Mountain Power is superimposing a second single-issue
7 test period on top of the test period otherwise being
8 used in this case.

9 The Company's proposal is inconsistent with
10 this Commission's long-standing practice for treating
11 plant that is in service for only part of the fully
12 projected test period on an average-of-period basis.
13 I also believe it may be inconsistent with the
14 requirement that a fully projected test period may
15 not include costs that are expected to be incurred
16 more than 20 months after the date of application.

17 Number five, I recommend that the delayed
18 portion of the TB Flats project be included in rate
19 base at its average of period value, reflecting an
20 expected in-service date of June 2021 with comparable
21 pro rata treatment for expenses and benefits. This
22 approach is consistent with conventional rate-making
23 practice and is what would have been expected had the
24 original schedules for these facilities anticipated a
25 mid-2021 in-service date.

1 The fact that these facilities are delayed
2 from their original in-service dates should not
3 convey an advantage to the Company in terms of
4 rate-making treatment; that is, annualization that
5 otherwise would not have been warranted had the
6 original in-service dates for a portion of the
7 projects been mid-2021.

8 Number six, I recommend that Rocky Mountain
9 Power be paid \$26 per megawatt-hour for each
10 megawatt-hour that the Pryor Mountain project
11 produces for 20 years and that the PTCs and REC
12 revenues be retained by the Company. The delay in
13 the Pryor Mountain schedule does not change my
14 recommendation. The pricing I recommend is
15 consistent with the 20-year levelized avoided cost
16 pricing that Rocky Mountain Power was calculating for
17 Wyoming wind qualifying facilities, or QFs, at the
18 time the Company acquired and developed the Pryor
19 Mountain project.

20 I made this recommendation because the cost
21 of this Company-developed project has turned out to
22 be considerably more expensive than the avoided cost
23 pricing that Rocky Mountain Power was calculating for
24 Wyoming wind QFs at the time this project was
25 developed. I used Wyoming QF pricing because that is

1 the PacifiCorp jurisdiction that is most relevant for
2 this project, and Rocky Mountain Power has long
3 represented that its avoided cost pricing is intended
4 to represent customer indifference between resources
5 provided by QFs and comparable resources the Company
6 is planning to develop. And I note that the Wyoming
7 Commission has authorized the use of the avoided cost
8 method known as the PDDRR method, a method that is
9 familiar to this Commission, in a manner that is very
10 similar to how it is used in Utah.

11 I encourage the Commission to look carefully
12 at the timeline of this project. In his direct
13 testimony, Mr. Van Engelenhoven indicates that the
14 process of acquiring and developing this project
15 began in October 2018. Please consider this fact in
16 the context of my confidential direct testimony
17 starting at line 869.

18 Mr. Link indicates that the parties seeking
19 to develop the QF projects at the Pryor Mountain site
20 did not accept Rocky Mountain Power's avoided cost
21 calculation. He concludes that therefore the project
22 could not be developed at the avoided cost Rocky
23 Mountain Power calculated. But apparently the
24 developers did not just walk away; they sold the
25 development rights. So we don't know for sure that

1 the project could not be developed at the avoided
2 cost Rocky Mountain Power provided. What we know is
3 that this developer preferred to sell the development
4 rights rather than develop it at the avoided cost
5 rate. Mr. Link does not address the question as to
6 whether any other Wyoming wind QFs elected to sign
7 contracts to develop projects at a similar avoided
8 cost.

9 Further, once Rocky Mountain Power starts to
10 consider development of a project such as this,
11 should it not become the avoidable resource for QF
12 pricing? Yet there is no evidence that Rocky
13 Mountain Power updated its Wyoming QF avoided costs
14 in late 2018 or early 2019 to reflect the Company's
15 higher cost to develop Pryor Mountain and offer that
16 price to Wyoming QFs. In fact, the opposite
17 occurred.

18 During this very time frame, in
19 November 2019, Rocky Mountain Power filed an
20 application with the Wyoming Commission to limit the
21 standard QF contracts to just seven years. The \$26
22 per megawatt-hour avoided cost rate I'm using as a
23 benchmark in this case was the product of discovery
24 in that case concerning the QF pricing that Rocky
25 Mountain Power was making available to Wyoming wind

1 QFs at that time.

2 From a customer perspective, the high cost
3 of Rocky Mountain Power's fast-track development of
4 Pryor Mountain compared to the contemporaneous QF
5 pricing for wind projects is troubling. In generic
6 QF cases, Rocky Mountain Power has steadfastly
7 maintained that it could provide customers lower-cost
8 and lower-risk wind-generated power by developing
9 Company-owned wind projects rather than purchasing
10 wind-generated power from QFs. The Commission should
11 hold the Company accountable to this claim and should
12 not authorize a revenue requirement for the Pryor
13 Mountain project that exceeds the avoided cost the
14 Company was providing to Wyoming QFs at the time the
15 Company initiated its acquisition of this project.

16 Number seven, the accumulated depreciation
17 reserve associated with the 11 repowered wind
18 projects approved by the Commission plus Leaning
19 Juniper should be adjusted to reflect the
20 depreciation expense associated with the retired
21 assets that the customers have continued to pay in
22 rates between the time each of the wind assets was
23 retired on January 1st, 2021. This is the same
24 recommendation I am making in the depreciation
25 docket.

1 Each of these repowered wind projects had
2 had a substantial portion of original equipment
3 retired when the wind plants were repowered. The
4 question I explore in my testimony is what is the
5 appropriate measurement of the retired asset value
6 upon which Rocky Mountain Power will earn a return in
7 the test period?

8 Since customers continued to pay the
9 depreciation expense associated with the repowered
10 wind project's retired assets and rates even after
11 the assets are retired, one might expect that the
12 rate base associated with the retired assets would
13 continue to decline at the rate at which depreciation
14 expense is currently recovered in rates for those
15 same assets. However, that is not the case if the
16 Company's proposed depreciation treatment is adopted.

17 Rocky Mountain Power proposes to effectively
18 freeze the value of the retired assets on the date
19 each asset -- each set of wind assets is retired even
20 though customers continue to pay for the depreciation
21 expense associated with these assets and rates. The
22 de facto asset values remain frozen until the rate
23 effective date of this rate case, at which time they
24 begin to depreciate again upon adoption of the new
25 depreciation rates approved in the depreciation

1 docket.

2 The problem with the Company's treatment is
3 that it deprives customers of the benefit that would
4 otherwise come from reducing the rate base associated
5 with the retired assets between the time of
6 retirement and the effective date of new rates in
7 this case. By effectively freezing the value of the
8 retired assets at their respective retirement dates,
9 the Company is able to temporarily collect the
10 depreciation expense on these assets that customers
11 currently pay in rates without crediting the dollars
12 collected against the value of the retired assets.
13 In my view, this treatment unreasonably overstates
14 the rate base associated with the retired assets on
15 the rate effective date of this case.

16 Rocky Mountain Power Witness Mr. McDougal
17 contends that my recommendation is not correct
18 because I'm not considering the new capital placed in
19 service subsequent to the retirement. However, I am
20 fully cognizant of the new repowered plant being
21 placed into service. In fact, I interpret the
22 Company's approach to this issue as one in which the
23 Company is attempting to obtain cost recovery for a
24 portion of its new repowered plant prior to the rate
25 effective date of this case. It is, in effect, a

1 workaround of the regulatory lag that would otherwise
2 apply to plant that comes into service prior to the
3 effective date of a rate case. The Company's
4 basically swapping the revenues paid by customers
5 that had been applied to recovering the cost of the
6 now retired assets for recovery of the new repowered
7 assets.

8 My objection to the Company's preferred
9 approach is not simply the issue of rate making,
10 rather I am simply trying to ensure that customers
11 are not deprived of getting proper credit for paying
12 off a portion of the retired assets prior to the rate
13 effective date in this case.

14 Number eight, the retired wind asset should
15 be depreciated over the expected lives of the newly
16 repowered assets as proposed by Rocky Mountain Power,
17 which is approximately 30 years. My recommendation
18 matches the Commission's determination in the
19 repowering docket that the appropriate time frame for
20 evaluating benefits of the -- is 30 years, a 30-year
21 useful life of the repowering projects. Shortening
22 the depreciable life to 10 years as proposed by the
23 Division would add approximately \$13 million to the
24 annual Utah revenue requirement in this case and
25 would not improve intergenerational equity, as I

1 explained in my rebuttal testimony.

2 Importantly, the Division failed to consider
3 the benefits that today's customers are conveying to
4 customers 20 to 30 years from now by paying for the
5 newly repowered assets in rates which will make it
6 possible for customers 20 to 30 years from now to
7 continue to take service from these assets which
8 otherwise would have been at the end of their useful
9 lives.

