August 3, 1999

2:03 p.m.

P R O C E E D I N G S

CHAIRMAN MECHAM: Let's go back on the record. Mr. Randle.

MR. RANDLE: Thank you. I just have a few more questions. I'll address these to Mr. Wright. Continuing on with that hypothetical, just to illustrate how this credit works, Mr. Wright, assume now that the merger occurred as of January 1, 2000 and the merger credit was implemented by a tariff approximately a month later, and then I guess assuming that there was no rate case in between the beginning of 2001 and the first tariff, credit tariff, then I guess the only thing that would happen at the beginning of 2001 is you would make some adjustments based on whether you over- or under-refunded for the first year and then based on projections for the next year; is that correct?

MR. WRIGHT: That is correct.

MR. RANDLE: And then let's assume that in the fall of 2001 you filed a general rate case and that was not decided until, let's say, the spring of 2002, being very optimistic. What would then happen at the beginning of 2002 with regard to the credit tariff?

MR. WRIGHT: At the beginning of 2002, the credit would stay in place as previous. The key date would be the effective date of the new rates. If, in those rates, or a possible rate case, ScottishPower demonstrated that savings of 12 million, or whatever amount of merger-related savings were in there, the credit would need to be either amended or removed based upon the amount of savings ScottishPower had identified.

MR. RANDLE: Let's assume, then, further in that rate case that you had identified and proven to the Commission's satisfaction that there were 12 million in merger-related savings and that those would be ongoing. Then would the merger credit disappear at that point, on the filing of the rate case tariff?

MR. WRIGHT: Not on the filing. On the date of the effective rates.

MR. RANDLE: Right. Excuse me. That's what I meant. So at that point, then, the merger credit would be over?

MR. WRIGHT: The merger credit would be over, but it would be replaced in that example by an equivalent $12 million reduction in rates going forward and, as such, would be captured in rates going forward until the next rate case.

MR. RANDLE: And let's say that -- you wouldn't be asking for any refund back to the beginning of 2002?

MR. WRIGHT: No, we would not.

MR. RANDLE: That's all I have.

CHAIRMAN MECHAM: Thank you, Mr. Randle. Mr. Sandack, something on this one?

MR. SANDACK: Just briefly.

CHAIRMAN MECHAM: Go ahead.

MR. SANDACK: Thank you. There was a discussion, Mr. Larson, that you had with Mr. Reeder regarding the refocus program. As I understand it, that essentially has been implemented in terms of the employee layoffs and the cost savings as a result of that.

MR. LARSON: To the best of my knowledge, the refocus program has been implemented and the vast

majority of the savings associated with that program
will be captured in 1999.

MR. SANDACK: Okay. So that any future
layoffs then would be, I guess, to use your word,
incremental in terms of what ScottishPower might

implement in terms of cost savings in the future; is that correct?

MR. LARSON: Anything that would occur, any transition plan items that would occur would be incremental.

MR. SANDACK: So any future layoffs would be related to the merger, then; is that correct?

MR. LARSON: If there -- yeah, if there were layoffs related to transition plan, then those would be related to actions of the transaction.

MR. SANDACK: If I could just ask Mr. Alt, does that simplify, from your point of view, enforcement scheme of job protection in terms of the problems that you last ran into with the last merger?

MR. ALT: I'm not sure I understand what you mean. Clarify it or --

MR. SANDACK: Wasn't, with the last merger, the problem enforcement? You had some problems assessing what was merger related and what wasn't merger related?

MR. ALT: Yeah, that was a problem.

MR. SANDACK: Wasn't that the problem?

MR. ALT: I think so.

MR. SANDACK: And so doesn't this
simplify -- eliminate that problem, essentially, in

terms of what PacifiCorp has essentially done is over and future job layoffs will be related to the merger?

MR. ALT: I'm sorry. I must have missed something. Are you talking about what Mr. Larson --

MR. SANDACK: Right. The refocus program essentially being implemented and the layoffs have been made, the cutbacks have been made. Future layoffs are related to the merger.

MR. ALT: I'm not sure that all future layoffs you could say would be related to the merger. How could you say that?

MR. SANDACK: Well, because --

MR. ALT: I mean, PacifiCorp might have a second refocus program had there not been a merger.

MR. SANDACK: Well, but for the merger, PacifiCorp wouldn't have any more programs to refocus on, would they?

MR. ALT: How do we know that?

MR. SANDACK: So you're willing -- your

concern is purely of a speculative nature, then; is that correct?

MR. ALT: Well, I'm not sure I'd characterize it that way, but --

MR. SANDACK: If you'll permit me, I've

just got maybe two questions follow-up on Item Number 42 that I feel I must clarify based on the impression that was left in the testimony that I'm just not clear on.

CHAIRMAN MECHAM: Go ahead.

MR. SANDACK: Mr. Larson, when you were testifying on Item 42, you indicated that the conditions preserving benefits for two years is one of the conditions of the merger, and I don't -- in fact, I don't see that. I see that they've eliminated the word "stability" from the Division's original conditions, which might have given us that assurance, and substituted with simply saying "complying with provisions of the merger agreement." As I understood your testimony, you said that under the present ERISA plan you had the ability annually to cut back or reduce benefits. Wouldn't ScottishPower still have that ability under this condition?

MR. WRIGHT: Could I perhaps clarify? From

ScottishPower's perspective --

CHAIRMAN MECHAM: Yes.

MR. WRIGHT: -- I believe that the merger agreement does go into some more detail here. The commitment is as per the merger agreement. I believe that does allow changes in benefits, but there would be a commensurate level of other benefits provided such that, overall, the benefits are not --

MR. SANDACK: I'm not sure I understand how the merger agreement preserves the level of benefits that PacifiCorp otherwise was paying at the time of the merger. Can you explain that to me?

MR. WRIGHT: Well, I believe that the stipulation here references that agreement. It shall comply with the provisions of the merger agreement. The merger agreement is a document that is in the record, I believe, in this proceeding and therefore it can be referenced in terms of what that commitment is.

MR. SANDACK: Well, as I reviewed the merger agreement, the amendment restated agreement per the merger, principally the paragraphs regarding benefits at page 19, they just simply seem to reference these plans, that they're in effect, and I guess they're continued, but if the plans themselves allow the Company to unilaterally change the benefits for exempt employees, I don't -- it seems like an illusory promise to me.

MR. FELL: Mr. Chairman?

CHAIRMAN MECHAM: Yes.

MR. FELL: I could show counsel the provision that we're relying on. It may be that he's relying on a provision of the merger agreement that just recites what there is. There's another one in Section 6.09 which contains this representation and promise. May I approach counsel and show him this?

MR. SANDACK: I'm looking at it here. I've got a copy of it.

MR. FELL: Fine.

MR. SANDACK: If I can just look over it quickly, I'd appreciate it. Can you cite the specific language that you would like that would clarify how the benefits are preserved?

MR. FELL: Well, the opening clause sets it out. It says HOLDCO, which is referring to the ScottishPower parent, shall use its reasonable best efforts to cause the Company employee benefit plans in effect at December 6th, 1998 that have been disclosed to ScottishPower prior to such date to remain in effect until the second anniversary of the effective time, or to the extent such Company employee benefit plans are not continued, HOLDCO will maintain, until such date, benefit plans which are no less favorable in the aggregate to the employees covered by such Company employee benefit plans. And

then there are some more provisos to that, but that's
the overall structure.
MR. SANDACK: All right. So, to the extent
that the benefit plan then permits the Company to
unilaterally amend that plan, they could not do so on
terms less favorably than PacifiCorp offered to
employees at the time of the merger; is that
correct?
MR. FELL: That's correct. In the
aggregate, the plans would be equivalent -- of
equivalent value.
MR. SANDACK: Thank you.
CHAIRMAN MECHAM: That do it?
MR. SANDACK: That's all I have.
CHAIRMAN MECHAM: Thank you. Mr. Dodge has
a few succinct questions.
MR. DODGE: I've never been succinct, but
I'll try. Mr. Alt, in your opening, you referenced
using a few other measures of the reasonableness of
the rate concession given in this state, and one of

them was the Wyoming rate cap. Do you understand
that rate cap to have been related to this merger?
MR. ALT: Yes, clearly.
MR. DODGE: Is that the Company's view?
MR. WRIGHT: No, it is not.

MR. DODGE: What is the Company's view?

MR. WRIGHT: The Company's view that the rate cap -- the rate plan agreed in Wyoming was agreed between PacifiCorp and the staff at the Wyoming Public Service Commission. It was a business as usual decision and was outside of the merger commitment. To the extent it was merger related, it was that the Wyoming staff wanted the issue related to rates to be resolved before they would proceed with the merger proceeding, so they're linked in a time frame, if you like, but they're not linked in terms of the merger benefits. The cap grade in Wyoming is a business as usual decision.

MR. LARSON: And I might add, since I was part of the negotiations and discussions with the Wyoming staff and WIEC, that I personally have been involved in discussions about a Wyoming rate case since mid 1998, well before any discussions with ScottishPower.

MR. DODGE: Mr. Alt, in Paragraph 43 it

talks about allocating the credit among retail tariff customers. Is that intended to include any customer who pays a rate that fluctuates with established tariffs?

MR. ALT: Well --

MR. DODGE: Let me say it differently. That it's set at tariff rates and would fluctuate as those tariff rates fluctuate?

MR. ALT: Well, I think the intent is that it deals with rates that are in the tariff, customers who pay rates that are in the tariff, customers who are on a rate -- billed on a rate schedule in the tariff. I gather you're alluding to the thing I mentioned earlier this morning about Oregon where apparently someone told me -- and I don't know it for a fact -- that their merger credit could apply to some large customers that were on contract because those contracts simply say in them the rate you pay will be the rate in tariff rate such and such, and therefore they are actually paying tariffed rates.

I don't know -- well, in any of our discussions about this with ScottishPower and PacifiCorp and the Committee, I don't recall it ever coming up. I don't know that we have such a situation in Utah. I'm not aware of any, but I'd be willing to talk about it, if you can produce such a situation.

MR. LARSON: I guess I would just add to what Mr. Alt said, and it was certainly our interpretation that this would apply in much the same way as the credit that went back to customers in the last general rate case. As I understand it, there are a couple of special contract customers that also take some firm service on tariff, and I think in the credit in the last rate case they got credit for that, for that firm piece of their tariff, but for anything that was in special contract, it did not apply, that the contract basically insulated them from the presort increase.

MR. DODGE: Thank you. Mr. Alt, the bottom of the first paragraph in 43 indicates that, after the first three years, the excess or shortfall will then be pushed into the fourth year. What about the end of the fourth year? It would be a true-up and, if so, how will it be accounted for?

MR. ALT: That wasn't discussed. I think that Mr. Larson this morning, in response to Mr. Randle's questions, indicated it was the Company's intent to clearly pay the full $48 million and to show that it had been fully paid to customers as a credit, and this also provides for a -- I believe for a Division audit. Or does it? Yes. It's in the middle of that first paragraph. These calculations shall be audited by the DPU, shall report their audit results to the Commission. I presume that would mean, similar to like the refund, that the purpose of the audits was to show that it was given back and that all of what was committed was given back, and I guess Mr. Larson can respond to that.

MR. DODGE: Is that the Company's understanding?

MR. LARSON: It's certainly our intent to give it all back. We believe, after three years of projecting, that the fourth year will be fairly close, and if there is any deviation from the final $12 million, I mean, certainly we -- it's our intent that that money belongs to -- or is committed to customers and would figure out how best to get that back cost effectively to customers if it's a small amount.

MR. DODGE: Thank you. Mr. Wright, the third paragraph in 43 talks about the assumption that the merger transaction will close this year. What things, to your understanding, might delay the closing beyond the end of the year? There's obviously the Commission approval if those don't come. What else might delay it beyond the end of the year?

MR. WRIGHT: I can't think of anything else off the top of my head. Most of the approvals that are required that are conditions precedent to the merger agreement have already been satisfied. What is largely outstanding is the state Commission approvals which this point references.

MR. DODGE: Does the merger agreement deal with the possibility of an appeal and indicate whether closing will occur with or without a final and appealable Commission order?

MR. WRIGHT: Sorry. Could you repeat?

MR. DODGE: To your knowledge, does the merger agreement deal with what happens in terms of closing if there is an appeal from the Commission approval in any state?

MR. WRIGHT: I'm afraid I don't know.

MR. DODGE: Mr. Wright, just so that it's clear, in proposing this merger, ScottishPower is not prepared to guarantee Utah ratepayers that their rates will decrease from current level as a result of the merger; is that correct?

MR. WRIGHT: That's correct. There is a guaranteed merger benefit, but rates will be what they are based upon current earnings positions and future earnings positions. The whole idea with the merger credit is that it's independent from rates, but, nevertheless, provides a clear quantifiable benefit to customers.

