BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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IN THE MATTER OF THE APPLICATION OF PACIFICORP AND SCOTTISHPOWER PLC FOR AN ORDER APPROVING THE ISSUANCE OF PACIFICORP COMMON STOCK.	DOCKET NO. 98-2035-04 REPORTER'S TRANSCRIPT OF PROCEEDINGS

Salt Lake City, Utah

Monday, August 9, 1999

9:10 a.m.

BEFORE:

STEPHEN F. MECHAM, Chairman, Public Service Commission of Utah; and

CONSTANCE B. WHITE, Commissioner, Public Service Commission of Utah; and

CLARK D. JONES, Commissioner, Public Service Commission of Utah.

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August 9, 1999

9:10 am.

P R O C E E D I N G S

CHAIRMAN MECHAM: Let's go back on the record. This morning before going on the record we marked the Division testimony. Mr. Alt's exhibits are numbered DPU 1 with 1.1 and 1.2 attached, and DPU 1R is Mr. Alt's rebuttal. On the first day we admitted DPU 1.0 SR, which is a summary list of the Division's merger conditions, and discussed those in the context of the four-party stipulation.

Is there any objection to the admission of Mr. Alt's other testimony, DPU 1 with the attachments and DPU 1R? All right. We'll admit them.

We also marked Ms. Cleveland's testimony as DPU 2 with 2.1 and 2.2 attached, and her rebuttal testimony is marked DPU 2R. Is there any objection to the admission of those exhibits? All right. We'll admit those.

And we marked Mr. Burrup's testimony as DPU 3, with 3.1 through 3.5 attached, and his rebuttal testimony is marked DPU 3R with 3R.1 attached. Is there any objection to the admission of those exhibits? All right. Thank you. We'll admit them.

We also marked Mr. William Powell's testimony as DPU 4 with 4.1 through 4.4 attached. Is there any objection to the admission of those exhibits? Okay. We'll admit those.

(Whereupon Exhibits DPU 1, 1.1, 1.2, 1R, 2, 2.1, 2.2, 2R, 3, 3.1 - 3.5, 3R, 3R.1, 4, 4.1 - 4.4 were marked and received.)

CHAIRMAN MECHAM: Now we have back on the stand with us Mr. Alt.

LOWELL E. ALT, JR.

re-called as a witness, having been previously sworn, was examined and testified further as follows:

CHAIRMAN MECHAM: Mr. Ginsberg, do you have any questions for Mr. Alt?

DIRECT EXAMINATION

BY MR. GINSBERG:

Q Did you have any corrections in your testimony that we just admitted?

A No.

Q You are coming back on the stand after being on on the stipulation.

A   Yes.

Q   You wanted to provide some additional testimony on the issue of special contracts. Is that why you decided to come back?

A Yes.
Q Can you go ahead and proceed?
A After I testified on Monday and Tuesday last week, I felt that perhaps the Division's position on special contracts hasn't really been made very clear on the record and I felt some additional comments might help do that.

We seem to have gotten the impression from some of the responses from the representatives of clients on special contracts that the Division of Public Utilities is opposed to special contracts, and I'd like to point out that that's not the case. Will Rogers I think is the one that said he'd never met a man that he didn't like. The Division, in years past, has been accused of never seeing a special contract they didn't like, primarily because in the last four years we've approved all six of the -- recommended approval of all six of those that have been submitted to the Commission.

We support special contracts when they meet the appropriate criteria and, in particular, that criteria that we're talking about is that customers must have another alternative, the "but for" alternative. And second, and very important, that the contracts must show that they cover the incremental cost of providing the service to the customer and also make a contribution to the fixed cost.

The Division's position in this merger case is that any contract extension beyond the initial terms should be subject to the Public Service Commission review and approval and a showing that the appropriate criteria at that time has been met. Otherwise, we believe that what would happen is that there would be a transfer of risk from the special contract customers to the other tariff ratepayers, and the risk that we're talking about is that, if the incremental cost is not being covered, I'm sure the Company would want to try to pick it up in a rate case from all the other tariff customers.