10 Importantly, as well, the Commission cannot
11 rely upon the Division's representation on line 59 of
12 Mr. Smith's surrebuttal testimony that its faster
13 depreciation schedule will provide \$108 million in
14 net present value benefits to customers because the
15 exhibits supporting that calculation contains a
16 critical error in that it does not capture the net
17 present value of a large savings to customers over
18 the next 10 years of paying a lower depreciation
19 expense under a 30-year depreciable life versus 10
20 years.

21 In short, the Division ignores the time
22 value of money associated with these customer
23 savings. Had the Division taken this into account,
24 the large net present value the Division claims for
25 its proposal would essentially go away. The

1 Division's proposal to shorten the depreciable life
2 of the retired assets should be rejected.

3 Number nine, Rocky Mountain Power's request
4 to include its prepaid pension and postretirement
5 welfare assets in rate base should be rejected.

6 Including these items in rate base would add more
7 than \$10 million per year to Utah revenue requirement
8 at the Company's proposed return in equity. As I
9 explained in my direct testimony, the Company's
10 prepaid pension asset has been growing, caused
11 largely by negative pension accounting costs which
12 can occur due to robust expected returns on plan
13 assets. This can cause the prepaid pension asset to
14 increase even when Company contributions to the plan
15 are zero. If the prepaid pension asset is included
16 in rate base, customers would be required to pay the
17 Company a return on the growth in the asset due to
18 the expected returns in the market. I believe this
19 is unreasonable.

20 The issue at the heart of the Company's
21 proposal is one of timing differences. Specifically,
22 what happens during periods in which cumulative
23 contributions exceed cumulative accounting costs?
24 Utah rate-making practice provides for the recovery
25 of prudently incurred pension costs calculated in

1 accordance with pension accounting standards. Over
2 the life of the pension plan, the cumulative
3 accounting costs will equal the total of the
4 Company's contributions. So the issue is not whether
5 Utah ratepayers fully fund Utah's share of pension
6 costs -- indeed, Utah customers fully fund these
7 costs -- rather the issue is who should bear the risk
8 of timing differences with respect to the
9 relationship between cumulative contributions and
10 cumulative expense; the Company or customers? I
11 believe the responsibility to manage the timing
12 differences appropriately rests with the Company, and
13 so should the risk.

14 In Utah, utility management is expected to
15 cope with normal business risks in the operation of
16 economic forces. The Commission should not allow
17 Rocky Mountain Power to shift this burden to
18 customers. In the alternative, if the Commission
19 approves the Company's request to include these
20 prepaid pension assets in rate base, the allowed
21 return on the prepaid pension in PRW assets should be
22 set at the Company's expected return on assets for
23 these plans without a tax grow some. And finally, on
24 this point, UAE does not support the Company's
25 alternative proposal for a pension in PRW cost

1 balancing account as it is an example of unwarranted
2 single-issue rate making.

3 Number ten, Rocky Mountain Power's proposal
4 to recover the cost of construction work in progress
5 and obsolete materials and supplies associated with
6 its retired Cholla Unit 4 plant should be rejected as
7 these expenditures did not result in plant that was
8 used and useful.

9 Number eleven, the share of the Company's
10 annual incentive plan expense that is related to
11 Company financial performance should be funded by
12 shareholders, not customers, consistent with the
13 long-standing rate-making practices of the
14 Commission. I will note that contrary to the
15 Company's representations earlier in this hearing,
16 the Commission's August 11th, 2008 order in
17 Docket No. 07-035-93 did not overturn this
18 long-standing practice as the evidence presented in
19 that case by Rocky Mountain Power indicated that none
20 of the incentives pay for which the Company sought
21 recovery was tied to financial goals. And it is
22 clear from the Commission's order that the Commission
23 relied on that evidence in reaching its decision in
24 that case.

25 Number twelve, Rocky Mountain Power's

1 projected 2021 pension settlement loss should be
2 amortized over 20 years rather than being included in
3 its entirety in test period pension costs. This
4 adjustment reduces the Utah revenue requirement by
5 about \$3.3 million relative to the Company's rebuttal
6 filing.

7 Number thirteen, the authorized rate of
8 return on common equity applicable to the
9 undepreciated balance of the retired plant associated
10 with the Company's wind repowering projects should be
11 reduced by 200 basis points to better balance the
12 benefits from these projects between customers and
13 the Company.

14 In the repowering docket, I noted the
15 significant disparity between the benefits to the
16 Company from its expected earnings on its investment
17 in the repowered wind projects compared to the
18 projected benefit to customers. To mitigate this
19 disparity, I am recommending a reduction of 200 basis
20 points to the authorized rate of return on common
21 equity applied to the undepreciated balance of a
22 plant the Company would retire to install repowering
23 investment.

24 Although the Commission granted preapproval
25 to 11 of the 12 repowering projects proposed by the

1 Company, the Commission reserved the question of the
2 appropriate return on the retired assets for this
3 general rate case. So to ensure that the Company and
4 customers are reasonably sharing in risks and
5 benefits of the repowered projects, I continue to
6 recommend that a reduction of 200 basis points will
7 be applied to the authorized rate of return on common
8 equity applied to the undepreciated balance of the
9 plant, which I note is no longer used and useful.
10 The adjustment I recommend is intended to better
11 balance up front the potential benefits from these
12 projects for both customers and the Company.

13 Number fourteen, Rocky Mountain Power should
14 be allowed to recover the cost of the Craig 2
15 selective catalytic reduction investment in rates
16 which should earn less than a full return on rate
17 base for this project. Specifically, I recommend
18 that the ROE for this project be set equal to both
19 cost of long-term debt plus the tax gross-up.
20 Admittedly, this is a challenging issue to resolve
21 equitably. I believe the Company acted in the
22 customers' best interests by independently evaluating
23 the economics of the SCR investment and voting no on
24 the decision to move forward with the investment. I
25 believe the stand that the Company took on this

1 matter is commendable.

2 On the other hand, the fact remains that
3 Utah customers are being asked to pay for an
4 investment that was not cost effective and therefore
5 not prudent at the time it was made. In my
6 recommendation, I've tried to strike a reasonable
7 balance between the interests of customers and
8 shareholders on this matter.

9 Number fifteen, Rocky Mountain Power's
10 proposal to use deferred tax benefits to offset
11 approximately \$6.8 million in projected Deer Creek
12 Mine recovery royalties should be rejected as these
13 royalty amounts are not known and measurable at this
14 time. Instead, I recommend that customers be
15 credited with these funds plus carrying charges
16 through the Schedule 197 in proportion to the
17 two-year payout proposed by Rocky Mountain Power in
18 its rate mitigation proposal.

19 And finally, number sixteen, Rocky Mountain
20 Power's proposal to include variations in PTC
21 benefits in the EBA should be rejected as it unduly
22 shifts a greater share of the risk of wind generation
23 variability to customers. Customers already absorb
24 100 percent of the risk associated with wind
25 generation variability in the determination of net

1 power costs.

2 That concludes my summary.

3 MR. RUSSELL: Thank you for that,
4 Mr. Higgins.

5 And before I turn Mr. Higgins over for
6 cross-examination, I have a couple of questions to
7 address one matter that came up during the -- during
8 the hearing.

9 BY MR. RUSSELL:

10 Q. Mr. Higgins, were you listening to the
11 hearing during the examination of Company Witness
12 Julie Lewis?

13 A. Yes, I was.

14 Q. And did you hear Ms. Lewis make reference to
15 a general rate case ruling from this Commission in
16 2008 regarding the Company's annual incentive plan?

17 A. Yes, I did.

18 Q. Pardon me for just a second. There seems to
19 be some sort of commotion outside my window. I'll
20 try not to pick it up.

21 Can you tell me what you understand
22 Ms. Lewis to have said with respect to that ruling as
23 it relates to the annual incentive plan?

24 A. The impression I got from Ms. Lewis'
25 testimony was that she was suggesting that the

1 Commission's 2008 order in the docket I referenced in
2 my summary had allowed for recovery of the same kind
3 of financial incentive costs that the Company is
4 seeking to recover in this case and which I am
5 recommending be disallowed.