MR. DODGE: Do you -- is it not accurate, Mr. Larson, in fact, that the Company intends presently to file a rate case?

MR. LARSON: That's our intention, is sometime later this year to file a rate case. As you'll remember, Mr. Dodge, the Commission delayed several issues out of the rate case last year and those are ones that we will need to deal with in the 1998 test year.

MR. DODGE: In fact, the plan is to file almost immediately after this hearing?

MR. LARSON: The decision has not been made exactly, but sometime before the end of the year.

MR. DODGE: The decision hasn't even been made that it will be filed before the end of the month?

MR. LARSON: No, there has not been a decision that it will be filed before the end of the month.

MR. DODGE: A rate case has been filed in Wyoming for an increase; is that correct?

MR. LARSON: That's correct. On July 26th.

MR. DODGE: And but for your rate cap

there, can you tell us what your results of operation would indicate the increase would be in Wyoming?

MR. LARSON: In that filing, we filed the case as a case in its entirety, which showed a $48.3 million rate increase at an 11 and a quarter ROE.

MR. DODGE: And if you used that same analysis in Utah at the authorized return on equity, what kind of a rate increase could be arguably justified from your results of operation?

MR. LARSON: I think that number is somewhere around $100 million.

MR. DODGE: Do you believe that there will be at least a public perception that a $12 million rate credit followed by a $100 million -- if that's what's filed -- rate increase somehow doesn't make the merger look as good?

MR. LARSON: Well, I think, as Mr. Wright said, you know, PacifiCorp -- and I think we've stated it in public forums -- that we would file a rate case -- rate cases in Utah on a more regular basis. Mr. O'Brien has stated that several times. Our filing of the rate case is entirely independent of this transaction. I think what I hope the public perception is that the transaction with ScottishPower helps to mitigate whatever this Commission decides is an appropriate increase out of that case.

MR. DODGE: Mr. Gimble, what's your view on the PR reaction to that kind of a rate increase?

MR. GIMBLE: Well, I agree with Mr. Larson that Mr. O'Brien has put, I guess, the regulatory agencies in Utah on notice that they're planning on filing a rate case, as he calls them, conversations with Utah regulators over the next couple of years. We had a first meeting with Mr. O'Brien where he set forth -- gave notification. I think it was last August. Last August or September. I just hope, you know, that ScottishPower and PacifiCorp are sensitive that there would be probably negative public reaction to a $100 million rate increase on the heels of this merger.

MR. DODGE: Thank you. Mr. Alt, I have some questions going back to special contract issues. You referenced the fact that under the criteria promoted by a task force back in the early '90s, the Division has looked at and recommended approval of each of the special contracts that have come up for approval since that time. The ones that were approved, at least, you recommended approval; is that right?

MR. ALT: Yes.

MR. DODGE: And using those standards?

MR. ALT: Well, the ones I'm more familiar with, I think there was -- I think it was like a half a dozen contracts that the Division has looked at since I became manager of the energy section in October of 1995, and I'm fully aware that each and every one of those was reviewed against that criteria that I referenced this morning and we recommended approval on each of those and the Commission issued an order approving each one of those and did not take exception to our use of that criteria.

MR. DODGE: And one of the criteria that you indicated was that what is often referred to as the "but for" test, if this price weren't given, then the load wouldn't be on the system?

MR. ALT: Correct.

MR. DODGE: And among the -- tell me if you can verify this, that among the "but for" type criteria that have been in place that have warranted these contracts have been a company otherwise not willing to locate to Utah? Are you familiar with any of the contracts negotiated under that context?

MR. ALT: No, I guess I'm not specifically familiar with that.

MR. DODGE: Are you familiar, for example, when the WECCO contract was negotiated and they were negotiating between Utah and Nevada as to where to locate, and the contract was a requirement for them to locate there? You weren't aware of that?

MR. ALT: No.

MR. DODGE: You recognize that the "but for" -- one of the "but for" test qualifiers would be a company willing to locate here with a lower electric rate but not otherwise? You recognize that's a possible qualifier for the "but for" test?

MR. ALT: I'm not sure I understand. Before I answer the question, I've got to make sure I understand the question.

MR. DODGE: If a company came and said we will locate in Utah assuming rates are X, otherwise we won't, and you believe that, and the rate that they were proposing to pay met the other standards, you would agree that satisfies the "but for" test?

MR. ALT: Today I do. I mean, on the surface it seems like it does, yeah.

MR. DODGE: What about -- have any of these contracts been supported on the grounds that production from existing plants can be shifted to other states where rates may be lower or economic conditions more favorable, and with a contract rate at a certain level, production will either increase here or stay at a higher level here?

MR. ALT: I mean, it seems like it on the surface, but Mr. Powell, Ken Powell, was the Division witness that actually is the one that took the lead on the approval and wrote the recommendations for the Division on each and every one of those contracts that I talked about and he's probably a lot more knowledgeable. He's also the chairman of the Commission's special contract task force that's currently meeting, you know, over the last few months, and he might be the better person to ask these questions. I don't want to misstate anything without talking to him, and if you get too detailed, maybe I should stop now.

MR. DODGE: Well, let me restate it, then. I'm not trying to talk per se about existing ones. I'm trying to get your understanding of the types of situations that might, if the other criteria are satisfied, satisfy the "but for" test for economic incentive contracts.

MR. ALT: Well, to me, it's simply, if they
can -- again, the Company and the customer are the
ones that do the negotiating and they simply present
it to us, but I would think that if the customer can

demonstrate that they clearly have another alternative and that they don't have to take the power from PacifiCorp, that that would satisfy that test. That's just my perception today.

MR. DODGE: And among the types of things that might satisfy that, we talked about locating here, keeping production here or shifting production here. You mentioned self-generation as a possibility.

MR. ALT: Right.

MR. DODGE: And also other options, municipal power supply or some other option along that line?

MR. ALT: Yes, as long as it could be demonstrated that it was actually feasible.

MR. DODGE: And, presumably, if the Division signed off on those, they concluded that that test was met and that the rates were sufficient to cover all costs of provision the service and provide something to other ratepayers? Is that a fair statement?

MR. ALT: Well, not providing all costs to providing the service because the criteria is really only providing -- I think the word is the variable costs, plus some contribution, and then there's some question about how much contribution towards the fixed costs is required. That's more or less subjective, because even the original criteria wasn't specific about that.

MR. DODGE: Conceptually, though, the Division wouldn't agree to the approval of a contract if they didn't believe the additional costs imposed upon the system of bringing that load in would be a benefit to the system; is that accurate? Excuse me. The additional cost of bringing the load in would be covered by the rate sufficient to be a net benefit to the rest of the system?

MR. ALT: Well, yes, because, I mean, we wouldn't approve something that we didn't feel was in the public interest. In other words, paying all its costs, plus making a contribution. All of its variable costs. If it paid all the costs -- all the fully distributed embedded costs, then it would be the same as a tariffed rate, theoretically.

MR. DODGE: But, by definition, if you

charged them the fully embedded cost, they wouldn't be here?

MR. ALT: Well, presumably --

MR. DODGE: If they met the "but for" test.

MR. ALT: -- the customer would not choose that option because they feel they can get something better somewhere else.

MR. DODGE: Given that fact that they wouldn't have located or wouldn't have stayed or would have exercised another alternative, plus the fact that the costs were deemed to cover all the incremental costs and contribute something else, can you understand why special contract customers chafe at your suggestion that it's subsidized by the other ratepayers?

MR. ALT: Well, the word subsidy, different people have different ideas about what that means. To me, a customer that's paying full tariffed rate on Schedule 9 and looks at a customer, like maybe a client of yours, if you have one on a special contract that has a rate that's actually less than that, probably feels he's subsidizing your customer.

MR. DODGE: Well, I can assure you I have both Schedule 6, Schedule 9 and special contract customers in my group.

MR. ALT: So you can answer the question by
just talking to your clients.
MR. DODGE: I'll assure you they don't look
at it that way, because if you believe the "but for"
analysis, then the load wouldn't be there but for

that contract, therefore it's a benefit to them and not a detriment. Isn't that what the Division said each time they've recommended approval of these contracts?

MR. ALT: Well, to me, any rate that's below fully allocated cost is getting a subsidy. That's my personal definition, okay? And that doesn't mean that you shouldn't do it. What we're saying is, even if there's a subsidy involved, the rest of the customers might be better off paying the subsidy than not paying the subsidy because, by not paying the subsidy, their rates actually go up.

MR. DODGE: But you can understand why someone chafes at saying paying the subsidy. They're not paying anything. They're getting a benefit because this contract is here and this load is on the system, or the "but for" test failed?

MR. GINSBERG: I think he's just being argumentative now.

MR. ALT: Like I said, I characterize it as a subsidy that's paid by customers and it's in their interest to pay the subsidy. I still call it a subsidy. You can't talk me out of that.

MR. DODGE: My question is: Do you understand why customers chafe at that suggestion and find that a fairly difficult word to deal with?

MR. ALT: No, I don't. I'm not in their shoes. I'm a regulator, and in my shoes, I see a subsidy that is wisely implemented.

CHAIRMAN MECHAM: Mr. Alt, you clearly feel strongly about this. The points are very well defined.

MR. DODGE: Thank you. Let me move on.

CHAIRMAN MECHAM: All right. Thank you.

MR. DODGE: Mr. Alt, you identified in yours and others' testimony that there are a whole bunch of risks of this merger that require conditions to mitigate. One of those was a rate risk; is that right? The risk that rates actually go up.

MR. ALT: I would call that a broad category of risk. There's a lot of individual risks that can cause rates to go up. In fact, I would say that probably the bulk of the conditions that the Division proposed related to rates going up, and so that is a broad category. Not a risk, but a broad category of a lot of ways risks that could result in rates going up, if I can characterize --

MR. DODGE: Thank you. So a rate risk category. You identified a category of risks that included rate issues.

MR. ALT: Right.

MR. DODGE: You testified briefly about the nature of the rate risk, but I think you described it as a lack of rate risk for special contract customers. Are you familiar that some special contracts, at least, have cost adjustment clauses that cause annual adjustments in their rates, depending on the Company's costs?

MR. ALT: Right. I consider a risk dealing with an uncertainty. If that's in the contract, it's not an uncertainty and therefore not a risk.

MR. DODGE: If costs go up as a result of the merger, then have they not faced a direct rate risk, if they have an adjustment clause that follows the Company's costs up?

MR. ALT: Well, what type of cost?

MR. DODGE: The costs that go -- energy costs, let's say, or any other costs that go into the adjustment formula, whatever that formula may be. I'm saying, if costs go up as a result of the merger, which your conditions are designed to prevent, but if they do and if there's an adjustment clause, then special contract customers face some risk of cost adjustment from that; is that not a fair statement?

MR. ALT: I would agree with that.

MR. DODGE: Secondly, are you aware that some of the contracts have clauses that at least some people interpret to mean at any time they could be re-opened and the rates adjusted to meet then current cost considerations?

MR. ALT: I'm well aware of those.

MR. DODGE: And under that, if someone deemed under the current costs of the Company, if they went up as a result of the merger, then special contract customers would face the potential of risk in that circumstance?

MR. ALT: That risk sort of exists, even absent the merger.

MR. DODGE: Well, sure, but I mean --

MR. ALT: The only question is how big is the risk, and you're implying that the merger would impose some additional risk beyond the original risk. My answer to that would be that I think part of risk is not just what's possible, but also what is probable. In my personal experience in working for the Division for 19 years, I'm not aware of anytime where that particular contract provision has actually been implemented, and if you can cite one, I'd be happy to recognize it and deal with it.

MR. DODGE: For the last ten years rates

have been going down. We've now been total there's a potential of a $100 million rate increase going the other way. Do you see the last ten years as indicative of that risk in the next ten years?

MR. ALT: Well, I've been here 19 years, not just ten years. I've been here during a period of a lot of rapid rate increases, and even in the early '80s when PacifiCorp -- well, Utah Power was adding power plants and rates were going up, we had one time period where, six months from filing one general rate case, they filed a second one. We hadn't even started the hearings on one and they already filed a new application. Rates were going up rapidly. And even then we -- didn't, to my knowledge, we did not raise special contract rates.

MR. DODGE: You may -- ought to check how many special contracts there were in that period. There weren't very many. But that's neither here nor there. Your committee -- your Commission -- excuse me, Division identified this category of rate risks resulting from the merger. My question is simply: Special contract customers face that potentially in the context of the re-opener clause as well as in the context of the cost adjustment clauses?

MR. ALT: And I granted you the first and

I'll grant you the second but make the qualification that I think the probability and therefore the risk of this latter is very small. That's just a personal observation.