I'd like to point out that, on public witness day, Commissioner Mecham read -- I think he read Cheryl Allen's letter to the Commission on the merger. She's the co-chair of the Legislative Public Utilities and Technology Interim Committee, and her letter indicated that the Commission should give adequate consideration to the special contracts, but I wanted to point out that in the last sentence in one of her bullet points, she says, "Of course, any renewals must be consistent with the Commission's rules and policies," and that's very consistent with what I just said.

We think that those policies basically have been, in their approval of past contracts, is that they must meet the criteria, and that includes having an alternative and covering incremental costs of making the contribution.

Two other points I'd like to make this morning. One is that I think there may have been some confusion in my cross examination on Monday and Tuesday when I talked about Schedule 9, which is a tariff rate for high voltage large use, which typically is where industrial customers on tariff take service. I implied that that would be an alternative, but I felt that I made it clear that that is only for firm service, not interruptible. Some of the special contracts are for interruptible service, and, of course, Schedule 9 is not the appropriate rate because it includes capacity costs which are normally not included for interruptible customers. I just wanted to make that clarification.

The final point I wanted to make is that there have been representations, at least in my impression, that the customers on special contracts have not gotten or would not get any benefit from the stipulation that the Division entered into with PacifiCorp or ScottishPower and the Committee of Consumer Services in this case, and I believe that they actually would get benefits and I'd like to highlight what I perceive some of those are.

First, the industrial customers, their witness included in their rebuttal testimony a number of conditions that they recommended be imposed on the utilities in this merger before -- if it were to be approved, and the Division of Public Utilities felt that a lot of those conditions were very good. A number of them -- in fact, a lot of them we felt we'd already covered with similar wording in our stipulation, and in addition, they proposed some new ones that we felt were very good and we actually adopted them almost verbatim in our discussions with the Company and they ultimately ended up in our 51 conditions in the stipulation, and the fact that the special contract witnesses felt that they were important enough to propose, we felt, well, if we adopted them, there must have been some benefit to them or they wouldn't have proposed them, therefore, we feel that, since they're in the stipulation, they must be getting some benefit.

And another condition in the stipulation that relates to the ability of the Public Service Commission to adequately regulate the Company after the merger and we feel that that provides an important protection, not only to tariff customers, but also contract customers.

There was a condition that said that rates in Utah shall not increase as a result of the merger. We feel that that also provides a benefit to special contract customers, and we feel that any of the conditions in the stipulation, and there are quite a few, that relate to trying to control costs or limit cost recovery after the merger, that these potentially benefit contract customers, also.

And reliability is another area that the contract customers would benefit. Some of them take delivery off the transmission or subtransmission system, and our reliability conditions we added enhance those from what were originally proposed by the Company and included the monitoring of outages and reliability of the transmission system that serves customers, and we feel that those contract customers will benefit from this enhanced ability to monitor the reliability to them.

That summarizes the position of the

Division and the points I wanted to make this morning.

MR. GINSBERG: He's available for questions.

CHAIRMAN MECHAM: Okay. Thank you. Are there any? Mr. Dodge?

MR. DODGE: There are, and maybe, Mr. Chairman, just a point of order. I don't know if the applicants or those who have signed on the stipulation intend to do friendly cross or if they're permitted to. If so, I would submit they should go first as opposed to cross by other parties.

MR. HUNTER: I have no questions for Mr. Alt at the moment.

MR. TINGEY: I have one.

CHAIRMAN MECHAM: Mr. Tingey.

CROSS EXAMINATION

BY MR. TINGEY:

Q You talked about criteria to be applied for renewal of these special contracts and could you talk about how the task force and what may come out of that interplays with that?

A The Commission, as part of the last rate case, as most people know, established four task forces. One of them was to examine the criteria to be used for special contracts. Ken Powell of the Division is chairing that. They've had a number of meetings. A final report is expected in December of this year to the Commission with recommendations on what that criteria should be.

Q And if there are new or different criteria adopted by the Commission when these contracts come up for renewal, that should be the ones that apply?

A If that approval would be timely, you know, with relation to the expiration time or -- well, the submission of the new contract, I guess, primarily, yes.

MR. TINGEY: Thanks.

CHAIRMAN MECHAM: Mr. Dodge.

MR. DODGE: Thank you.

COMMISSIONER JONES: Mr. Alt, just -- I just want to clarify. You mentioned in the last how many years six contracts had been approved?

THE WITNESS: Yes.