6 **Q. Did Ms. Lewis make reference to that ruling**
7 **in her prefiled rebuttal testimony?**

8 A. She did not.

9 **Q. And as a result, did you have an opportunity**
10 **to respond to it in your prefiled surrebuttal?**

11 A. I did not.

12 **Q. Okay. After hearing Ms. Lewis' statement**
13 **about that ruling, have you had a chance to go back**
14 **and look at it?**

15 A. Yes, I have.

16 **Q. And what can you tell us about what the**
17 **Commission ruled with respect to the Company's AIP**
18 **plan and its inclusion or noninclusion of incentives**
19 **for financial goals?**

20 A. Well, the Commission's decision -- the
21 discussion of that topic and its order occurs on
22 page 61 and 62 of its order in that case. And in
23 that order, the Commission reaches the conclusion
24 that there's no evidence that the Company is seeking
25 to recover costs related to financial incentives.

1 And based on that finding, the Commission approved
2 the Company's annual incentive plan expense.

3 But there was no discussion of overturning
4 or -- its prior rulings on disallowing financial
5 incentives and no recognition or acceptance that, in
6 fact, the annual incentive plan that was under
7 consideration in that case included financial
8 incentives. In fact, the very opposite was the case.
9 The Company had provided a sworn testimony in that
10 case that its annual incentive plan for which it
11 sought rate recovery did not include financial
12 incentives.

13 Q. And just to put a point on that, I'd like to
14 address your attention to that report and order dated
15 August 11, 2008. I circulated those to counsel and
16 to the Commission a short time ago via email. I'm
17 going share my screen just, I think, to make this go
18 a little bit faster. That's my hope, anyway. We'll
19 find out.

20 And does that document show up on your
21 screen, Mr. Higgins?

22 A. No.

23 Q. Okay. Let me try that again. Oh.

24 How about now?

25 A. Yes, it's coming -- it's showing.

1 Q. Okay, great. So this is the report and
2 order dated August 11, 2008 from Docket
3 No. 07-035-93, which I've marked as UAE Hearing
4 Exhibit 1. I'm going to skip to -- it's PDF page 66,
5 but it's page 62 of the ruling. And I'll scroll down
6 to -- there's two parts that I've highlighted just to
7 kind of make this point.

8 Did the Company address two different
9 incentive plans: One for management and one for, I
10 guess, nonmanagement in this docket?

11 A. Well, there was a discussion of a fact that
12 there were two different plans, and the -- the plan
13 for management, which included financial incentives,
14 was not included as a -- in the revenue requirement
15 being requested by the Company in that case. And
16 there was a plan for other employees which was the
17 basis of the annual incentive plan expense that the
18 Company sought recovery of in that case.

19 Q. And that's shown in these two sentences that
20 are highlighted here on page 62. And for the record,
21 it would make sense to read them in, and I'll do
22 that. I've highlighted the last sentence of the
23 penultimate paragraph on page 62, which states:

24 The Company indicates there is a separate
25 plan for Company executives based upon

1 financial results, and the expenses
2 associated with that plan are not included in
3 the Company's filing.

4 Do you see that?

5 A. Yes, I do.

6 Q. Okay. And so that suggested that the
7 Commission -- or that the Company did not include
8 those -- those portions of its incentive plan for
9 executives that provided incentive for financial
10 results; right?

11 A. Yes.

12 Q. Okay. And then at the bottom of the next
13 paragraph, the last two sentences on this page, it
14 states -- this is the Commission, states:

15 We conclude the elements of the incentive
16 compensation program, for which the Company
17 seeks recovery from ratepayers, are not
18 related to financial goals. Therefore, we
19 accept the Company's test period forecast for
20 incentive pay.

21 And did that -- is that the basis for your
22 conclusion that the Commission reached the conclusion
23 that the incentive plan for employees did not include
24 incentives for financial results?

25 A. Yes. That in combination with my review of

1 the testimony that the Company provided in that
2 document.

3 Q. Okay. And let's look at that very quickly
4 now. I also circulated that. It's marked as UAE
5 Hearing Exhibit 2. And I'll just represent that I
6 pulled both of these documents off of the
7 Commission's website for this docket. And this is
8 the rebuttal testimony of Mr. Erich D. Wilson. And
9 I'll turn first to page 19 of that testimony. And
10 this would go, I think, to the senior management
11 incentive compensation that we just talked about.
12 And the question there on line 411 states:

13 Does the Company maintain any incentive pay
14 programs that are tied to financial metrics?

15 And the answer is:

16 Yes, the Company does offer a long-term
17 incentive program to select senior management
18 levels. This plan is based on MidAmerican
19 net income improvement and is vested over a
20 five-year cycle.

21 We are not asking for recovery of costs
22 associated with this program; is that right?

23 A. Yes.

24 Q. And that's consistent with the Commission's
25 conclusion on that point; correct?

1 A. Correct.

2 Q. Okay. And then I will scroll back up to
3 page 17, starting in the middle of line 366 where it
4 says:

5 All of the employees' goals focus on
6 objective outcomes that are very closely tied
7 to safety, reliability, and customer service.

8 None of them are tied to financial outcomes;
9 right?

10 A. Correct.

11 Q. And is that consistent with the Commission's
12 ruling on that point?

13 A. Yes.

14 Q. Okay. So having reviewed that information,
15 do you reach any conclusions about what the Company
16 sought and what the Commission ordered with respect
17 to that general rate case and how it regards
18 incentives for financial goals?

19 A. Well, in fact, Mr. Russell, if you wouldn't
20 mind toggling down to line -- around -- about line
21 405 in Mr. Wilson's testimony --

22 Q. Sure.

23 A. -- we can also put that into some context.
24 We can see right about line 405, Mr. Wilson makes the
25 point again, at any rate, none of the incentive pay

1 for which the Company seeks recovery is tied to
2 financial goals.

3 So taking into context this testimony from
4 Mr. Wilson as well as the previous testimony from
5 Mr. Wilson that you shared and then examining the
6 Commission's conclusion and its orders, it's clear
7 that the Company's representation that -- was that
8 the annual incentive plan that it presented in the
9 docket in question did not include incentive
10 compensation tied to financial goals. And so
11 therefore when the Commission accepted this incentive
12 plan into the revenue requirement, it was in no way
13 changing its long-standing and fully articulated
14 policy that I had provided and cited to in my direct
15 testimony that financial goals are to be excluded
16 from the revenue requirement when it comes to
17 incentive compensation in Utah.

18 **Q. Okay. Thank you for that.**

19 MR. RUSSELL: And at this point, I'll move
20 for the admission of UAE Hearing Exhibits 1 and 2.

21 COMMISSIONER LEVAR: If anyone objects to
22 that motion, please indicate your objection.

23 MR. SABIN: Well, I'll -- this is Mr. Sabin.
24 I'm just going to turn on my video here. I don't
25 have any problem with the Commission's order coming

1 in. That's fine. But I -- earlier, I was not
2 allowed to -- or it was objected to that I was
3 putting in testimony from another proceeding earlier,
4 and I think the same standard should apply here. I
5 mean, he's addressed in the record. I think the
6 purpose has been served, but I don't think it should
7 be a proper exhibit if I'm not able to do it as well,
8 so...

9 MR. RUSSELL: And like Mr. Sabin, I'm not
10 offering this as UAE's witness here. That witness
11 isn't here to be cross-examined. It was merely for
12 the purpose of illustrating a point. I'll offer it
13 for that purpose.

14 MR. SABIN: I think it comes into --

15 COMMISSIONER LEVAR: Yeah, let me ask you
16 this, Mr. Russell, for that -- is that purpose
17 already accomplished at this point without your
18 motion?

19 MR. RUSSELL: And I will admit, at this
20 point, I don't recall whether Mr. Sabin's exhibit
21 came in or not. If it didn't, then this one can stay
22 out. It's fine. Whichever --

23 COMMISSIONER LEVAR: We can --

24 MR. RUSSELL: Whatever the ruling was
25 earlier, I agree it should be again.

1 COMMISSIONER LEVAR: Well, there was no
2 ruling earlier because Mr. Sabin simply withdrew his
3 motion to enter it into evidence after the objection.

4 MR. RUSSELL: Okay.

5 COMMISSIONER LEVAR: So we didn't rule on
6 it. But giving it the same treatment as it had
7 earlier would be just treating it for the purpose
8 that it's already been used in Mr. Higgins' comments.

9 MR. RUSSELL: Yes. And that's fine. I
10 don't need it to be an exhibit here. It's a matter
11 of public record anyway.

12 MR. SABIN: To be clear, Mr. Chairman, I
13 don't have any problem with the other exhibit. It's
14 fine.

15 COMMISSIONER LEVAR: Okay. So is there
16 still any pending motion, Mr. Russell?

17 MR. RUSSELL: I guess the motion is for the
18 admission of UAE Exhibit 1, which was the report and
19 order. I don't hear Mr. Sabin objecting to that one.