MR. WRIGHT: And I would also point to Condition 44 at this time, which says that rates in Utah shall not increase as a result of the merger, so if it's a cost increase and the future rates has anything to do with the merger, it would be caught by 44. If it's a cost increase as a result of a position that we inherit, then that's a different issue and has nothing whatsoever to do with this.

MR. DODGE: I'll ask you a series of questions about that on Condition 44, but I'll defer that right now. And, lastly -- and I believe you acknowledge this risk -- contracts expire during this four-year term. I believe every contract in the state of Utah expires well before the end of the four-year term that you've negotiated credits for the tariffed customers. You acknowledge that increased risks, if they exist, could come to bear at the time they renegotiate new contracts? Is that accurate?

MR. ALT: Yes.

MR. DODGE: Now, for the tariff customers, you suggested, if I heard you right, that the risks of the merger were significant enough and the benefits slight enough that you would actually only recommend approval of the merger on the condition that the stipulation be adopted, specifically including the condition that pushed it over the top, being the rate credit for four years. When you were asked by Mr. Mattheis what kind of comparable protection the special contract customers have, as I understood your answer, it was essentially they can exercise their "but for" option. Now, you recognize the "but for" options may take years to implement? In some cases, moving facilities, closing down production, building cogeneration, municipalizing. Is it really the position of the Division or -- tell me it's not the position of the Division that the special contract customers should come out of this hearing believing that the Division's advice to them is this merger that we would not approve without these protections for the other customer that's so real, your protection against that is to move out of

the state of Utah, close down production, build
self-generation and municipalize so you can exercise
your comparable protection that you think exists.
Tell me what isn't what you're trying to say.
MR. ALT: Well, you didn't mention the

alternative that they already have their own self-generation and just turning it on.

MR. DODGE: Some have that. What about the ones that don't? One has that, has, to my knowledge, has sufficient self-generation currently built to cover the load. Are you telling the rest of them, start moving your production facilities and creating municipal systems and get off this system now because the risks are so real I can only recommend approval for the tariffed customers with this rate protection but I didn't get you anything like that?

MR. ALT: Well, first of all, I think the point I was trying to make with Mr. Mattheis is that the risk to the tariffed ratepayers I consider to be quite different from the risk that the contract customers have. You have some protection to the end of your contract that the other ratepayers simply don't have at all during that time period. You just heard from a response to your question that there's a possibility of as much as a $100 million rate increase, the primary brunt of which would be borne by tariffed customers and your customers would sit there with the protection of the tariff -- I mean, of their contract for the next year or two or whatever, and how do you deal with that inequity? Doesn't there need to be some balancing of this risk? You're making the case that they're being treated unfairly when, in fact, they're being not exposed to this huge risk that we're going to face that we talked about.

MR. DODGE: And under the "but for" test, if they were exposed to that risk, they would have never located here. You seem to lose site of that fact. Is your answer to these customers, anytime there's a rate question, get out of the state because we're not going to let you stay with the contract you negotiated, or at the end of it we're going to subject you to whatever rates may be there without protection?

MR. ALT: My point would be why would someone move here with only a five-year contract and willingly sign a contract for five years knowing that at the end of that five years there was risk of uncertainty of what was going to happen to their rates, knowing that if that risk turned out that the rates were higher than what they could tolerate, the only option was to move out of the state. This has nothing to do with the merger. That risk existed before because of all kinds of uncertainties. What would your customers say to that? Why did they sign a contract for only five years if they felt that they might have to move out of the state? I find that hard to believe.

MR. DODGE: You don't accept the notion that they trusted in good faith that the contract approval process and contract review process that you went through and this Commission went through would be followed again?

MR. ALT: We recommended that each of those contracts, even though most of them, if not all of them, had automatic renewal provisions if both parties were willing, and we did not support any automatic renewals. We recommended that none of the contracts be renewed beyond their original term without coming back into the Commission and getting an approval. Part of the reason was the criteria may change, the environment, the circumstances. Costs that made the contract look like it was in the public interest at that time may not bear out with the same end result decision, and so we didn't want all the other ratepayers to accept the risk of a long -- real long-term contract, and so that's why we limit it to five years and -- I'll stop and let you --

MR. DODGE: So you don't accept that any risks are imposed on special contract customers by this merger that they didn't anticipate five years ago or whenever they entered into those contracts, or 12 years ago, or whenever it may have been?

MR. ALT: Well, the first -- I think that large customers like your clients, because they can afford to hire attorneys to represent their interests, are different from residential customers that don't have that kind of luxury. They depend on us and so we feel that we have to balance all these interests, but we realize that large customers are a lot smarter. When you call them up and ask them what rate they're on, they know. You call up a lot of small commercial or residential or they call in and complain and you ask what rate they're on and they have no idea. You ask them about demand charges. They have no idea. Your customers we perceive as being considerably more sophisticated, and in that regard, they're also -- they do quite extensive analysis, I would expect. Before they sign five-year contracts, they're well aware of business risks and risks with rates and they make decisions based on their best guess, but to assume that the world is not going to change and everything is going to go along the same forever and ever and ever I think is short sighted, and I wouldn't buy that argument that they expected that there would never be any mergers and that the review of their contract at the end of the term would always be done on the same basis as it was done in the past.

MR. DODGE: You think they knowingly accepted the possibility that the rules would change completely? They'd be bait and switched into the state?

MR. ALT: I don't call it bait and switch. I think the key point here, like Mr. Wright pointed out, the next condition says simply rates in Utah shall not increase as a result of the merger, and I think that's a pretty important one. It was one very fundamental to our list of conditions, and I think there's some protection there, and I think that, you know -- I'm going to stop again and let you get another question.

MR. DODGE: Would it surprise you if you found that your views are very frightening to people who look at it, say, from an economic development perspective?

MR. GINSBERG: I find these argumentative, these questions.

MR. DODGE: I'll withdraw it. No further questions.

CHAIRMAN MECHAM: Thank you, Mr. Dodge.

MR. REEDER: Mr. Alt, obviously there are a few follow-up questions that are necessary.

MR. ALT: I'm not surprised.

CHAIRMAN MECHAM: But just a few, right?

MR. REEDER: Mr. Alt, I understand you've got religious fever about the word "subsidize," so I'll try not to prompt you too much on that. It's true that your benchmark for subsidy is Schedule 9?

MR. ALT: That's the only current large industrial rate. Or large -- it's not a -- it's a large high voltage general service rate, but it's primarily for industrial service.

MR. REEDER: And it's true that it includes a classification of customers that includes the ski resorts and the summer asphalt plants, doesn't it?

MR. ALT: I presume. I don't know.

MR. REEDER: You're an electrical engineer, aren't you?

MR. ALT: Yes.

MR. REEDER: If I were to attach a large

generating unit to the transmission system of
PacifiCorp, would there be benefits to that system
from that generator?

MR. ALT: It depends on where it's located.

MR. REEDER: If it's located near the load?

MR. ALT: That's always helpful.

MR. REEDER: And --

MR. ALT: Sometimes it may cause voltage problems.

MR. REEDER: But it's true it could also provide reactive support for the load, couldn't it? The generator could provide reactive support for the load other than the generator's load, couldn't it?

MR. ALT: No. The generator provides --

MR. REEDER: It just depends on where you put the handle. You either generate bars or hours, so we could provide reactive support, couldn't we?

MR. ALT: Well, you can do it with capacitor banks. There's a lot of ways to provide --

MR. REEDER: So it provides some potential benefits in the reactive power. It provides reduced losses, doesn't it?

MR. ALT: Having it close to the load? Yeah.

MR. REEDER: And it be true that if we were connected to the 138 backbone system, it would depend on where on the system what the transmission losses were for serving us, wouldn't it?

MR. ALT: Right.

MR. REEDER: And it would also depend where on the system we were located what the in fact costs of providing services would be because the distance from standby load would be vastly different, wouldn't it?

MR. ALT: Yes.

MR. REEDER: And if we were connected to the backbone system, we would not have the advantage of any of the lesser voltage systems in the subtransmission or distribution system, would we?

MR. ALT: Can you say that one again?

MR. REEDER: Isn't it true that the Schedule 9 service includes customers who take service at 46 KV?

MR. ALT: That's the application paragraph in tariff, 46 KV or higher.

MR. REEDER: So if you're a customer who takes service at a significantly higher voltage, you wouldn't impose those costs on the system, would you?

MR. ALT: Below that voltage.

MR. REEDER: Below that voltage.

MR. ALT: That's right.

MR. REEDER: Now, if it's true that there are benefits from having generators on the system and if it's true that there's lesser costs, depending where you're located on the system, have you conducted any kind of a study that would suggest to you what the cost of serving a customer as I've described to you might be?

MR. ALT: For a specific customer?

MR. REEDER: Yes.

MR. ALT: No.

MR. REEDER: All of your service studies have been limited to this broad class of Schedule 9 that includes the skis resorts and the summer asphalt plants, haven't they?

MR. ALT: Well, you could take any customer on, not just on Schedule 9 but on any rate schedule, and try to calculate the cost of service, and very likely it would be different than the average cost of service for a whole class, but the ratemaking principles that we've been using and have been used widely around the country is that you develop rate classes. We have 600,000 customers and we don't want 600,000 rates.

MR. REEDER: That's for your convenience and not because of the customers' costs, isn't it?

MR. ALT: No, not just ours. It's also for the customers because we find that customers generally accept that and that we'd find it very confusing. One of our objectives in the statute is to have rates that are simple to understand and easy to administer.

MR. REEDER: There are at least six customers who believe their classification should be somewhat different than Schedule 9 in this hearing, though, aren't there?

MR. ALT: Well, I think that anytime a customer feels he's been misclassified or that the generate class or schedule that he's on is not right for him because that customer has characteristics, cost characteristics that warrant special treatment, I welcome -- I would welcome an application or petition to deal with it.

MR. REEDER: That's also a reason for a special contract, isn't it?

MR. ALT: Quite so. You can either do it by special contract or have a separate class with just a handful of customers. We used to have Schedule 30 that we got rid of in the last case. It only had two customers on it.

MR. REEDER: So then can we conclude that unless we do some kind of analysis that suggests to customers who may have usage characteristics that depart from a ski resort or summer asphalt plant that's being subsidized may be a bit liberal with the use of the word "subsidy"? In other words, Mr. Alt, we don't have a clue what cost of service special customers do. We haven't done a study.

MR. ALT: We've -- well, that's not completely true. The studies that the Company does in support of the contracts, we routinely ask for cost studies. In other words, before we could even approve a contract, we have to have a showing that they're at least covering the incremental or variable costs of providing it, and I know in times past I've seen cost studies where they do not only the incremental but also a fully embedded study and show the difference and therefore identify the subsidy, so I would have to answer no to your earlier question because I've actually seen those. Now, I don't know that I've seen them for each and every contract.

MR. REEDER: When was the last time you saw one?

MR. ALT: Well, actually, I remember seeing that type of analysis for the MAGCORP a few years ago when we were working on that one.

MR. REEDER: And what other than MAGCORP?

MR. ALT: The only cost studies I've seen for the others have been incremental.

MR. REEDER: The MAGCORP was in litigation, was it not?

MR. ALT: Yes, for some time.

MR. REEDER: Forever.

MR. ALT: Well, no. It's over.

MR. REEDER: Pushing from that topic to a second topic, Mr. Alt, would you agree that one of the risks that this merger might bring is a change in control?

MR. ALT: I see that clearly.

MR. REEDER: And would you agree that one of those risks in the change in control is a new attitude about how to price services?

MR. ALT: I don't know that. I have not seen anything.

MR. REEDER: Wouldn't you agree that's one of the risks of a change in control?

MR. ALT: Oh, sure. Sure.

MR. REEDER: Can you tell me when PacifiCorp first came to the business strategy for conversations with the Division of Public Utilities, if you will, that they would begin to increase rates on a regular basis?

MR. ALT: Well, I remember it being last summer. Mr. Gimble mentioned Mr. O'Brien being here in August or September. I don't remember the months. I just remember I think it was last --

MR. REEDER: September or October of last year sometime?

MR. ALT: Summer, fall. I -- sometime last year.

MR. REEDER: September or October sometime? Would that be about the time these discussions began?

MR. ALT: I don't recall. I simply don't recall. It's been many months.

MR. GIMBLE: It was somewhere in August, September.

MR. REEDER: Could you tell me when ScottishPower began its due diligence of PacifiCorp?

MR. ALT: No.

MR. REEDER: If I were to represent to you that the report to shareholders discloses these discussions began in September of 1998, would you suggest that our fear of a change in control and a change in attitude may be reflected in the change in attitude about pricing strategies?