COMMISSIONER JONES: How many years? I

missed the years.

THE WITNESS: Well, actually, I think the first one came in sometime in 1996 and I think all the others were in 1997. It's possible one of them was in 1998. Ken Powell, who will follow me, can answer specifically, but actually they've probably been within the last three years.

CHAIRMAN MECHAM: All right. The third time is a charm, Mr. Dodge.

MR. DODGE: Thank you.

CROSS EXAMINATION

BY MR. DODGE:

Q Mr. Alt, you were here Friday and Thursday and heard the testimony from the witnesses representing my clients and Mr. Reeder's clients and Mr. Mattheis' clients, weren't you?

A Yes.

Q And you understood them to be suggesting that the extension of contracts that they're requesting would be subject to the Commission's ability to approve it?

A Yes, I understood that.

Q So that's not inconsistent with your position?

A No.

Q You indicated that the representatives of special contract customers submitted a number of suggestions on the stipulation that you incorporated. You recognized that those representatives, meaning myself and Mr. Reeder,

represent a number of tariff customers, do you not?
A Yes.
Q In other words, those comments were also directed at enhancing the protections from the stipulation to the tariff customers. You understood that?
A Yes.
Q And among the conditions proposed by those same representatives was the continued concept of a rate cap that your direct testimony and rebuttal testimony had supported; is that right?
A Yes.
Q So with the rate cap like you had originally proposed, special contract customers, assuming they were covered by that rate cap, would enjoy some additional protection that was lost, if you will, when that was abandoned in favor of a merger credit that didn't apply to special contracts? Do you accept that?
A Possibly. I mean, I accept that

possibly --

Q You accept it possibly. And that's all I can expect.

A Well, no. You said that --

Q I mean that's reasonable, is what I'm

saying.

A You said the exchange of the rate cap for a rate credit, and I was saying that, to the degree that they still get some benefit from the revenue credit, then, you know, they would still get a benefit. It's not that just when we substituted the merger credit for a rate cap that they lost all benefit. That would be my position. Does that kind of answer your question?

Q I think so, and I'm not necessarily suggesting they lost the other benefits you think they obtained from the stipulation, but in terms of obtaining some kind of cap, if you will, on the rates, they don't get that from a merger credit. Special contract customers don't get it.

A Right.

Q Indeed, no customers get it.

A Right. That's correct.

MR. DODGE: Okay. Thank you. No further questions.

CHAIRMAN MECHAM: Thank you. Mr. Mattheis, anything?

MR. MATTHEIS: No questions.

CHAIRMAN MECHAM: Mr. Reeder?

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CROSS EXAMINATION

BY MR. REEDER:

Q Good morning, Mr. Alt.

A Good morning.

Q Let's talk about transmission reliability for a moment, if we might. You're an engineer.

A Is that a question?

Q Are you an engineer?

A Yes.

Q Electrical engineer?

A Yes.

Q So you're somewhat familiar with the fact that a transmission system is a series of towers and wires that carries generation to load, aren't you?

A Yes.

Q Our goal in transmission should be to make it efficient, shouldn't it?

A Yes.

Q As a transmission engineer, can you provide us with your view of whether or not an integrated transmission system would be more efficient if it were operated as a single system?

A I'm not sure I understand the nature of the question. Single system. What do you mean a single system?

Q Let's take a step back. The transmission system in the West consists of a number of interconnected transmission systems, does it not?
A Yes.
Q There's a system in Colorado and a system in Nevada and a system in Idaho, all operated by separate operators, correct?
A That's my understanding.
Q Now, in operating that transmission system, from an engineering perspective, which -- what would provide more efficient operation, a single oversight of that operation or a patchwork operation of that by control areas in each state?
A Well, I don't know that that's an easy question to answer. It depends on the objectives.
Q If the objective is to maximize the flow through the system, if the system is to have the highest ATC, available transmission capacity, what would provide the most efficient operation?
A Well, first I need to qualify, like I think

Robin MacLaren did, when I think you called him a generation engineer or something.

Q No. He was a transmission engineer, too.