20 COMMISSIONER LEVAR: Okay. If there's any
21 objection to that motion, please indicate it.

22 I'm not seeing or hearing any, so that
23 motion is granted.

24 (Exhibit admitted.)

25 MR. RUSSELL: Thank you. And Mr. Higgins is

1 now available for cross-examination and Commission
2 questions.

3 COMMISSIONER LEVAR: Thank you. Why don't
4 we take a ten-minute break, and then we'll return and
5 move forward with cross-examination. Thank you.

6 (A brief recess was taken.)

7 COMMISSIONER LEVAR: We're back on the
8 record.

9 Mr. Russell, we're ready to go to
10 cross-examination questions; right?

11 MR. RUSSELL: That is correct.

12 COMMISSIONER LEVAR: Okay. I will go to
13 Mr. Jetter first.

14 Do you have any questions for Mr. Higgins?

15 MR. JETTER: I do have just a few brief
16 questions.

17

18 CROSS-EXAMINATION

19 BY MR. JETTER:

20 Q. Good afternoon, Mr. Higgins.

21 A. Hello, Mr. Jetter.

22 Q. And this is with respect to the amortization
23 of the decommissioned wind turbine equipment. It's
24 an accurate statement, isn't it, that the overall
25 project to replace the decommissioned wind turbines

1 results in two primary, I guess, benefit sets. One
2 is the production tax credits that run for 10 years,
3 and the other is the zero fuel cost energy production
4 that would presumably run for 30 years if the new
5 equipment lasts that long.

6 A. I agree.

7 Q. And that's being balanced, essentially,
8 against the value of decommissioning the old
9 equipment along with the loss of the generation from
10 the old equipment and the cost of the new equipment.

11 Is that a fair summary?

12 A. Well, I would add to that, Mr. Jetter,
13 you've got the cost of paying off the retired
14 equipment. Maybe that's what you meant by
15 "decommissioning." But essentially you have the --
16 you have the remaining book value of that retired
17 plant that is being paid off by current-day customers
18 even though it's no longer in service.

19 Q. Yeah, that's what I was -- I was intending
20 to get to with that question.

21 And is it a fair assessment that because of
22 the relative values of the PTCs as compared to the
23 zero fuel cost energy that the payback is -- in some
24 sense, the benefits are front-loaded out of those
25 30 years and that the -- a large portion of the net

1 present value of the benefits comes in the first
2 10 years?

3 A. I would agree that the PTC benefits, by
4 their nature, are front-loaded, and therefore there
5 is a greater benefit from that or that that benefit
6 occurs during the first 10 years.

7 Q. Okay. And is it a fair -- I guess a fair
8 characterization that it's ultimately somewhat of a
9 policy decision whether you would try to match up the
10 amortization of the decommissioned wind turbine
11 equipment in that 10 years with a PTC if you viewed
12 it as matching more closely with that benefit, and it
13 could also be a potential policy decision to match it
14 with the 30 years of the zero fuel cost resource?

15 A. I agree that it's a policy decision, and,
16 you know, I just urge the Commission not to adopt the
17 policy being recommended by the Division.

18 Q. Okay. Those are all my questions. Thank
19 you for your time.

20 A. Thank you.

21 COMMISSIONER LEVAR: Mr. Snarr, do you have
22 any questions for Mr. Higgins?

23 MR. SNARR: No, the Office has no questions
24 of Mr. Higgins.

25 COMMISSIONER LEVAR: Okay. Thank you.

1 Mr. Holman?

2 MR. HOLMAN: I have no questions. Thank
3 you, Chair.

4 COMMISSIONER LEVAR: Thank you.

5 Mr. Sanger?

6 MR. SANGER: I have no questions. Thank
7 you.

8 COMMISSIONER LEVAR: Mr. Boehm?

9 MR. BOEHM: (No audible response.)

10 COMMISSIONER LEVAR: Okay. Mr. Sabin?

11 MR. SABIN: Thank you. Just a few.

12

13 CROSS-EXAMINATION

14 BY MR. SABIN:

15 Q. Good afternoon, Mr. Higgins.

16 A. Good afternoon, Mr. Sabin.

17 Q. I want to start where Mr. Russell left off,
18 as it's fresh in our minds, on the annual incentive
19 pay issue.

20 Do I correctly understand that you agree
21 that what we're not talking about here is any type of
22 bonus? We're talking about normal compensation for
23 standard employees.

24 Is that a fair statement?

25 A. I agree that it's not considered a bonus. A

1 characterization, I believe, that Ms. Lewis gives to
2 it is at-risk compensation.

3 Q. Let me rephrase what I'm actually trying to
4 get at.

5 What Ms. Lewis testified about earlier in
6 the week was that if you take base pay plus the
7 incentive pay, that is the -- that is market comp.
8 That's 50 percentile of what you'd pay an employee
9 and anybody else in the market to come in and do the
10 same job.

11 Do you have any reason to disagree that
12 that's what Rocky Mountain Power has done here?

13 A. No.

14 Q. So we're not talking about -- and I think --
15 if you want me to point in your surrebuttal, I can.
16 But I believe in your surrebuttal you say you agree
17 with Ms. Lewis that we're not -- that we're not
18 talking about bonuses; right?

19 A. Yes.

20 Q. Okay. In your rebuttal, you cite to a case,
21 and it's the -- it's a US West case that comes --
22 that is from 1995. And it's only page -- I'll just
23 direct you to your direct testimony at page 28, if
24 you'd like. That's where the US West quote appears.
25 And I guess my first question to you is just to ask

1 you, that is the case you're relying on for this
2 "long-standing position of the Commission on
3 incentive pay"; right?

4 A. Yes, that is the -- I believe that is the
5 case that most clearly articulates the Commission's
6 policy on it, based on my own experience and research
7 on the question.

8 Q. And your understanding is that case is still
9 good law?

10 A. Well, I'm not an attorney, but I believe
11 that that expressed the Commission's policy. And I'm
12 not aware of any case in which the policy was
13 overturned.

14 Q. Okay. We sent out a copy as an exhibit of
15 the US West case. And if your counsel hasn't already
16 sent it to you -- Mr. Russell, could you send that to
17 Mr. Higgins, please?

18 MR. RUSSELL: Yeah, I'll send it now.

19 MR. SABIN: This is marked as Rocky Mountain
20 Power Cross Exhibit No. 13. For those who are
21 wondering which one I'm referring to, that's the one
22 I'm referring to.

23 BY MR. SABIN:

24 Q. And, Mr. Higgins, if you'd just tell me when
25 you get that email from Mr. Russell, that would help.

1 A. Okay. I got it.

2 Q. Okay. This is the 1995 US West case. And
3 if you could go with me down -- there's a -- it's a
4 long document. I apologize for that. But if you go
5 down to Section 23, which starts on page 12 of the
6 PDF, that's where I'm going to start. Okay?

7 A. Okay.

8 Q. And let me know when you're there. There
9 should be some highlighting on that screen.

10 A. I'm there. Yes.

11 Q. Okay. And I'm going to pop that page up
12 onto the screen as well. Let me just represent to
13 you so we can speed this questioning up that this
14 page is the page where the Commission starts talking
15 about past cases dealing with incentive compensation.
16 And let me just represent to you that I've
17 highlighted the Commission's discussion of every
18 single instance that it was referring to in this
19 case, and there are four or five of them. And do you
20 have a -- let me just represent that each one of them
21 has to do with management bonuses being awarded to
22 management-level employees or executive compensation
23 bonuses.

24 Do you, Mr. Higgins, have any basis to
25 dispute that the US West case was discussing that

1 **issue?**

2 A. I'm reviewing the document, Mr. Sabin.

3 **Q. That's fine. No problem.**

4 A. I would agree that the first highlighted
5 section discusses management bonuses.

6 **Q. And I've highlighted, Mr. Higgins, the -- in**
7 **each of the -- you know, in the first paragraph,**
8 **they're talking about a 1984 case that dealt with --**
9 **where the Commission disallowed a management bonus**
10 **because the awards were based on financial**
11 **performance; right?**

12 **But that's focusing on management bonuses;**
13 **right?**

14 A. Correct.

15 **Q. And the second case here in Docket 88 that**
16 **they're referring to dealt with bonuses based on**
17 **financial performance for US West, Inc. employees;**
18 **right?**

19 A. Correct. I don't -- just to be clear, I do
20 not see that as being limited to executives or top
21 management.

22 **Q. But it's still -- it's dealing with bonuses;**
23 **right?**

24 A. The word "bonus" is what is used here, yes.

25 **Q. Okay. The next one in Docket 90-025-06**

1 dealt with where the Commission had directed the
2 Division to investigate appropriate determinant of
3 bonuses recovered in rates from ratepayers; right?