MR. ALT: Well, I'm not sure I would jump to make that link. I mean, my personal observation was -- or opinion is that I think the reaction came probably from the Commission's order in the last rate case for UP&L, was probably the prime trigger. They seem to be nodding.

MR. REEDER: It is your judgment that this Company did not put itself in play in September or October?

MR. ALT: Oh, I don't -- I told you I don't know that.

MR. REEDER: And if this Company put itself in play and begin merger discussions with merger partners and we see a pricing change as a result of putting itself in play, wouldn't that be a detriment to this merger, to these companies or this company as a result of this merger?

MR. ALT: I'm not quite sure I understood how you were using detriment.

MR. REEDER: Pricing strategies from the new owner, isn't that a detriment that these customers face as a result of this merger?

MR. ALT: Well, it's a possible detriment.

MR. REEDER: Yes. And if those discussions began and those strategies began to change in September at our near the time that these discussions on this merger began, wouldn't you say the customers would have a fair degree of concern about the change in control bringing a change in business policy?

MR. ALT: Well, I mean, I'm sure they have a right -- if they can make that link, they have a right to be concerned about it. I'm sure there are other reasons for them to be concerned.

MR. REEDER: Mr. Alt, this Company put itself in play in September and began discussions with ScottishPower in September and if this Company began to discuss increasing prices with this Division in September, would you not make that link?

MR. FELL: We object. That's at least four levels of hypothetical.

MR. WRIGHT: Plus it isn't true.

MR. REEDER: Mr. Wright, isn't it true that on September 24th, 1998, Mr. Robinson and Mr. McKennon began to discuss accelerating the renewed discussions of discussions for the acquisition of PacifiCorp by ScottishPower?

MR. WRIGHT: Correct.

MR. REEDER: What's untrue about the

statement that in September --

MR. WRIGHT: You somehow linked the commencements of the discussions for the merger with a change in terms of the way in which PacifiCorp was conducting its business with respect to prices. I can assure you no such connection exists.

MR. REEDER: You argue that it is simply a coincidence that pricing strategies changed as this Company put itself in play?

MR. WRIGHT: I don't argue anything. I'm stating a fact.

MR. LARSON: And I will speak for one that has been in several of the meetings. I think -- you know, we -- at the time of the last general rate case, Mr. O'Brien -- and he can speak to this in more detail -- but Mr. O'Brien has been to Utah on several occasions and has talked with the Division, the Committee, other parties, and let them know that we would have more frequent rate cases, that one of the issues that was stated in the last rate cases is it had been several years since the Commission had a rate filing with Utah Power and --

CHAIRMAN MECHAM: Let's be done with that point.

MR. LARSON: Okay.

MR. REEDER: I have no further questions.

CHAIRMAN MECHAM: Thank you.

COMMISSIONER JONES: Almost forgot my questions because of the side show, but paragraph two, I just want to clarify that in my own mind. The last part of that sentence says, "cost reductions related to the merger." Are we talking about the cost reductions based on the transition plan?

MR. WRIGHT: That is correct. The transition plan -- as I say, Andrew MacRitchie is our expert witness on the transition plan, but the transition plan will, in effect, become the business plan for PacifiCorp going forward so it will be a thorough piece of work looking at the way in which we intend to transform the business, so savings and efficiencies with respect to PacifiCorp would be in the transition plan; that is correct.

COMMISSIONER JONES: Did I understand you this morning saying that any tax savings would not be a cost reduction in relation to this paragraph?

MR. WRIGHT: Well, the issue of the tax savings I think is preserved. My position would be if that were raised as an issue and hypothetically if it were determined that tax savings resulting from the merger were a merger benefit, were there because the merger has taken place, then arguably those are savings resulting from the merger. I find it difficult on the one hand to say that those savings directly result from the merger and on the other not to say that that benefit should not be credited against what ScottishPower has brought to the party, but I would suggest that that issue be dealt with in the rate case as preserved.

COMMISSIONER JONES: I think Mr. Randle covered most of my questions on the timing, but assuming the merger took place as -- or consummated as of January lst, 2000, six months later the transition plan would be filed. The first rate case that we could have to determine these cost reductions would be a test year of 2000; is that correct?

MR. WRIGHT: Yeah. I think that would give us a six-month window, yes. I was just trying to work it out because of the time from when a rate case is initiated through to when rates would be in effect.

COMMISSIONER JONES: So that rate case would be held probably in 2001, and any resulting rate changes would take place probably in 2002; is that correct?

MR. WRIGHT: Yes, that's correct.

COMMISSIONER JONES: Okay. That's all.

COMMISSIONER WHITE: I'm still not sure I understand how Paragraph 43 works so I'd invite anybody to respond to any of my questions. The guaranteed merger credit is a minimum; is that right? Assuming that we had ongoing rate cases and determined that costs had gone down by more than $12 million in a single year, that the reduction would theoretically not be capped at 12 million; is that right?

MR. WRIGHT: That is correct.

MR. ALT: No. The only thing that -- we should have buttons here we push to see who gets to answer. Go ahead.

MR. WRIGHT: What I was going to say -- that is, in effect, correct, because the 12 million is guaranteed minimum.

COMMISSIONER WHITE: So if we found that costs had gone down by 3 million, nevertheless, there would be a $12 million reduction because of that provision?

MR. WRIGHT: That's correct.

COMMISSIONER WHITE: Was that your understanding?

MR. ALT: I was simply going to say when

you use the word cap, the 12 million -- the credit is capped at 12 million. In other words, they're not going to credit on the customer's bill any more than the 12 million each year, but the savings that actually are reflected in rates are unlimited.

COMMISSIONER WHITE: So the bill could go down separately and then it would also be reduced by 12 million a year? Or it would --

MR. LARSON: No, no. There won't be double counting. What will happen, when the transition plan is filed -- I mean, for the first two years, there will be a $12 million credit. Customers will get that. $24 million over that 12-month period.

COMMISSIONER WHITE: But I want to explore that in the context of a rate case.

CHAIRMAN MECHAM: It's going to appear as an item on the bill that says merger credit, and whatever their piece of the action is in the first year and in the second year --

MR. LARSON: They will get it.

CHAIRMAN MECHAM: Where the issue arises is in the third year and the fourth year and how you deal with those in a rate case.

MR. LARSON: Right. And so let's go to year three, which would be 2002, and let's use the example that Commissioner Jones stated, that the transition plan is filed in July or June of 2000 and some benefits are captured in that six-month period of 2000 and we file a rate case in the first part of 2001, and in that rate case we demonstrate from the transition plan that six -- or we'll use the $15 million worth of benefits from the transition plan have been captured for Utah customers and the Commission agrees with that demonstration and there are $15 million worth of merger-related cost reductions included in that 2000 test year. Then when prices are set in the end of 2002, customers will be receiving, in their base price, $15 million worth of merger-related price reductions and there will no longer need to be the merger credit because customers will have already received the 15 million. The cost reductions that are achieved are going to find their way into reduced costs that will show up in rate cases. The reason for the credit is to set a minimum, a guaranteed amount, a down payment, if you will, of these benefits, and the Commission will always determine the level of those that are included in the test year as an offset to that credit.

COMMISSIONER WHITE: Mr. Gimble?

MR. GIMBLE: I would just say in the latter two years it's more of an -- I would say it's more of an incentive, a target for ScottishPower to try to surpass in terms of getting efficiency gains and passing them through in terms of merger-related cost savings.

COMMISSIONER WHITE: Explain how that incentive works in the last two years.

MR. GIMBLE: Well, just as Mr. Larson said, if they can show, demonstrate to the Commission the cost savings are in excess of $12 million, they're flowing through into base rates, then the credit would go to zero and the merger-related cost reductions would be in base rates.

COMMISSIONER WHITE: Now, are we going to get into arguments over a class reduction being merger related or not merger related?

CHAIRMAN MECHAM: Of course.

MR. LARSON: We shouldn't. I think, as Mr. Wright has talked about, there will be a detailed transition plan that will be filed with the Commission and it will lay out initiatives that will --

COMMISSIONER WHITE: Well, so what you're saying is that if anything -- any costs go down that you can point to having been planned for in the merger plan, you would say that's a result of the merger?

MR. LARSON: Correct.

COMMISSIONER WHITE: So will there be any cost reductions not a result of the merger?

MR. LARSON: Well, there may be. I mean, you know -- as you know -- I mean, the O&M costs. A lot of costs, you know, fluctuate. The price of a computer or something may go down. The price of something else may go up. Those will be reflected, but those probably will not necessarily be, you know, in the transition plan.

COMMISSIONER WHITE: So for every cost that goes up or goes down, an O&M or any other costs, we're going to have to track it to the merger plan to see if it was a merger-related benefit or not?

MR. WRIGHT: And that's one of the main reasons, obviously, for filing a transition plan such that we can track back to the transition plan the specific initiatives that ScottishPower has put in.

COMMISSIONER WHITE: So are you saying that there's a chance that we will use some reductions as not being merger related and therefore those will flow through to customers completely separate in addition to the merger credits?

MR. LARSON: Right. I mean, the normal cost fluctuations related to operation and maintenance expense or anything else -- I mean, there's a lot of costs out there that will vary year to year. Those things -- you know, we don't intend to do stand-alone calculations or try to capture those. As Mr. Wright said, I mean, the transition plan will be very specific. It will be initiatives, and those -- I believe Mr. Alt said once you've identified specific initiatives of here are the expenditures, here are the savings, they will be able to audit those and verify that there were actually savings resulting from those initiatives.

I don't think it's a whole lot different than things that we do now as PacifiCorp on specific decisions. I mean, we will implement a program, and certainly one of the things that the Division and the Committee look at is the cost effectiveness of it, determine whether or not the initiative truly brings benefits to customers. I don't see the transition plan as any different than that.

There will be several initiatives in the transition plan that are very detailed and we will make it -- the Commission will make a determination as to the impact of those.

COMMISSIONER WHITE: Does anyone see possible problems in the case of rate increases? There is a provision in another couple of paragraphs that rates will not go up as a result of the merger, so it seems to me that, to the extent it seems appropriate to raise rates because costs are going up, is it really plausible to think that we can figure out what cost increases might be as a result of the merger and what might not have been? I mean, does anybody see that as a problem in the future?

MR. ALT: Well, I concur that that will be --

COMMISSIONER WHITE: I've got another question for you, Mr. Reeder.

MR. REEDER: I was just raising my hand.

MR. ALT: I agree that I think that will be not easy.

COMMISSIONER WHITE: I mean, the incentive on one side is to say no increases are as a result of the merger and all decreases are as a result of the merger, but then countervailing pressures on the other side.

MR. ALT: And I see the Division and our audit team as having a burden there to, if we see a rate increase application after the merger, and we're going to start looking to see if any of these cost increases are in areas that we could link directly to the merger and therefore make a case that they shouldn't be allowed, and like -- I think we did a lot with conditions to help us with that, like the conditions that relate to the cost of capital. We felt this was one area where we felt exposed that the cost of capital if ScottishPower got into unregulated activities. Yesterday I mentioned the Pinnacle West thing in Arizona as an example of what can really go wrong, and so we felt we really conditioned around that to prevent that so that we don't have a tremendous audit burden. But that's not to say that we won't look at it and every time there's an application for an increase after the merger, that we won't try to find things.

COMMISSIONER WHITE: Now, would it be dangerously oversimplifying just to declare that anything that happens after the merger would be deemed to be a result of the merger and anything --

MR. ALT: Oh, no, I don't think we can do that.

COMMISSIONER WHITE: You don't think that would be appropriate?

MR. ALT: No, I don't.

COMMISSIONER WHITE: It would be new management in charge there.

MR. ALT: Well, I mean, wage increases. Every year, because of inflation, cost of living, they have to give their employees wage increases, and so every year they're going to go up, and to say just because, well, at this point after that date we had a merger and therefore it's because of the merger, I mean, that's, to me, a clear example of where it would be unreasonable.

COMMISSIONER WHITE: Okay. I understand.

MR. ALT: We have to be reasonable and --

COMMISSIONER WHITE: Oh, yeah.

MR. ALT: You know, it's in the statute, so --

COMMISSIONER WHITE: As I see it, the standard that this Commission is operating under here is we can only approve this if it's in the public interest, and I think the way we're setting that standard is if the benefits outweigh the drawbacks.

MR. ALT: Right.

COMMISSIONER WHITE: And I know that the Division is taking the position that this stipulation ensures that and therefore it's in the public interest and therefore we can approve it, so don't --

I don't mean to be disrespectful. I value your opinion. However, I'd really like to understand better the reasons for that opinion. How did you arrive at that recommendation? And what I'm really driving at is did you perform -- is there any way to perform a calculation and assign a dollar amount to the risks that you've identified? You're telling us that one side outweighs the other, but it doesn't seem to be quantified very well, other than the $48 million.

MR. ALT: Well, we found it difficult to quantify a lot of the risks, but we felt that our approach of drafting up conditions that would prevent the adverse outcome of the risk from impacting rates and/or service quality, so if we just look at rates -- service quality is even more difficult to quantify. Now, granted, the Company filed as an exhibit a consultant study that showed that they put a value of $60 million on their improvement in the network performance standards, 10 percent increase in SAIDI and SAIFI and 5 percent in MAIFI, but we didn't really count on that because, to me, we saw a probability that it could go the other way. Service quality -- I mean, reliability in those indices could drop by 10 percent and we'd be 60 million in the hole.

COMMISSIONER WHITE: So you can quantify that.

MR. ALT: Well, assuming if you accept -- and there were witnesses -- I remember Richard

Anderson for the large customer group challenged that study and the basis for it, and some of the things we looked at, we had to agree that, you know -- so we didn't really flat out accept that study and therefore accept that 60 million. We didn't have time to do our own in-depth study, so basically our approach was let's get conditions and where we're monitoring reliability and that we recognize that in the statute already the Commission has penalty powers if they don't meet conditions, and if we establish baselines and we say in here that performance -- I mean, reliability shouldn't go below what we currently have and if these -- if the new company takes over and makes changes and things don't work out and things actually get worse, which, to us, is one of the major risks that we saw a lot of parties concerned about, we feel we've got that covered in a lot of different ways. We're going to have, first of all, a lot more measurements, more precise measurements than we've ever had before. We've gotten voluntary commitments, you know, through their original filing on reliability standards that we, up to this point, have been unable to really get to this degree from PacifiCorp. We personally considered this a good benefit of this merger and that -- but it's hard to quantify as a benefit, and we didn't attempt that, to put a dollar sign on, even though the Company did, but we had problems with that, so we didn't really use it. We simply said let's put in conditions that will at least, we think, prevent adverse outcomes and so people will be no worse off on reliability. In fact, better off, because we've got customer guarantees, we've got standards that they're going to make an improvement. They actually have the dollar per customer penalty that they'll -- and the Commission would have the power to set where that money went rather than to their charitable foundation that they originally proposed. That was one of our conditions.

So there are ways that we felt that the reliability issue we had covered, okay? We feel that things aren't going to get worse and were likely to be better and the customers will probably be more pleased with the outcomes than they were without the merger.

Okay. Now let's deal with the rate area which is the other big area, and like I said earlier, most of these conditions deal with trying to prevent increases in rates due to the merger, through all kinds of cost increases, cost of capital, all kinds of things that we've identified that we could go down the list, but we felt, okay, if we get the conditions in there to mitigate and remedy those adverse outcomes so that basically we're looking at -- we're at the zero line, we basically feel that all the adverse costs of this merger will not appear in rates, service quality will not get worse. It's more likely to be better.

So what kind of positive benefits do we have? We have the merger credit of $48 million over a four-year period guaranteed by the Company. We also have other commitments that they've made that have value that we didn't again quantify. They're making initiatives with low income to make -- which is outside the regulatory realm. In other words, the Commission can't order them to make contributions. We don't allow them to include them in ratemaking, but in the broader public interest, we feel that there's benefits there. The training programs that they're going to implement, the training that they're going to set up in Oregon and Utah. I mean, these obviously are benefits. We did not attempt to quantify them, nor did they, but we see these as all helping to add to the benefit side.

The biggest thing, though, is the merger credit. That's what took us well over the bar. We feel the net positive benefit has been met, and based on the fact that all the other conditions are simply preventing adverse outcomes, so that's how we got to meeting the standard. Have I answered your question?

COMMISSIONER WHITE: Oh, yeah. I think what you're telling me is you felt like you didn't need to quantify and measure and put a dollar value on the possible drawbacks because you felt like you had effectively prevented them.

MR. ALT: Great. You got my message.

COMMISSIONER WHITE: So there was no need to do the calculation?

MR. ALT: Right.

COMMISSIONER WHITE: Or they may not have been possible?

MR. ALT: Right.

COMMISSIONER WHITE: But to the extent that some of these stipulated conditions merely repeat something that they're supposed to do, anyway, is that a relevant consideration? For instance, if I -- well, a couple of the paragraphs just say that they agree to abide by certain laws and rules. I'm not sure we ought to be counting that.

MR. ALT: No, and I didn't mean -- I'm not trying to pad this thing. As I said earlier in response to questions, they were -- when we were negotiating -- well, even some of these were in before, but I think -- actually, I think those two that referred to the code and rules came in during our stipulation negotiations. Maybe someone could correct me on that or confirm that. That's my perception. And I think what we wanted to do was make sure that they understood they had an obligation here. And, again, we felt we were already covered, but we wanted to make it clear to them, like the -- I talked this morning about individual customers. Mr. Maloney, our witness, felt very concerned that using statewide averages for performance indices would overshadow problems with districts or individuals and that we felt -- and our obligation is to represent them and to make sure that this merger doesn't result in adverse outcomes to those smaller groups, subsets, and so we called attention to the Company that, hey, if things -- you can meet your guarantee that you've offered up 10 percent improvement, but if specific areas and districts show continual problems or something, we have other ways of getting at you.

COMMISSIONER WHITE: So you don't view this as foreclosing any possible action by the Commission in the future with respect to ordered improvements or --

MR. ALT: Absolutely not. In fact, we're trying to make the point of that very fact and reinforce it.

COMMISSIONER WHITE: Just one final thing for you. Paragraph 43 doesn't specifically say Utah, but I understand that that's everyone's intent, that the 12 million is Utah customers.

MR. WRIGHT: Correct.

MR. ALT: I thought it went without saying, but lawyers, they have to -- yeah, it's probably best --

COMMISSIONER WHITE: Nothing goes without saying for lawyers.

Mr. Gimble, I know that there is a structural divide between Committee staff and the Committee. When you say the Committee supports something, does that have staff support, also?

MR. GIMBLE: Yes. I mean -- yes. The staff --

CHAIRMAN MECHAM: Pound the table, Mr. Gimble. Convince us.

MR. GIMBLE: The staff, along with our

consultants, carefully evaluated the potential benefits and the potential risks or costs associated with this merger. You know, you've read our testimony. We've been negotiating in good faith with the Division, the two companies and other parties for some time, and based on those negotiations, we were able to reach a position that we thought was a fair compromise and we went to the board last week with a recommendation that the stipulation with the $48 million merger credit and all the other conditions got us over the public interest hump and basically recommended to them that staff was behind the merger at this point. And we had a discussion. We had a teleconference with them and put it to a vote and they supported it a hundred percent.

COMMISSIONER WHITE: Thanks.

CHAIRMAN MECHAM: Mr. Larson, PacifiCorp alone or PacifiCorp, the subsidiary of ScottishPower, is coming in for a rate case this year, correct?

MR. LARSON: Correct. Yes.

CHAIRMAN MECHAM: Okay. Now, with respect, Mr. Alt, to your agreement with Mr. Allred to take a look at ways to mitigate the impact on municipalities of this Paragraph 43 -- and let me first say that I actually am sympathetic to impact on municipalities because I recognize that options to raise revenues are not plentiful, but with that said, have you given -- what thought have you given to how you would propose to mitigate the impact of this reduction? And if you haven't given any, that's fine, too. I'm just curious what possibly you could do to mitigate this.

MR. ALT: I don't know, and all I basically said this morning was I hadn't had a lot of time to think about it. I was willing to think about it and talk about it. That was the commitment I made. I also, though, feel that this is, you know, specific about the merger here, but, I mean, it's a continual ongoing potential problem in that you just heard PacifiCorp talk about maybe a $100 million rate increase. I mean, now think about it. The $12 million credit is simply a tiny offset to that, if they get their way, you know, but, I mean, the net of that would be a huge windfall in franchise fees or --

CHAIRMAN MECHAM: Fees.

MR. ALT: I don't want to get in trouble with saying the wrong word, but Salt Lake City and the other cities would get a big windfall from that. I mean, there's both sides of this issue and you can't just ignore the other side. Now, granted, we've had a lot of rate decreases or stability in rates for quite a number of years, but that doesn't mean that's the way it's going to be forever, and so the question is, every time there's a rate increase -- let's say in the next four or five years if there's a rate increase that offsets the credit and there's a net increase, are they harmed, and if there's growth in customers continually, like there has been that produce additional revenues every year regardless, even if you don't make rate changes, they actually get increases in their franchise revenues, and so are they harmed?

The question is, what's the benchmark to decide whether or not they're harmed? And, I mean, they're always going to be subject to rate changes and the impact on their franchise revenues from those rate changes, either plus or minus, and I'm not sure what our perspective should be in determining what's fair. I'm willing to talk and think about it, but I don't have any answers. All I know is I have questions.

CHAIRMAN MECHAM: Well, I thought perhaps you could devise some sort of mitigation device that went both ways.

MR. ALT: Well, yes, ideally, but, you

know --

CHAIRMAN MECHAM: It's just a thought.

MR. ALT: Just a thought.

COMMISSIONER WHITE: Mr. Larson, I just have a quick question on something I didn't quite understand. First I thought you said that there was a rate cap in Wyoming, but then I thought I heard you say you were going in to request about a $40 million rate increase.

MR. LARSON: No. What I hope I said was that the filing that we made on July 26th in Wyoming showed that, based on an 11 and a quarter ROE, that we could justify a $48.3 million price increase, and as part of discussions with staff, which is a two-year agreement, we have agreed to cap the first year increase at 12 million and the second year at 8 million, plus depreciation, so prices are basically capped at 20 million, over a two-year period, increase, plus a depreciation expense which could be upwards of 10 or 11 million.

COMMISSIONER WHITE: Okay. Thanks.

CHAIRMAN MECHAM: Okay. Let's take a --

MR. SANDACK: I have a quick question.

CHAIRMAN MECHAM: Go ahead, Mr. Sandack.

MR. SANDACK: Mr. Alt, listening to this discussion, I just wonder if the administrative cost of public agencies in assessing the merger and in future rate cases, what's merger related and things of that nature, has that weighed into the balance of whether this merger is in the public interest or not?

MR. ALT: Well, I think that -- you know, I don't see an increase in staff needs, and therefore budget needs to meet that obligation in the future, if that's what you're -- is that what you're implying?

MR. SANDACK: Uh-huh. The burden on your agency to make these types of assessment, do you think that's manageable in terms of the mission that you otherwise have?

MR. ALT: Yes, I think so.

MR. SANDACK: In that respect, how is it any more difficult to assess for enforcement purposes the cost, whether it's merger related, of the piece of property or equipment or an item versus a man's labor or a woman's labor in terms of whether that job might be lost due to the merger? Why is it more difficult to enforce that?

MR. ALT: It's more difficult to enforce the --

MR. SANDACK: To assess whether a job loss is merger related or not, versus a piece of equipment and whether the cost associated with that is merger related or not.

MR. ALT: Actually, I think the piece of equipment, you know, except maybe some of the things Mr. MacLaren talked about -- it's hard to imagine pieces of equipment being merger related, but, you know, unless it's specifically tied to a transition plan, you know, and possibly that's what Mr. MacLaren was alluding to, that involves, you know, trying to increase efficiencies or, you know, gain net cost savings by making investments, and those investments would be in equipment, computer equipment, software and utility facilities, you know, of a different nature than otherwise. I thought that the key was going to be is that these were going to be laid out in the transition plan, and that, to me, was the key.

In other words, if all this stuff is laid out in detail in the transition plan, that's clearly merger-related type investments, and I thought we would be able to -- fairly readily be able to discern those than from what would have happened absent the transition plan, therefore absent the merger. But with employees, it gets a whole lot more difficult because you're talking about efficiencies of relocation. Unless it's there identified in the transition plan, then again I can see them being merger related, but then, you know, on a regular basis businesses make decisions about, you know, how they use their human resources, and that's an ongoing thing. And then to decide whether it would have been done with or without the merger is where it gets really difficult.

Companies are always striving to do things more efficiently, and so how do you isolate what would have been done with or without the merger, unless of course it's in the transition plan.

MR. SANDACK: If ScottishPower filed their transition plan and then had another bright idea to become more efficient, do they have an obligation to amend the transition plan?

MR. ALT: I'll let Mr. Wright handle that one.

MR. WRIGHT: I'll let Mr. MacRitchie handle that one.

MR. ALT: This is getting good.

MR. SANDACK: Well, I just want to try to understand your question. If, in terms of assessing merger-related costs and nonmerger related costs, whatever nature the program, you make a distinction between labor and costs of programs and other costs, and I'm simply trying to understand why it's more difficult -- have you had any enforcement problems, per se, were you actually experienced any difficulty in employee layoffs?