4 And then last one, this 92-049-05 was
5 talking about a plan consisting of stock options and
6 job performance shares, both of which were additional
7 compensation to executives --

8 A. Yes.

9 Q. -- if the stock price increases in the long
10 run; right?

11 That's executive bonuses in the form of a
12 stock option or shares; right?

13 A. Correct.

14 Q. Okay. Now, this particular case, the US
15 West case, it was also dealing with a proposal of
16 US West executives to receive bonuses, is it not?

17 And if we look down here on the two
18 paragraphs that I've highlighted, it says:

19 The Division comments that the Company's
20 survey of plans offered by other companies,
21 many not regulated, revealed none having the
22 regulatory handling of such bonus plans.

23 And then, you know, it goes on to say:
24 The Division also testifies it would take
25 truly exceptional circumstances to justify

1 **the incentive compensation expenses of an**
2 **unregulated parent being passed through**
3 **utility affiliates for recovery from utility**
4 **ratepayers.**

5 **Can we agree, Mr. Higgins, that what they're**
6 **talking about in that US West case is nothing at all**
7 **like what we're dealing with here?**

8 A. I don't agree, sir. The -- in the -- in
9 this particular instance, you know, US West appears
10 to have been focused on, you know, bonuses for
11 executives, but the Commission more -- speaks to the
12 issue more broadly, if you look at the highlighted
13 section that begins "the Commission has previously
14 heard and rejected the argument" --

15 **Q. I'll go to that. I'll go to that one. I'm**
16 **going to read that right now.**

17 A. So -- okay.

18 **Q. Mr. Higgins, just on my particular question,**
19 **my question was only -- in that US West case, we were**
20 **dealing with bonuses, weren't we?**

21 A. We were dealing with bonuses. I would -- I
22 would not put undue weight on the terminology in this
23 discussion. I agree that, you know, we've discussed
24 whether or not the at-risk compensation the Company
25 has, PacifiCorp has, you know, whether that's, you

1 know, considered a bonus or simply part of the
2 compensation plan that is at risk. Clearly the term
3 being used here was "bonus."

4 But of course the thing that they have in
5 common that I am addressing is whether or not there
6 is a financial linkage to whether the employee is
7 being paid a greater amount of money based on the
8 financial performance of the Company. I believe
9 that -- that characteristic extends to whether we're
10 talking about a bonus plan or at-risk compensation.
11 But with that caveat -- I'll await your question.

12 Q. Yeah. I appreciate that and -- thank you.
13 So let's turn to what we're talking about
14 specifically in this case.

15 So as I understand both your direct and
16 surrebuttal testimony, you are seeking to disallow a
17 portion of the AIP -- I'll just say incentive pay --
18 that would be payable under the Company's
19 compensation plan to kind of the standard employees
20 for which -- that would qualify for it; right?

21 A. Yes.

22 Q. And I do not want to -- the specific
23 percentages that you're talking about are
24 confidential or they're marked confidential, and I
25 don't -- unless you tell me, I don't think we need to

1 look at the specific percentage other than can we
2 agree that it is a fairly small percentage we're
3 talking about? If you take 100 percent, what we're
4 talking about is a fairly small percentage of that
5 100 percent.

6 A. Correct.

7 Q. Okay. Now, you wanted to go to this
8 paragraph, which I want to go that too. The next
9 paragraph in this US West case -- I'll read this and
10 then I've got a question for you. The Commission
11 says:

12 The Commission has previously heard and
13 rejected the argument from PacifiCorp and
14 Mountain Fuel as well as USWC that increased
15 income arising from incentive compensation
16 reduces revenue requirement. Since financial
17 goals can be achieved at the expense of
18 customer service, the Commission reiterates
19 its policy that an acceptable incentive
20 compensation plan, to be recoverable in
21 rates, must have as its primary objective
22 customer service goals, not financial goals.

23 Did I read that correctly?

24 A. Yes, you did.

25 Q. Okay. And you were here or you listened or

1 watched Ms. Lewis' testimony, did you not?

2 A. Yes, I did watch it.

3 Q. Do you agree that she testified that the
4 Company's annual incentive pay is based upon an
5 analysis of six total factors, each of which is
6 weighted, it has some weighting applied to it, but
7 that the AIP is paid based upon the analysis of all
8 factors, the accumulation of all of them?

9 A. Yes, I heard her testimony.

10 Q. Okay. Mr. Higgins, a moment ago you stated
11 that the apportionment that you're seeking to -- that
12 it's a portion you're seeking to exclude. As I read
13 the Commission's language in the US West orders here
14 that we're looking at, I do not see the Commission
15 saying that it can pick and choose and deny portions,
16 that it's telling you that we're going to deny any
17 portion of incentive pay. Rather it's saying that as
18 long as the primary objective of the overall
19 incentive pay is customer service goals or the
20 achievement of customer service goals, it is not
21 offensive to the Company's -- to the Commission's
22 policy.

23 Do we agree that that's what this language
24 says?

25 A. I agree that -- the language speaks for

1 itself.

2 **Q. Okay.**

3 A. And the -- what we have in terms of the
4 facts in this case is we have a plan that the Company
5 has -- it has, for example, for 2019, that has
6 specific percentage weightings that are available for
7 review by the Commission, in fact, were, you know,
8 part of a confidential exhibit I offered in my
9 testimony. And so the Commission can certainly
10 consider for itself whether it would disallow that
11 percentage that is directly related to the
12 achievement of financial goals consistent with its
13 policy.

14 And if the Commission decides that -- you
15 know, if most of the plan is not related to financial
16 goals and therefore the part of the plan that relates
17 to financial goals can be recovered from customers,
18 then the Commission can, you know, obviously reach
19 that determination.

20 I'm providing the opportunity for the
21 Commission to, I believe, reach a determination
22 that's consistent with its prior stated policy by
23 being able to specifically identify the part of the
24 plan that is related to financial goals. And as you
25 say, it's a relatively small part of the plan

1 disallowing the portion specifically related to
2 financial goals.

3 Q. I presume you concede, then, that the other
4 portions of the incentive plan are not, in your mind,
5 any way -- in any way related to financial goals, or
6 you would have highlighted them in your testimony.

7 A. Correct.

8 Q. Okay. So you -- and so as a final point
9 there, you agree with me that if we were looking at
10 the substantial -- if we were looking at 100 percent
11 of the annual incentive pay compensation plan, can we
12 agree that the large majority, the great majority,
13 nearly all of incentive pay, does not have as its
14 goal anything related to financial performance?

15 A. I agree that the large majority does not
16 relate to financial performance, and in my
17 recommended revenue requirement, I included the large
18 majority of the annual incentive plan in the UAE's
19 proposed REC requirement.

20 Q. Okay. Thank you. One last question on this
21 issue and -- or one last line, and we'll go on.

22 You heard Ms. Lewis testify that the way the
23 Company's compensation plan is established is they
24 select the median and then the base pay and incentive
25 comp are intended to make up that 100 percent of that

1 50 percent or the median of market pay that would
2 have to be paid to any employee or any person in the
3 market to work in that same kind of position.

4 I didn't artfully say that. Do you
5 understand what I'm asking or what I'm saying?

6 A. I get the gist of it.

7 Q. Okay. Thanks. I'm sorry for stumbling a
8 little bit there.

9 That being the case, if the Company
10 completely scrapped, they just got rid of its
11 incentive pay altogether and said, We're not going to
12 even judge our employees on any factors. We're just
13 not even going to care if they perform -- you know,
14 we'll care that they perform well or not, but it's
15 not going to have any -- it's true, isn't it, that
16 they would be paying -- if they wanted to pay the
17 median for any employee and didn't have an incentive
18 plan or didn't have any goals, that they would still
19 be having to pay the same amounts as they would under
20 the current scenario?

21 A. Well, perhaps. Perhaps if that -- you know,
22 the Company stopped with the particular metrics that
23 you're talking about. But, of course, then you would
24 be foregoing providing incentives for improving
25 customer service and so forth, and therefore, you

1 know, potentially, you know, causing the Company some
2 long-term problems down the road.

3 And, in fact, I'm not recommending that
4 employees not be rewarded for the performance of the
5 Company. I -- financial performance of the Company.
6 I just believe that it's more appropriate for the
7 Company shareholders to pay that part of the
8 incentive compensation.