MR. ALT: Well, since the last merger we've had numerous complaints from former employees or displaced employees of Utah Power, and they call the Commission or the Division and complain that the merger -- prior merger order is being violated and that they shouldn't have lost their job or it shouldn't have been displaced or it shouldn't have been relocated, and we have an obligation to investigate it and provide a report back to the customer, and those customers all have the right to bring it to a formal complaint before the Commission, you know, if they're not satisfied with our resolution, you know, or our answer.

MR. SANDACK: Have there been any such complaints before the Commission?

MR. ALT: Not to my knowledge. I guess the Commission might be more aware of that than me, but I personally am not aware of any employees that claimed that the order was violated with respect to their job and therefore ended up in a formal hearing before the Commission, but I could be wrong. I'm not aware of any, but I could be wrong. I know that there were a lot of informal ones and that people in my section actually ended up spending time with Company officials, talking with them, meeting with them and reading reports and cost studies to --

Like, for instance, they moved the accounting function from Salt Lake City to Portland some time ago and we got complaints from those people that didn't want to move to Portland. They weren't -- they didn't lose their jobs directly, as I recall. They just simply were relocated and they didn't want to relocate, and so they claimed that merger condition was being violated and it was unfair to them, and so we had someone go up to Portland and spend a day going through the cost studies or the -- well, the studies that justified the cost savings that would result from moving that function to

Portland, and we came to the conclusion that it was a fair and reasonable business decision and that it wasn't a violation of the merger order and could very well have been done absent the earlier merger, but, again, it gets very difficult to enforce these things because it's hard to trace them to what would have happened absent the merger versus what happened after the merger. That's where the problem gets --

MR. SANDACK: After the merger they could have moved the accounting department up to Portland? Is that what you're saying?

MR. ALT: Well, not to Portland, but, I mean -- that was a bad example, but there were jobs where they actually eliminated -- they just reduced the size of functions. They -- I think they also contracted out for some services that they had done internally before.

MR. SANDACK: In any event, your agency exists for that purpose, to evaluate those types of conditions, does it not?

MR. ALT: That's one of our jobs.

MR. SANDACK: And the same job you will undertake to evaluate the costs that are merger related if this merger is approved?

MR. ALT: Correct.

MR. SANDACK: And it won't be any more burden on your agency to evaluate labor matters as cost matters, will it? Labor matters are cost matters, are they not?

MR. ALT: Right.

MR. SANDACK: It won't be any more burden on your agency to evaluate that, will it?

MR. ALT: Well, it's not so much a burden as it is feasibility. That's my perception. Because it's like if you take the employees's side that if you hadn't had the merger, he wouldn't have been disadvantaged, and then helping him prove that point with the Company. The Company disagreed, obviously, and we would end up in a hearing like this debating the two sides and the Commission would then be left with that decision, and I guess they'd have their own criteria to judge, but, to me, I think the Division would have a tough job of trying to actually prove it. I mean, we have the resources, but can it actually be proved? That's the feasibility angle.

MR. SANDACK: You could assign the burden to the ScottishPower, could you not?

MR. ALT: Well, every time we get a complaint, the first thing we do is call or write a letter to Utah Power and say, "Here's the complaint.

Please give us your side of the story." So, in a sense, we're doing that already and have been doing it for the last ten years.

MR. SANDACK: Thank you. That's all I have.

CHAIRMAN MECHAM: All right. Thank you. One way or the other, we've got to get through these conditions today, so -- and sooner is better than later. So let's take a recess and return in a few minutes.

(Recess, 3:37 p.m.)

(Reconvened, 3:56 p.m.)

CHAIRMAN MECHAM: Let's go back on the record and go to Condition 44. Mr. Dodge?

MR. DODGE: Mr. Wright, you indicated 44 would be a protection for all customers that rates will not increase as a result of the merger? Is that a fair characterization?

MR. WRIGHT: Yes; that's correct.

MR. DODGE: And so an individual customer has that protection, not just on average in general?

MR. WRIGHT: It's principally aimed at rates, but the protection would extend to individual customers.

MR. DODGE: Do you acknowledge the

difficulty of establishing whether rates have
increased as a result of the merger?

MR. WRIGHT: I wouldn't agree entirely with that. I mean, there are clearly some circumstances where rates would increase, not by reason of the merger. The most obvious one is if PacifiCorp does go in for a rate case this year, they would be using a historical test year 1998, which is before ScottishPower ever came on the scene. If rates went up as a result of that, then it clearly would not be as a result of the merger. If rates went up as a result of demographic changes, I think the population in the state or at least energy consumption is increasing by 2, 3, even 4 percent a year, that's clearly nothing to do with the merger. If fuel costs increased, power purchase costs increased, those are clearly nothing to do with the merger. So I think it's possible to be more precise in the question as phrased.

MR. FELL: Mr. Chairman, for clarification, are these questions relating to tariff rates or is Mr. Dodge actually trying to ask whether special contract prices might increase in some way? I'm not quite sure what he's referring to when he's asking the questions when he talks about individual customers because customers pay tariff rates, the standard classes.

MR. DODGE: Mr. Fell, you may not acknowledge us as customers, but, in fact, the special contract people do consider themselves the customers, and Mr. Wright, in response to a question about special contracts, said that would be their protection, so I believe he's made it clear. He thinks it applies. Now, do you disagree, Mr. Wright?

MR. WRIGHT: What I'm getting at is, with respect to the special contracts issue, if rates were renegotiated, I understand that there is a task force looking at the issue of special contracts. If the findings of that task force were that the basis upon which special contracts changes, that clearly has nothing to do with the merger. What this is intended is that if there are cost increases that are passed through into rates that directly result from the merger, that they can be excluded. It's an added protection, and in that respect I do think it extends to all customers, but that clearly does not mean that things unrelated to the merger are impacted by this condition.

MR. LARSON: Let me add just a little

supplement to that. I think you referred, Mr. Dodge, to some clauses in the contracts of a couple special contract customers that are tied to FERC Form 1 data, and I think what Mr. Wright has said is that, you know, there will be natural increases related to inflation, fuel costs, other things that would occur at PacifiCorp. What Condition 44 -- what protection it provides for special contract customers is that those increases will not be higher as a result of the merger, and that is a protection for customers that are impacted by that data.

MR. DODGE: So you've now limited the protection, Mr. Wright, to cost increases passed on in that way? You're not prepared to state that rates won't rise to, say, special contract customers as a result of a management refocus or different pricing methodology or philosophy or a different feeling about the importance of economic development or anything like that in the state? You don't include that in Paragraph 44?

MR. WRIGHT: I think what you seem to be representing is that there was a change in approach, that, you know, you would say that that is by reason of the merger. I think that is a tenuous connection at best. What we're trying to do is get some certainty here and deal with costs, so I certainly wouldn't agree that it extends to the sorts of things that you represented there, no, because I frankly believe that that would be very difficult to say that that resulted from anything to do with the merger.

What this is is an added protection in respect to rates, rates linked to costs.

MR. LARSON: And one additional thing, and Mr. Alt may be able to expand on this, and it relates to, you know, rate design. Obviously one of the issues that will be before the Commission independent of the merger is, you know, how to deal with rate design out of an upcoming rate case, and certainly, you know, one class of customers may or may not get an increase or another get a decrease. Those totally related to premerger cost of service. Maybe you can expand on your views on that, Mr. Alt.

MR. ALT: I actually don't have anything to add.

CHAIRMAN MECHAM: Let's keep going.

MR. DODGE: I don't know if you give me any control over questions and answers or not. If you give it, I'll take it, but you often don't allow me that, so --

Back to the questions I actually started to ask. If there can be a connection shown between different management philosophies, views on economic development, the importance of it, any of those things that affect rates in the special contract, you're telling me, Mr. Wright, if that connection can be shown -- you said thought it was tenuous. Assume with me it can be shown. You don't intend 44 to extend that protection?

MR. WRIGHT: I'm sorry. I just can't assume that it can be shown because I've already testified that I don't believe you can make that connection.

MR. DODGE: Assume with me it can be shown. Your view does not belie the rule. Assume that I can show it. Are you saying 44 does not extend that protection to that circumstance?

MR. FELL: Mr. Dodge, could I have that set of things you said that you would show?

MR. DODGE: Yes. Assuming that it can be demonstrated that a change in attitude, change in philosophy, change in management approach to negotiation of a contract, any of a number of other things can be shown to have changed as a result of the merger and led to an increase in rates for any given customer, does Paragraph 44 offer any protection in that context?

MR. FELL: I thought you were asking it just for special contract customers. You weren't talking --

MR. DODGE: Including special contracts.

MR. FELL: Because I was wondering whether you were talking about cost allocation among classes of customers, because if you're asking that, Mr. Wright might not be the right witness for that question.

MR. DODGE: I'm not asking a cost allocation question. If you assume that that could be shown, does Paragraph 44 offer any protection against increased rates?

MR. WRIGHT: I'm afraid I'm not going to agree with you because I don't believe that that link can be made. Further, it's not the intent of this clause. This condition details rates and is a direct link back to costs and cost increases as a result of the merger, and perhaps we should have specifically excluded changes in philosophy or other such things, because that is not the intention of this clause.

MR. DODGE: So I think you answered my question. Forty-four does not offer protection in the context I stated?

MR. WRIGHT: I don't believe it does because I don't believe that you can make that linkage.

MR. DODGE: So the lack of protection for special contracts is complete now?

MR. WRIGHT: I think you're entirely protected through your special contract. The whole point of this is that you are insulated from the risks in any event, as Mr. Alt has testified at length already.

MR. DODGE: Can you honestly stand here and say you think every special contract customer is protected from any risk of this merger?

MR. WRIGHT: I believe that the -- I believe that the Division of Public Utilities and Committee of Consumer Services, and indeed, not to take any credit, the Company has done as thorough job as it possibly can to insulate all customers from the risks of this merger. In fact, I think Mr. Mattheis earlier was talking about risks that may be unknowable. Well, clearly, we can't deal with those. What we've done is dealt with the risks that we can identify. I believe that the stipulation covers all the risks that can be identified and you enjoy those benefits other than the merger credit, but you enjoy all of those same protections as the rest of the customers, so, again, I wouldn't agree with you.

MR. DODGE: Did the industrial customers in Wyoming support this merger?

MR. ALT: No, I believe they didn't.

MR. DODGE: Did the industrial customers in Idaho support this merger?

MR. WRIGHT: Again, I believe they didn't.

MR. DODGE: Did the industrial customers in Oregon support this merger?

MR. WRIGHT: No, they did not.

MR. DODGE: In fact, the industrial customers in every state you sought approval have come before their respective commissions and said there is nothing offered us by this merger or this company that protects us from the significant risks we see? Isn't that their unified position?

MR. WRIGHT: No, I don't think it is. I think they've said that there are some benefits of the merger and have also said that there are some risks. On the whole, they haven't been able to support the merger. We continue to have discussions with some parties. We're very clear there are benefits in this merger for industrial customers. I can point to some if you would like me to.

MR. DODGE: You accept that the industrial customers don't see that or they don't think the benefits outweigh the risks for them?

MR. WRIGHT: They're perfectly entitled to that opinion. I believe that there are significant benefits to industrial customers in this merger. Principal amongst them is a company that is serious about increasing the efficiency of the business. Principal amongst them is a company that is serious about increasing reliability and service to customers. Whatever the bases for setting special contract rates, there must be some reference to costs. We have a company that is serious about reducing costs.

I've mentioned reliability improvements. Whilst we've got an unmatched package of service standards looking at things like reliability on distribution network, that same philosophy will extend to the transmission network as well as the distribution network. We're already looking at specific transmission reliability issues in conjunction with PacifiCorp.

We've got an obligation to further economic development in the state. That's not a concession on our part. That's something that we would do naturally and have done with some success in the UK. Parts of this, again, is about having a reliable and efficient network to attracting new investment into the state of Utah. I think that benefits industrial customers.

We have a track record of working with large industrial customers in the UK on an individual basis, looking at their problems as part of joint improvement groups for it, or whatever, looking at their particular reliability problems, making investments, looking at the most efficient way to improve reliability of their works.

We have improved a level of reporting in terms of the stipulation in terms of transmission attributes that relate to a lot of industrial customers. I think there's plenty in this deal for industrial customers. If you don't recognize it, that's entirely your prerogative, but I believe there is.

MR. DODGE: It's just unfortunate not one of your large customers sees their interests as clearly as you do. Thank you very much. I have no further questions.

CHAIRMAN MECHAM: Mr. Mattheis?

MR. MATTHEIS: Just a couple of questions.

Thank you. Mr. Gimble, as I understand 44, it requires you and the Division to essentially quantify the merger benefits, quantify the costs related to the merger and ensure that any cost increase associated with the merger is not passed along to the customer. Is that, in essence, what 44 is doing?

MR. GIMBLE: It just means that based on any, I guess, Division audits or if we hire Hugh Larkin or somebody like that to go in and take a look at their semiannual report, that if we see something that we think is an increase resulting from the merger, then we have an ability to challenge it and the onus or the burden is on PacifiCorp or Scottish Power to basically show that that increase doesn't stem from the merger.

MR. MATTHEIS: And we've talked a lot about benefits. In terms of cost increases related to the merger, we've talked about transaction costs, transition costs. Are there other costs that might occur in the future that would be related to the merger? That doesn't encompass the universe in those two sorts of definitions, does it?

MR. GIMBLE: Well, you know, I think there is -- as Mr. Talbot testified to, that there's risks in the financial area, primarily associated with maybe potential pressures on -- you know, from expansion on increasing cost of capital. I think it was Condition 25 addresses that, so that's an example.

MR. MATTHEIS: And how about things like

management decisions, if management decides to pursue a new course of action. New management, explicitly different than old management. Is that a merger-related cost if it, in fact, increases costs instead of decreases them?

MR. GIMBLE: Please restate the question.

MR. MATTHEIS: Yeah. Let's take a hypothetical. If new management comes in and decides that the previous strategy was inappropriate and they have a better strategy and they implement the strategy, and instead of, in fact, being better, it causes cost increases. Are those merger-related costs?

MR. GIMBLE: I think, based on an evaluation of the semiannual, if we see something in there that we think stems from a new management shift in direction, if you will, then we have the ability to challenge them.

MR. MATTHEIS: Mr. Alt, what do you think? Would that be a merger-related cost? Same question.

I can restate it if you like me to.

MR. ALT: I heard it. I think that's one that's difficult to ascertain. That's the problem, is isolating it. I mean, you know, there might be some link there, but the problem is in proving it.

MR. MATTHEIS: But if you could prove it --

MR. ALT: Well --

MR. MATTHEIS: I mean, assume with me they came out with press releases that said here's the way the new world is going to work and --

MR. ALT: My take on it would be I think we have a condition here and I think that in the future I would grant -- personally, I would grant you that you would have the opportunity in the future to argue that, and if you can make your case and land it before the Commission, then so be it.

MR. MATTHEIS: But that's what it will require? It will require a balancing, in essence, of, on the one hand, things that are very difficult to prove, benefits related to it, and on the other hand, something that is also difficult to prove, costs related to it?

MR. ALT: Right.

MR. MATTHEIS: Mr. Wright, that sort of change in management philosophy that might lead to a

cost increase, if you could directly show it, would
that be a merger-related cost?
MR. WRIGHT: Yes, if you could directly
show it, yes.
MR. MATTHEIS: Mr. Larson?

MR. LARSON: I agree.

MR. MATTHEIS: Thank you. I have nothing further.

CHAIRMAN MECHAM: Thank you. Mr. Reeder?

MR. REEDER: Are you okay, Mr. Wright?

MR. WRIGHT: I'm fine, yes.

MR. REEDER: Mr. Wright, the Company has a legal obligation to provide reliable and efficient service?

MR. WRIGHT: I'm expecting an objection.

MR. FELL: The statute does say that.

MR. REEDER: Do you seriously contend that a company fulfilling that obligation with a system is a merger benefit?

MR. WRIGHT: Sorry, Mr. Reeder. Could you repeat that question again?

MR. REEDER: Sure.

MR. WRIGHT: I'll try and focus a bit better this time.

MR. REEDER: Let me begin with, I fully

expect an objection. I think that's where you started that. If a Company has a statutory legal obligation to provide reliable and adequate service, can you seriously contend that a Company fulfilling that obligation by implementing a system of measurement in monitoring is a merger benefit?

MR. WRIGHT: No, I wouldn't contend that, but that's not what we're proposing. And for the avoidance of doubt, what we are proposing is a significant improvement in the reliability of the network in the state of Utah, combined with other performance standards and customer guarantees which is unmatched within the whole of the United States. We're talking about a package that is not available to any other set of customers right across the United States. If that's not a benefit, I struggle to see what is.

MR. REEDER: Is your argument that that is as a result of the merger; we're getting this package of benefits that would otherwise be unavailable?

MR. WRIGHT: Absolutely. That is very firmly our position. PacifiCorp had no plans to introduce the range of customer guarantees and performance standards that ScottishPower intends to put in, and that is the testimony of Mr. O'Brien if you would like to ask him when he comes to the stand.

MR. REEDER: But isn't it true that PacifiCorp could have hired a management consultant, or this Commission could have hired a management consultant, designed the same things and ordered it, in effect, without the merger?

MR. WRIGHT: No.

MR. REEDER: Are they proprietary?

MR. WRIGHT: To some degree they are. They're based upon an experience of implementing these standards with the United Kingdom. Again, it is Mr. O'Brien's testimony as the chief operating officer of PacifiCorp that, standing alone, PacifiCorp could not implement these standards. It's not about hiring a management consultant and saying, well, you know, if you do this and you do that, you can implement these standards. It's about a whole management philosophy of continuous improvement, about being accountable to your customers, about providing them with guarantees of the key customer interfaces, which is based upon ten years of experience in the UK of implementing such standards. I don't think you could get that from hiring a management consultant.

MR. REEDER: Mr. Wright, aren't you arguing for a double standard for as a result? As a result of this merger, we're getting something that we could have done on our own, more or less, but no, we couldn't have done, therefore, it's a result of the merger, but any of the costs in terms of change of attitude, change in approach or other kinds of things are not as a result of the merger? Haven't you got a dual standard for "as a result of"?

MR. WRIGHT: I don't think so at all, no. The service standards package to which I refer, incidentally, were not -- the costs of implementing that are not incremental, so I'm not quite sure where you're going with your question.

MR. REEDER: The question simply is: Where the Company has a legal obligation, this Commission has the ability to enforce that legal obligation. Are you contending that fulfilling that legal obligation is as a result of this merger?

MR. FELL: That question has been asked and answered. The answer clearly was -- well, Mr. Wright can try to answer it again, but it clearly has been answered that this merger proceeding and the proposal of ScottishPower is not the threshold legal standard in the state of Utah.

MR. WRIGHT: By definition, if PacifiCorp is meeting the standard at the moment and we are intending to improve performance, then it must be an improvement over the standard.

MR. REEDER: But is that a result of the merger?

MR. WRIGHT: Yes, it is. It's a specific commitment as a result of this merger.

MR. REEDER: What is there about the change in shareholders that made that happen? That's new management. Why couldn't they hire you on a contract, sir?

MR. WRIGHT: Because, as I say, it's not about an individual. It's about management philosophy that ScottishPower carries with it.

MR. REEDER: So let's hire you, Mr. Robinson and Mr. MacRitchie.

MR. WRIGHT: That's still not going to do it.

MR. REEDER: Who else do we have to hire?

MR. WRIGHT: I think you have to have the benefit of the experience of quite a number of individuals which just doesn't extend to importing a few people from Scotland. I think it extends right through the whole of the ScottishPower organization and the way in which we address the business.

MR. REEDER: So the whole change in management is the merger benefit?

MR. WRIGHT: To some degree. The focus with which the management will look at this Company and the way that the specific output of that is to some degree the performance standard package that I have discussed, because, as well as providing substantial benefits to customers, it is actually part of the management philosophy of ScottishPower to set challenging targets and seek to achieve them.

MR. REEDER: So the change of management is one of the benefits of the merger? That's what you're telling me? We'll get new people with new ideas?

MR. WRIGHT: Yes.

MR. REEDER: That's also one of the costs of the merger, isn't it?

MR. WRIGHT: How so?

MR. REEDER: That those new people with new ideas cost us money. Isn't that as a result of the merger? You've got to have it both ways, haven't you, Mr. Wright?

MR. WRIGHT: And how are they going to cost money? Give me an example.

MR. REEDER: Change in attitude costs the ratepayers money. With the change of attitude on pricing formulas or frequency of price increases or other strategies with respect to approaching the retail customers, that change in that management that was the merger benefit that you suggested this

Commission should weigh was a detriment brought on by the merger by the same way?

MR. WRIGHT: To the extent there's a change in attitude, the attitude is about increasing the efficiency of the Company and about improving reliability and service of the Company. I would have thought that that's a positive change in attitude. I cannot see a negative change in attitude or one that can be identified.

MR. REEDER: And I'm certainly not here to accuse you of it, yet because we don't know you quite yet, but let's assume then that Paragraph 44 is not intended to protect about changes in attitudes. Isn't the case that we must see your attitude on paper in this transition plan before we can judge you?

MR. WRIGHT: No.

MR. REEDER: You want us to take you on "trust us"?

MR. WRIGHT: No, not so. There are

quantifiable benefits and clear benefits that we have put on the table in support of the merger approval. We're not asking anybody to trust us. It's very, very clear what the benefits of this transaction are.

MR. REEDER: You told me the benefit is

you're going to change management and bring new ideas.

MR. WRIGHT: That is but one of the benefits. I can reel off all of the benefits if you would like, but it's 20 past 4:00.

MR. REEDER: I've got 30 seconds.

MR. WRIGHT: It will take a good deal longer than that, and I will actually leave it to the other witnesses to come and summarize their testimony.

MR. REEDER: Rather than trust you with respect to the benefits, wouldn't it be prudent for this Commission to require you to put them in writing and show what your plan is before they give you the opportunity to take control of this Company?

MR. WRIGHT: I believe we have covered this issue.

CHAIRMAN MECHAM: Yeah, we have. I suspect we can go back in the transcript.

MR. REEDER: I'm going to go to the next

issue and he's going to say no and somebody is going to object. Mr. Wright, in order to do our due diligence on this question, we asked you for the names of your five largest customers in the UK, didn't we? I'll ask your lawyer, if you're not sure.

MR. WRIGHT: There was over 3,000 data requests. Some have multiple parts as part of this proceeding. I can't -- strangely enough, I can't remember every single question that was asked. I do, however, recall -- as I was responsible for that process, I do recall a question relating to names of industrial customers in the UK.

MR. REEDER: And you refused to provide them to us, didn't you?

MR. WRIGHT: Under confidentiality provisions with those customers, it would not be appropriate to pass out details of load and revenue of large industrial customers. You have to remember that in the UK we have a fully competitive market. Those customers are under contract to suppliers, potentially, other than ScottishPower. We may be that distributor; we may not. If we were giving out details of customer bills, that, I would imagine, would be confidential between them and their supplier, so it would not have been appropriate.

MR. LARSON: And I might add, too, that Mr. Reeder, I think, would be very irritated if we were to hand out the contracts of his customers.

MR. REEDER: I asked for the names of the customers and you refused to give them to me, didn't you? Now you want me to trust you.

MR. FELL: Could we have the data request that relates to that?

MR. REEDER: Mr. Burnett, will you produce it?

MR. BURNETT: I'm happy to. As you have mentioned, there were many data requests. If I recall correctly, Mr. Reeder sent us 23 different sets, which were 175, 180 questions long each.

MR. REEDER: The answers weren't forthcoming and they required more.

MR. FELL: This is Mr. Reeder's question. He should know the data request he's talking about.

MR. REEDER: Do you deny it, counsel? Do you deny it, counsel?

MR. BURNETT: You know, I don't remember specifically the answer, Mr. Reeder. If you want to produce it, we'd be happy to look it up, but I, again --

CHAIRMAN MECHAM: Somebody can find it over the evening. Why don't we get on with this.

MR. REEDER: I have nothing further.

CHAIRMAN MECHAM: Thank you, Mr. Reeder. Let's go off the record just a minute.

(Discussion off the record.)

CHAIRMAN MECHAM: Let's go back on the record and finish this one. Does anybody else have anything on 44?

COMMISSIONER JONES: I just had one question, Mr. Alt. The original Condition 44 said conditions or benefits agreed to by ScottishPower or PacifiCorp in other jurisdictions that would benefit Utah shall be received in Utah, and that wasn't in the stipulation. I guess my question is: Are you satisfied that the conditions in these other jurisdictions have been taken into account?

MR. ALT: Yes. That's -- what we did is, when we were negotiating in the stipulation about that particular condition, the Company told us that we would know -- because the other states were moving ahead of us in terms of hearings and stuff, that we would know -- particularly Oregon, for instance. We already knew what Wyoming was. We would know what kind of conditions, and we were thinking of

stipulations as opposed to final Commission orders
because you can't -- I guess that's what we were
primarily looking for, and so we felt that we had
taken that all into account when we -- by the time we
signed the stipulation, and we were satisfied.

COMMISSIONER JONES: Thank you.