9 Q. But I think the point I'm making is a
10 different one, which is, ratepayers or customers are
11 not made -- were any worse off than -- you know,
12 they're not paying any more than they would have no
13 matter if the Company's financial performance is the
14 best ever and everybody obtains 100 percent of their
15 incentive pay, the ratepayers would not be paying
16 anything more than what you'd have to pay a standard
17 employee to do that same job absent any incentive
18 pay.

19 A. I suppose that's possible given the metrics
20 that you've laid out.

21 Q. Okay.

22 (Simultaneous speaking.)

23 BY MR. SABIN:

24 Q. I understand. I get the world we're living
25 in. Thank you, though.

1 I'm going to switch topics really quickly to
2 Cholla. One of the issues you reference is that
3 there is some CWIP and some M&S, or materials and
4 supplies, amounts that you have suggested a
5 disallowance on; isn't that right?

6 A. Yes.

7 Q. Okay. If I heard your summary correctly,
8 and maybe I misheard it, but I don't think you're
9 challenging that the M&S -- let us take them
10 separately. The materials and supplies, as I
11 understand your testimony, you're not arguing that
12 that was prudently incurred costs that the Company
13 bought the materials for a legitimate purpose to use
14 for legitimate operations at its plants; is that
15 right?

16 A. Well -- I'm sorry. I didn't quite hear the
17 beginning part of your question there. Maybe I
18 didn't hear it correctly, so perhaps you could repeat
19 it so I make sure -- so I understand it.

20 Q. I will. Thank you for letting me know. If
21 I -- if it glitches out, let me know, and I'll start
22 over again.

23 A. I heard it audibly. I didn't quite
24 understand it. Or I didn't quite hear your -- what
25 you said. It wasn't technical; it was just I didn't

1 quite hear.

2 Q. Okay. So we're talking only about materials
3 and supplies for the moment. I'm going to break them
4 into two categories. If I understand your rebuttal
5 and surrebuttal -- or your direct and surrebuttal
6 testimonies correctly, I don't believe you're taking
7 the position that the materials and supplies were not
8 a prudently incurred cost by the Company; in other
9 words, that the Company didn't legitimately go out
10 and buy needed materials and supplies to operate its
11 plants.

12 A. I did not take a position that -- that
13 those -- that acquisition was imprudent, per se. I
14 really -- I didn't offer an opinion on the prudence
15 of that specific action.

16 Q. Okay. And is that the same -- is the same
17 thing true of the CWIP project?

18 A. Yes.

19 Q. Okay. So let's assume those -- the amounts
20 for both M&S and CWIP were prudently incurred costs.

21 Isn't it the case that the Company, under
22 normal circumstances, would be able to recover those
23 amounts but for the closure of Cholla?

24 A. Well, they would have been able to cover
25 the -- recover those amounts had they been put into

1 service on behalf of customers, yes, assuming that
2 they were used and useful and -- yes.

3 **Q. I understand your point. So you're saying**
4 **that in no circumstance could a prudently incurred**
5 **cost be recovered in rates even though -- even where**
6 **the prudent thing would be to shut down a plant**
7 **simply because you didn't have time to finish it**
8 **before the decision was made to close the plant.**

9 A. I would say that each case should be
10 reviewed on its merit. And in this particular
11 circumstance, we have an entire power plant that's
12 being shut down prior to its -- the end of its
13 intended life. And we have an arrangement that
14 employees have not objected to which allows the
15 Company to receive around \$146 million, I believe, to
16 basically buy down the remaining book value of this
17 no longer used and useful plant.

18 And in the context of that overall benefit
19 to the Company -- I believe that's a benefit to the
20 Company because it removes the risk to the Company of
21 having a plant that is no longer used and useful with
22 remaining balances on it. In the grand scheme of
23 this arrangement, I think it is reasonable that to
24 the extent that there were some relatively small
25 portions of that investment, which -- the

1 construction work in progress and the -- you know,
2 the materials and supplies that were never used
3 represent, I think it's reasonable for customers not
4 to have to bear that additional cost since they were
5 never used and useful.

6 So I think each case should be looked at in
7 its -- on its own merit. And in the case of
8 Cholla Unit 4, I believe in light of the significant
9 benefits to the Company of this buy down, it's
10 reasonable for customers not to have to pick up this
11 relatively small portion of the cost.

12 **Q. Can we agree that had -- you know, that up**
13 **until the time the decision was made to retire**
14 **Cholla Unit 4, that the Company's failure to have**
15 **expended adequate resources to have the materials and**
16 **supplies necessary to operate those plants, that that**
17 **would have been imprudent for them not to have those**
18 **supplies on hand to operate the plant?**

19 A. Potentially. I -- you know, at this point,
20 I have not heard a clear articulation from the
21 Company as to what, you know, all of these items
22 represent. But it's possible that it would have been
23 imprudent; it's possible that it would not have been.
24 It really, you know, depends on those materials and
25 how much of it -- how much of a stockpile was

1 required.

2 Q. Have you identified in any place in your
3 testimony or is there any place in the record where
4 an intervenor argues that the materials and supplies
5 purchased were not necessary for the plant's
6 operation?

7 A. No.

8 Q. Okay. So you don't actually know one way or
9 the other whether they were need, and the Company's
10 position is that they were needed.

11 Given that you don't have any evidence on
12 that point, aren't we left with just the Company's
13 position that these materials and supplies and these
14 Cholla -- and these CWIP projects were necessary for
15 purposes of the operation of these plants?

16 A. Yes. We have that representation and we
17 have the fact that they ultimately were not necessary
18 for operation of a plant, as it turns out. Yes, the
19 Company may have been anticipating that they would
20 have been needed. I'm not questioning that, that the
21 Company anticipated that they would be needed. But
22 as it turns out, they were not needed.

23 Q. And you would agree, wouldn't you, that when
24 the decision was made to retire Cholla, that it was
25 prudent for them to stop further work on projects or

1 to stop purchasing further materials and supplies,
2 which it did.

3 A. I agree.

4 Q. Okay. All right. One more issue I'd like
5 to talk about, and that is Pryor Mountain. I just
6 have a couple of points there I want to ask you
7 about.

8 First, I want to start with the QF pricing
9 issue, your proposal to have the pricing be limited
10 to 26 -- I think it's approximately \$26 a megawatt,
11 if I'm not mistaken; is that right?

12 A. Exactly. \$26 per megawatt-hour.

13 Q. Okay. And the first thing I want to know
14 is, that QF pricing that you're referring to, it was
15 intended to be based on a 20-year PPA contract;
16 right?

17 A. Yes.

18 Q. And you have not provided the Commission
19 with any type of analysis showing what that price
20 would have been over a 30-year period, have you?

21 A. I have not. And I don't believe a 30-year
22 PPA is appropriate, but I -- and therefore, I have
23 not.

24 Q. I know. And you're not going to get
25 disagreement from me on that. I'm just wondering,

1 the number you're talking about, the \$26-per-megawatt
2 number, is not really a number that is -- that
3 matches up with what the Company has in mind with
4 Pryor Mountain; right?

5 It's a 30-year investment in a project, and
6 the \$26 QF pricing on a 20-year PPA does not line up
7 with that timeline. That's all I'm asking about for
8 the moment.

9 A. I agree. And that is consistent with how QF
10 pricing is done. You -- QFs build projects that are
11 expected to last 30 years, and then you're offered
12 20-year contracts which the Company later argued
13 should only be 7-year contracts. And so I --
14 irrespective of the expected life of the facility,
15 what I am proposing is consistent with the way Rocky
16 Mountain Power calculates avoided cost pricing for
17 QFs. Or at least it did when 20-year contracts were
18 available. As you probably know, they're -- they've
19 been reduced to 15 years now.

20 Q. Okay. And in his rebuttal testimony,
21 Mr. Link points out that the QF pricing you're
22 referring to was based upon information from 2016 and
23 '17.

24 Do you have any basis to dispute that?

25 A. No, I don't. In fact, the information was

1 information that I obtained in discovery in Wyoming,
2 you know, because I was part of the Wyoming QF
3 proceeding in 2018. And it was the result of me
4 asking the Company, which had filed a case in
5 November of 2018 seeking to shorten the terms of QF
6 contracts -- and I asked them in discovery for the
7 Company to provide me all the QF prices that had
8 been -- the avoided cost rates that the Company
9 calculated for prospective QFs as well as QFs that
10 had signed contracts as of the date of the Company's
11 filing in November of 2018.

12 So it was contemporaneous with the Company's
13 QF docket in Wyoming initiated in November 2018 and,
14 coincidentally, contain -- contemporaneous with the
15 date that Mr. Van Engelenhoven has given as the time
16 that the Company began investigating acquiring Pryor
17 Mountain, which was October.

18 **Q. We'll come to that. But we agree that the**
19 **information used to prepare that 20-year QF pricing**
20 **was information that was several years old at the**
21 **time; right?**

22 A. It was -- it was what the Company
23 represented as current. So just to be clear, those
24 prices were the analysis that Rocky Mountain Power
25 was offering to Wyoming QFs around the time that the

1 Company began looking into taking over Pryor
2 Mountain. The analysis may have been based on some
3 earlier planning, but it was still the
4 contemporaneous QF pricing that Rocky Mountain Power
5 was offering.

6 Q. And I think you're pushing back on something
7 I'm not really trying to -- a point I'm not really
8 trying to make or I'm not really going after.

9 The bigger point is this: When Mr. Link
10 states that when it made the decision to -- when it
11 conducted its analysis for Pryor Mountain, all of
12 that information was updated to more current
13 information that was then available to do the more
14 current -- to do an analysis based on more current
15 information.

16 Do you have any reason to dispute that?

17 A. Well, I'm trying to respond without getting
18 into confidential information. And so pardon me for,
19 you know, sort of parsing my words carefully here.

20 Q. Okay. And if we need to, you can let me
21 know. We can let the Chair know that. We can go
22 into confidential session if we need to, but --

23 A. Sure. My understanding of the QF pricing
24 that Rocky Mountain Power was providing and offering
25 in its avoided cost analysis in Wyoming around the

1 time that the Company started looking at the Pryor
2 Mountain project is consistent with the
3 \$26-per-megawatt-hour price that I suggested be the
4 benchmark for this project.

5 When Rocky Mountain Power decided to take on
6 the Pryor Mountain project, I will agree that if the
7 Company was encountering and realizing that the costs
8 to develop such a project were more expensive than it
9 was representing in its avoided cost pricing, I would
10 agree that that new project should become the new
11 displaceable resource. But I am not aware that Rocky
12 Mountain Power made this higher avoided cost
13 available to QFs at that time. I'm -- so it's clear
14 that this project is more expensive than the QF rates
15 the Company was providing to parties.

16 **Q. And I don't think you're answering my**
17 **question. Let me go back to my question.**

18 A. Okay.

19 **Q. The information Mr. Link used to prepare his**
20 **analysis was more current and updated than the**
21 **information used to calculate the QF pricing that you**
22 **were referring to. He states that in his rebuttal,**
23 **and you don't dispute it in your surrebuttal.**

24 **Do you have any basis to dispute it today?**

25 A. No. It speaks for itself that this project

1 is more expensive, and --

2 Q. Okay.

3 A. -- therefore, you know, represents what the
4 Company had come to conclude this project would cost.

5 Q. I didn't make any of those representations
6 to say it was more expensive or any of that.

7 Mr. Link has testified that it was over a 30-year
8 period instead of a 20-year period, to which you've
9 agreed that that's true; right?

10 A. Yes.

11 Q. And you've now just agreed that the
12 information used is different -- whether higher or
13 lower, it's different than the information used to
14 prepare the earlier QF pricing; right?

15 A. I don't disagree with that.

16 Q. Okay. So you don't have in the record any
17 information or any analysis to show what the right
18 price should be.

19 Even if we were to do it as a QF pricing
20 like you're saying, we don't have that number in the
21 record from you; right?

22 A. I disagree with that. And we can go -- I
23 would just like to -- to be able to make my point,
24 sir, we would have to go into confidential session.

25 Q. Okay. I'll move on.

1 **Mr. Link made the point, and you responded**
2 **back in your summary, on the issue of the fact that**
3 **this QF -- this particular project has never been --**
4 **was never done -- no one ever signed up to do this**
5 **project at the QF pricing you're -- you know, that is**
6 **set forth in your testimony, right, the \$26?**

7 **Nobody wanted -- apparently nobody wanted to**
8 **do this project at \$26 under that QF pricing that**
9 **you're referring to; right?**

10 A. I -- actually, in my -- in my summary
11 testimony, I made the point that we don't know that.
12 What we do know is that the developer made the
13 decision that it was better to sell the development
14 rights rather than to pursue development of the
15 project at around, you know, the kind of pricing I'm
16 talking about. So that's the representation. It
17 does not necessarily mean that it couldn't be
18 developed at that price.

19 And moreover, that -- Mr. Link's
20 representation on that point and your representation
21 on that point doesn't address whether any other
22 Wyoming QFs were willing to try to develop projects
23 at that price.

24 **Q. Well, I'm only talking about this particular**
25 **project; right?**

1 I mean, you may have -- I don't think you
2 did, in your surrebuttal or your direct, provide any
3 evidence that any other Wyoming QF in this
4 contemporaneous with this has come forward and sought
5 to do a project at that rate. At least I'm not aware
6 of that evidence in there. Is there some evidence
7 I'm missing?

8 A. If we go into confidential session, I could
9 provide such evidence.

10 Q. Okay. On this point, though, the
11 developer -- you agree that the developer never
12 signed a PPA at this price?

13 A. I agree.

14 Q. Okay. And that if it were more lucrative --
15 I guess I'll just do -- I'll just say this: As it
16 relates to this particular project, I agree with you,
17 we don't know what the developer was thinking. The
18 developer is not here as a witness. But the
19 developer clearly didn't believe that it -- it made
20 the choice that it was -- that it really was going to
21 just have to sell the project other than develop it,
22 otherwise they could have developed it as a QF
23 project; isn't that true?

24 A. Right. Which is also another way of
25 saying -- of making the case that perhaps the Company

1 provided the developer a QF price that really didn't
2 reflect the cost of the Company's next avoidable
3 resource. But yet clearly the developer chose to
4 sell the development rights, not develop it at \$26
5 per megawatt-hour. I agree with you on that. But
6 that doesn't change the fact that \$26 per
7 megawatt-hour was about the price the Company was
8 calculating for avoided costs in Wyoming at this time
9 and did not address whether or not any other wind QFs
10 were willing to develop it at that price.

11 **Q. Okay.**

12 MR. SABIN: Let me -- Mr. Chair, if we could
13 just take a minute, I'm just going to confirm I've
14 covered everything, and I'll be right back. Is that
15 okay?

16 COMMISSIONER LEVAR: Certainly.

17 (Pause in proceedings.)

18 MR. SABIN: Mr. Chair, I think we're done.
19 Thank you very much.

20 Thank you, Mr. Higgins. I appreciate your
21 time.

22 MR. HIGGINS: Thank you, Mr. Sabin.

23 COMMISSIONER LEVAR: Okay. Thank you,
24 Mr. Sabin.

25 Mr. Russell, I'm considering whether we

1 should just start your redirect first thing in the
2 morning, unless you have some other thoughts on it.
3 I don't want to rush you or Mr. Sanger and his
4 witness. I want to make sure everyone has -- you
5 know, doesn't feel pressed for time. So that's my
6 first inclination, but if you want to suggest
7 something else, please go ahead.

8 MR. RUSSELL: My redirect will be very
9 short. And I think Mr. Higgins would appreciate me
10 not making him bring a suit to the office tomorrow,
11 so my suggestion would be we just push through.

12 COMMISSIONER LEVAR: Why don't you go ahead
13 with your redirect, then.

14 MR. RUSSELL: Okay.

15

16 REDIRECT EXAMINATION

17 BY MR. RUSSELL:

18 Q. I actually only have a couple of questions.
19 And the first relates to the questions that Mr. Sabin
20 had asked you relating to the CWIP and M&S at
21 Cholla 4. Mr. Sabin had asked you whether you were
22 aware of any articulation in the record by any of the
23 intervenors about the prudence or nonprudence of the
24 investments or decisions that had been made that
25 placed those dollars into the CWIP bracket.

1 Do you recall that discussion?

2 A. Yes.

3 Q. Okay. And my only question to you is, are
4 you aware of any evidence in the record other than
5 the Company's representation that those investments
6 were prudent that would support that representation?

7 A. No.

8 Q. Okay. And then I do want to ask the
9 follow-up question regarding Pryor Mountain. And
10 this will probably require us to go into confidential
11 session very briefly. Mr. Sabin had asked you
12 whether you were aware of any projects having been
13 built at around this same time for a price that was
14 approximate to the \$26-per-megawatt-hour PPA. And
15 then you indicated that you had such evidence, but
16 that you would need go into confidential session.

17 Do you recall that?

18 A. Yes. That's not exactly what I said,
19 Mr. Russell. I said I was -- what I did say is I
20 would need to go into confidential session to discuss
21 the question as to whether or not any Wyoming QFs
22 were willing to develop the project at that price.