CHAIRMAN MECHAM: Okay. Let's move to 45.

MR. DODGE: No questions.

MR. MATTHEIS: No questions.

MR. REEDER: No questions.

CHAIRMAN MECHAM: Anyone else on 45? Okay. Let's go to 46, then.

MR. DODGE: No questions.

MR. MATTHEIS: Just a quick question for Mr. Alt.

CHAIRMAN MECHAM: Go ahead.

MR. MATTHEIS: PacifiCorp is right now obligated to comply with this procurement policy and competitive bidding requirements; is that correct? Mr. Alt. I'm sorry. That's a current requirement?

MR. ALT: That's my understanding, because the condition stated "shall continue to comply." I presume --

MR. LARSON: I'll confirm that it is.

MR. ALT: This is Mr. Burrup's area and he adopted this from another witness in his rebuttal testimony, and I'm under the impression that that --

MR. MATTHEIS: I'm willing to take the assumption that it is. That really isn't my question.

MR. ALT: In fact, I think that there was something like this in maybe even the original merger order with Utah Power.

MR. MATTHEIS: Okay.

MR. ALT: And so, yes, my understanding is that it's already there.

MR. MATTHEIS: And is there a perception that the change in control might alter that applicability?

MR. ALT: No. I think my characterization -- you can ask Mr. Burrup. My understanding is that this was something like some of those others where we're just making it very clear and highly visible in the stipulation of requirements for different areas of risk and uncertainty that we saw with the merger as potential for increased costs, for instance, that we felt we already have a way to deal with it, but we wanted it up front that the companies understood that, and, quite frankly, I also think it's good to have it up front for other parties as well, including the Commission.

MR. MATTHEIS: Okay. So even though you believe that in the future you would still have the authority under this policy to enforce it, you thought it would be a good idea to ensure the Company knew about it and ensure it was complied with?

MR. ALT: Right. Yes.

MR. MATTHEIS: Nothing further.

CHAIRMAN MECHAM: Mr. Reeder?

MR. REEDER: No questions.

CHAIRMAN MECHAM: Thank you. Anyone else on 46?

MR. ALT: I have a comment. On the exhibit, there's a typo of the Division. You probably noticed the P is missing on procurement. The file actually came in, but I think there was some formatting and it accidentally -- somehow the P was deleted. That was the only typo I found.

CHAIRMAN MECHAM: Okay. 47. Mr. Dodge?

MR. DODGE: I do have a question on this. Mr. Wright, isn't it the case that what I think is referred to as New ScottishPower PLC is to be a holding company?

MR. WRIGHT: Yes; that's correct.

MR. DODGE: So what is this intended to

prohibit?

MR. WRIGHT: I believe this is to deal with other changes in corporate structure after the holding company and New ScottishPower is put in place. It was a condition proposed, I think, by one of the other parties, so -- but we were in agreement to it. Clearly, we have already made our intentions to form a holding company very clear.

MR. DODGE: And this section, if other changes are made, requires notice and information, but not Commission approval; is that right?

MR. WRIGHT: That's correct, yes.

MR. DODGE: For example, if ScottishPower were to sell all of the stock of PacifiCorp -- excuse me -- all of the stock of the holding company to another company unrelated to ScottishPower, that transaction wouldn't require any kind of Commission approval or notice to this Commission?

MR. WRIGHT: I think it would require notice.

MR. DODGE: Under this section, a sale of -- by the holding company, if you will, of its stock, or by ScottishPower of the holding company stock, that's intended to fall under this?

MR. WRIGHT: There are other conditions, I think, dealing with the transfer of stock.

MR. DODGE: Perhaps. If so, I apologize.

Your understanding, though, is that that stock could be transferred, so ScottishPower would no longer be the parent and some new parent would come in without any involvement by this Commission; is that right?

MR. WRIGHT: I really didn't consider that point when looking at this condition.

MR. DODGE: Do you know the answer to that?

MR. WRIGHT: I don't, actually, no.

MR. DODGE: Do you know that, Mr. Alt?

MR. ALT: No, I'm afraid I don't. Like Mr. Wright, I thought that -- there are other conditions that we talked about earlier, I think even yesterday, that maybe dealt with the areas that you were talking about, but I'm not --

MR. DODGE: Conditions aside, let me just ask the question, because there was some prefiled testimony, so I'm just wondering if you recall this. With the holding company in place, if ScottishPower were to decide to sell in total that holding company to an entirely new owner, would this Commission have any approval rights over that transfer?

MR. ALT: I don't know. Mary Cleveland,

the Division witness -- this was her area and this condition was hers. I think she may better be able to answer that question. But even this condition on our exhibit, you know, the issue is -- she brought this up in her rebuttal testimony and captured this condition from another party. It may very well have been Mr. Brubaker, but I'm not sure.

MR. DODGE: Do you, Mr. Gimble, know the answer to that question?

MR. GIMBLE: I don't. I'm going to defer it to Mr. Talbot.

MR. DODGE: Okay. Mr. Larson?

MR. LARSON: No.

MR. DODGE: No other questions.

MR. MATTHEIS: No questions, your Honor.

CHAIRMAN MECHAM: Thank you. Mr. Reeder?

MR. REEDER: Mr. Alt, are we then to understand that ScottishPower referred to in Paragraph 47 is New ScottishPower, so we're talking about an additional holding company rather than the holding company that has been formed?

MR. WRIGHT: Just a clarification. The holding company has not yet been formed.

MR. REEDER: I think your listing particulars discloses that on February 19, 1999 a holding company was formed. Is that in addition to the New ScottishPower?

MR. FELL: I'm sorry. We don't know the answer, and if there's a citation to the listing particulars that we could have overnight, then we could look it up.

MR. REEDER: We'll dig it out. What I'm really trying to understand is, does paragraph 47, as drafted, anticipate Commission prior approval of the holding company as anticipated, whether or not now formed, or is it an additional holding company? Mr. Fell, feel free --

MR. FELL: Perhaps I could answer. I did participate in drafting these conditions. We felt that the creation of the New ScottishPower, the holding company contemplated at the closing of this merger, that we have already notified the Commission and parties that that will be happening, so that, as to that, we feel we have satisfied Condition 47 for that event.

If the Commission wants us to notify the Commission when that is getting closer to occurring, we could do that, but this would apply -- our intention was it would apply to future events.

MR. REEDER: So this is an additional

holding company to that one described in the amended
agreement creating the holding company?

MR. FELL: I think the answer to that is
yes. I'm not sure I understood, but the amended and
restated merger agreement explains the whole creation

of that new holding company and it is filed with the Commission and so we feel that that notice has been provided for this transaction.

MR. REEDER: Mr. Alt, do you understand that that's the case?

MR. ALT: Well, what I captured from Mr. Fell was that this was to deal with anything new, and that was what our intent was. Again, our issue on this was if we had notification of changes in that corporate structure which has an impact on corporate costs and complexity of the organization, it can translate into corporate costs that might get allocated down to PacifiCorp and overheads, and that's what we were really concerned about. Like I mentioned earlier -- I forget -- yesterday, maybe -- that if those costs increase because of changes in the organization structure, if we're notified, we're put on notice, it gives us adequate time to do audits and a rate case and therefore identify those types of costs that we think might be not relevant in rates in

Utah and therefore can deal with it. If we don't know about it, it makes it more difficult. That was the primary purpose, I think, for this condition. You can talk further, I guess, with Mary Cleveland when she's on.

MR. FELL: One more clarification in the stipulation. The opening paragraph says that references to ScottishPower include New ScottishPower because the staff wanted to make sure that New ScottishPower was bound by all of this.

CHAIRMAN MECHAM: Okay.

MR. REEDER: Thank you.

CHAIRMAN MECHAM: Thank you. Anyone else on 47? Let's go to 48.

MR. DODGE: One quick question, Mr. Alt. What do you understand to be the consequence if on, say, paragraph 48 PacifiCorp violates this condition? It does assume an obligation of its parent?

MR. ALT: Well, in our exhibit with the three columns, our issue there states that PacifiCorp assumption of ScottishPower liabilities could increase the cost of capital and also possibly affect the ability to provide adequate service. In other words, if PacifiCorp takes on some additional obligations, it can affect their cost of capital because of the risk and it also -- if those liabilities actually come through, that they would actually have to pay, it could affect their financial conditions such that the quality of service might be impacted, their ability to meet their commitment to provide the services required in Utah.

Those were the concerns we had that we were trying to address with this, and my understanding is, again, this was a condition proposed by Mr. Brubaker again that we felt was a good condition and adopted it.

MR. DODGE: And if they violate it, is your understanding that the penalty provisions or adjustments in rate cases? Would that be the consequence?

MR. GINSBERG: I think you may be asking him for a legal conclusion as to what would be the consequences of them assuming an obligation without approval.

MR. DODGE: I don't mean to be.

MR. GINSBERG: There could be other consequences.

MR. DODGE: I appreciate that. Thank you. I'm trying to ask whether he has an understanding of what the Division's reaction and response would be if they found out that condition were violated.

MR. ALT: Oh, if the condition itself were violated as opposed to --

MR. DODGE: Yeah.

MR. ALT: Oh, okay. I misconstrued your

question.

MR. DODGE: It doesn't require prior approval or anything. I'm just saying what if they did?

MR. GINSBERG: It does require prior approval.

MR. ALT: Yeah, it does. First sentence.

MR. GINSBERG: "Shall not without the approval of the Commission."

MR. DODGE: Well, okay. It does require -- so, as with anything that requires prior approval, if they don't, do you take the position it's invalid? Maybe that is a legal question. I'll retract that one. Thank you. No further questions.

CHAIRMAN MECHAM: Thank you. Mr. Mattheis?

MR. MATTHEIS: No questions.

CHAIRMAN MECHAM: Mr. Reeder?

MR. REEDER: No questions.

CHAIRMAN MECHAM: Anyone else on 48? 49.

MR. DODGE: No questions.

CHAIRMAN MECHAM: Mr. Mattheis.

MR. MATTHEIS: No questions.

CHAIRMAN MECHAM: Mr. Reeder?

MR. REEDER: I have no questions.

CHAIRMAN MECHAM: Anyone else? All right.

Let's go to 50, then.

MR. REEDER: I can see your expectations increasing.

CHAIRMAN MECHAM: 50.

MR. DODGE: I have no questions.

CHAIRMAN MECHAM: Mr. Mattheis?

MR. MATTHEIS: No questions.

CHAIRMAN MECHAM: Mr. Reeder?

MR. REEDER: Same answer.

CHAIRMAN MECHAM: All right. Others? Let's go to 51.

MR. DODGE: Also no questions on that.

MR. MATTHEIS: No questions.

MR. REEDER: No questions.

CHAIRMAN MECHAM: Okay. Anyone else?

MR. DODGE: I told you it would be fast.

CHAIRMAN MECHAM: Yeah. One overall question, I suppose. It pursues something Mr. Dodge was asking about with respect to Number 48. Is it the view of all the panel members that if these conditions -- if any of these conditions aren't met, is the sole remedy -- and I'm not looking for a legal analysis. I'm just looking for practical daily application here. If they're not met or any one of them is not met, is it strictly either the penalties provided for in the condition or penalties provided for in -- I think it's 54-425 or 725 -- I can't remember which -- the 500 or 2,000 dollar a day fine per event, are those the only remedies?

MR. ALT: Well, Condition 50 actually spells out an additional one. It simply says noncompliance -- well, in the event that they don't comply with the above conditions, the Commission may make appropriate ratemaking adjustments.

CHAIRMAN MECHAM: Okay.

MR. ALT: To me, some of these, if there's things that deal with costs, you know, or something, effect on cost, I think the Commission has ratemaking -- could make ratemaking adjustments that companies agree to that. The reliability ones relate to that code section with the penalties specifically, in addition to the penalties provided for in the conditions.

CHAIRMAN MECHAM: But once we've gotten over the threshold of merger approval, there's never an impact on the merger itself?

MR. ALT: That's correct. You can't undo it. It's like scrambled eggs.

MR. WRIGHT: It's been called some things in my time.

CHAIRMAN MECHAM: All right. Let's go off the record a minute.

(Discussion off the record.)

CHAIRMAN MECHAM: Let's come back at 9:00.

(Record closed at 4:45 p.m.)

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REPORTER'S CERTIFICATE

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

I, RENEE L. STACY, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public for the State of Utah, do hereby certify that the foregoing transcript, consisting of pages 415 to 528, was stenographically reported by me at the time and place hereinbefore set forth; that the same was thereafter reduced to typewritten form, and that the foregoing is a true and correct transcript of those proceedings.

Dated this 4th day of August, 1999.

RENEE L. STACY, CSR, RPR

My Commission expires:

November 9, 1999