23 Q. Okay. Thanks for that correction. And I
24 think we need to do that just because I think that
25 information might be relevant to the Commission's

1 **decision here.**

2 MR. RUSSELL: And for the Commission's
3 benefit, this information is often considered
4 confidential by the developer and not necessarily by
5 the Company. I don't know whether the Company claims
6 that it's confidential, but I think the Company is
7 required to maintain the confidentiality that
8 developers sometimes place on this. So I don't know
9 if there's anybody on the call that's going to be
10 able to -- or on the conference that's going to be
11 able to answer the question about whether this is
12 confidential.

13 MR. SABIN: Okay. I don't exactly know what
14 we're talking about, so can you, without disclosing
15 the nature of the confidential information, tell me
16 what you're talking about? What document are you
17 talking about?

18 MR. RUSSELL: I'm taking the witness' lead
19 here in response to your question that you --

20 MR. SABIN: Oh, you're not going to be --

21 MR. RUSSELL: I actually don't know that
22 information either. You had asked the question,
23 Mr. Higgins had said, I can answer it, but I need to
24 go into confidential session.

25 I just want to get that information out.

1 MR. SABIN: I see. I see. Okay. Give
2 me -- Mr. Chair, could you give me just a minute to
3 consult with my client? I'm not sure what the
4 confines of the confidentiality are here. If I could
5 just have a moment, I'll be right back.

6 COMMISSIONER LEVAR: Well, before you do
7 that, let me ask, Mr. Higgins, if you can describe at
8 a very high level what you would be referring to in
9 response to Mr. Russell's question.

10 MR. HIGGINS: Sure, Mr. Chairman. I am
11 aware of documentation that the Company has provided
12 in another docket that was confidential that would
13 allow me to answer the question. And so it's not
14 information that is in the record in this case; it's
15 information in my possession in another docket that
16 is currently active. It's active and, for example,
17 it's an exhibit, a confidential exhibit, in my
18 Wyoming revenue requirement testimony in the Wyoming
19 general rate case.

20 I did not include it in my Wyoming -- in my
21 Utah exhibits in the interest of limiting the amount
22 of confidential information that I was putting into
23 the record here. But since the subject has come up,
24 I do believe I can address this particular question
25 if I'm -- based on my knowledge of this other

1 documentation.

2 COMMISSIONER LEVAR: Okay. With that,
3 Mr. Sabin, do you need a moment to determine if you
4 have any objection to moving forward this way?

5 MR. SABIN: Can you give us -- can you...

6 COMMISSIONER LEVAR: Sorry. I lost you for
7 a second, Mr. Sabin.

8 MR. SABIN: Can you hear us?

9 COMMISSIONER LEVAR: Now I can, yes.

10 MR. SABIN: Okay. Well, I would have a
11 fundamental objection if what we're going to be
12 talking about is evidence that's outside of this case
13 that's not been submitted as an attachment or
14 referenced in any anybody's testimony. I think that
15 would be improper. If that's what we're talking
16 about, I think that should end the inquiry.

17 COMMISSIONER LEVAR: Okay. Well, I -- I'm
18 going to go ahead and respond to that. I think we're
19 in the realm of response to cross-examination and
20 then redirect based on that cross-examination that
21 seems, to me, to legitimately raise the issue of
22 allowing Mr. Higgins to answer the question to the
23 best of his knowledge.

24 MR. SABIN: Well, the problem I have,
25 Mr. Chairman, with that is I have no way of -- I

1 don't have this information in this docket. I don't
2 have a binder where I can even refer to cross-examine
3 him on this information. I mean, he can -- he stated
4 on the record he knows something, but I don't have
5 any way to ask him about it.

6 COMMISSIONER LEVAR: Right. And let me just
7 clarify, I think we are talking about Mr. Higgins
8 just speaking about his own personal knowledge and
9 not necessarily introducing documents.

10 Is that what's being proposed?

11 MR. RUSSELL: Yes.

12 COMMISSIONER LEVAR: And I think I'm
13 inclined to rule that Mr. Higgins' general knowledge
14 of this issue, based on issues that are outside of
15 the record, has been opened through cross-examination
16 for further -- for further evaluation.

17 MR. SABIN: Yeah. I understand that. And
18 if you're -- if the Chair is going to rule that way,
19 that's fine. I understand. I think it limits me
20 because he can say whatever he wants and I have no
21 ability to cross-examine him on that because I don't
22 have any information to question him or documents to
23 redirect -- to recross him on. So it just puts -- I
24 mean, it makes it so we're really tied in our ability
25 to even verify the veracity of what's being said or

1 if it's out of context or anything like that. So I
2 think I've stated my objection.

3 COMMISSIONER LEVAR: No, I understand the
4 point. And I would want to clarify that if we move
5 this direction, we would not be prejudicing your
6 ability to make a motion to strike based on what is
7 said or challenging it in some other way. But I
8 think in the abstract, at this point, I don't think
9 I'm prepared to prevent Mr. Higgins from answering
10 this question in a confidential setting.

11 Any further input on this issue before we
12 move forward?

13 MR. RUSSELL: None from me.

14 MR. SABIN: No.

15 COMMISSIONER LEVAR: We would need a finding
16 from the Commission to close the hearing to the
17 public, so let me just turn to Commissioners Allen
18 and Clark.

19 Under 54-3-21(4), we need a finding that it
20 is in the best interest of the public to withhold a
21 portion of this hearing from the public.

22 Commissioner Allen or Commissioner Clark, any
23 objections to that path forward?

24 COMMISSIONER ALLEN: No. I'm supportive.

25 COMMISSIONER CLARK: Yeah. I don't object

1 either. And as I understand it, the simple matter
2 before us is that Counsel asked the witness about --
3 to defend the applicability of his
4 26-cents-per-kilowatt-hour number, and he's -- he has
5 confidential information that would assist him in
6 doing that. And that seems to me to be -- if that's
7 the scope of this, it seems to me to be entirely
8 appropriate.

9 COMMISSIONER LEVAR: Okay.

10 COMMISSIONER CLARK: And I think it's
11 important to close the hearing so we can receive it.

12 COMMISSIONER LEVAR: Okay. Thank you.

13 Well, I think I will take those comments as
14 the required Commission finding under this statute.
15 Before we close the hearing, let me just say, in
16 response to Mr. Sabin's objections, I think in the
17 interest of the fairness, even though Mr. Russell
18 expressed a desire not to require Mr. Higgins to put
19 on a suit tomorrow, I think it would be in the
20 interest of fairness to allow you the chance to ask
21 any recross tomorrow morning rather than having to
22 respond on the fly right now. So I think we'll plan
23 to move forward that way.

24 And, Mr. Higgins, if you're not dressed the
25 same way you are now, we won't be offended.

1 With that, I'll ask Ms. Paschal to
2 disconnect the streaming and ask everyone to take a
3 moment to look at the participant list.

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4 COMMISSIONER LEVAR: Okay. So we will
5 continue with recross for Mr. Higgins first thing
6 tomorrow morning in the hearing.

7 I also just want to indicate to everyone, we
8 have discussed the suggestion from Rocky Mountain
9 Power at the beginning of the hearing for either
10 closing arguments or post-hearing briefs. I
11 recognize that there are some intervenors who are not
12 participating in the revenue requirement hearing this
13 week; however, as we've discussed that, we have an
14 inclination at this point to allow but not require
15 written briefs to be filed on or before Friday,
16 December 4th.

17 And due to the significant issues in this
18 docket, just the length of the issues, we're inclined
19 to have a page limit of no more than 40 pages. So
20 we'll ask parties that are presenting in this portion
21 of the hearing to comment on that first thing in the
22 morning, also, before we go to Mr. Higgins' recross.
23 But just wanted to inform all of you that is our
24 inclination at that point. If those time frames or
25 that manner of proceeding causes any concerns or

1 problems for any of you, please indicate tomorrow.

2 Is there anything else that anyone needs to
3 raise before we adjourn for the day?

4 Okay. We are adjourned until 9:00 a.m.
5 tomorrow morning. Thank you.

6 (Public hearing proceedings were
7 adjourned at 5:01 p.m.)

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REPORTER'S CERTIFICATE

STATE OF UTAH)
)
COUNTY OF UTAH)

I, KIMBERLY A. HARMON, a Certified Shorthand Reporter and Registered Professional Reporter, hereby certify:

THAT the foregoing proceedings were taken before me at the time and place set forth in the caption hereof; that the witnesses were placed under oath to tell the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I further certify that I am not a relative or employee of any attorney of the parties, nor do I have a financial interest in the action.

I have subscribed my name on this 12th day of November, 2020.



Kimberly A. Harmon, RPR, CSR

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