A Or transmission engineer. I'm not a transmission engineer. I'm an electric engineer. I worked for an electric utility for 12 years, primarily -- ten of those years in the distribution department. My expertise is in distribution substations and substation equipment. I can talk to you quite extensively about transformers. I am not a transmission expert. I'm quite aware of transmission and how it works. That was not my function in the utility and so I need to qualify. I can give you general answers but I can't give you detailed expertise.

Q Are you familiar with the term "transmission constraint"?

A Yes.

Q What causes a transmission constraint?

A Well, it can be a physical constraint. The conductor can't handle the current or it will melt down. There's protection equipment designed to interrupt the line if it gets above that point or before it gets there, hopefully, and so that's a constraint.

Q And how do we determine what the available transfer capacity of a transmission system might be at any point in time?

A Well, the companies that own the facilities are the ones, I presume, that rate what its normal and emergency load handling capability is, and they're usually published in books or well aware in the operations center.

Q In determining the available transmission capacity, does each local utility get to subtract out what they want to subtract out for their own use?

A That's my understanding of how it works.

Q If we've got an integrated system, and in calculating the transmission capacity, each local entity gets to subtract out what's not available, do you think that could result in some inefficiency?

A I've read complaints to FERC about that in Public Utilities Fortnightly and actually even cases before FERC that we get copies of.

Q So it might be reasonable to believe that a single way of calculating ATC with no agendas of protecting a local load might result in a more efficient system, mightn't it?

A Possibly.

Q Can you talk to me about loop flows? What are loop flows?

A That's an unintended flow on the electrical system. We've had -- I've been aware, years past in Utah, that we -- the Utah -- old Utah Power & Light system, through interconnections with other utilities, would get unintended flows on their system that actually load up the transmission lines and prevent them from actually using the full capacity that they've actually paid for for themselves.

Q So the phenomena of a loop flow actually makes a system less efficient, doesn't it?

A Yes.

Q Do me minimize loop flows if we make it one system so that the power doesn't have to follow a particular path in theory to have capacity available?

A Well, loop flow is a physical event that electrons are going to flow where they're going to flow, and you have to control them physically. You can't control them with words.

Q We learned long ago lawyers can't control electric flow, didn't we?

A I hope so.

Q Loop flow is diminished when operated as a single system, though, isn't it, because it becomes less significant?

A Well, I'm not so sure that I would be able
to say that, because if the same circumstances exist
that created the loop flow -- before, you had a
single system operator of multiple systems that, you
know, previously the loop flow would still exist in

the sense that you would get extra flow in one region that you wouldn't want or was undesirable. To eliminate loop flow, you have to put in sometimes devices.

I remember many years ago going to a WSCC meeting where they talked about it and -- you know, like one idea was phase shifting transformers on borders to minimize loop flow. It's a very technical problem. It's not my area of expertise. I'm just vaguely familiar with it, so I don't think I can characterize it quite as simply as you said.

Q If the objective were to keep lights on in Las Vegas and both Nevada and Utah were operated by the same control person, would it be material whether it flowed through Utah or through Nevada to get the power to Las Vegas?

A Well, I think, from the limited knowledge I have of the now defunct INDEGO, the way they would compensate owners of transmission facilities in one state versus another would relate to how you compensate people, and it seems to me that if you had loop flows before and you still have them, that might enter into the equation of whether someone was being adequately compensated.

Now, I know FERC has a NOPR out on regional

transmission organizations and I know they're going
to take a long time to figure out what the ultimate
rules are, which will probably, you know, address
this particular issue, and right now I'm not in any
position to, you know, give you any definitive
answers about how it's going to come out.

Q As an engineer, have you reviewed that NOPR
on RTOs?

A I have only read summaries of it. My time
has been limited. I haven't had time to read the
whole thing.

Q Have you had an opportunity to evaluate
whether or not an RTO organization would be an
organization that would make the transmission system
operate more efficiently?

A Well, the one thing I will say is that in
the work that the Division did at the legislature in
the last few years on electric deregulation before
their task force, we became very well aware of market
power that utilities might have under competition and

the adverse consequences of that, and we also learned that one form of mitigation of a particular type of market power is the use of independent system operators or regional transmission organizations that FERC now likes to call them, so we see the advantages of them. There are probably a lot of advantages. That's one in particular that we've been focusing on.

Q If there are advantages of RTOs -- and we don't mean to belabor the topic -- do you think it's important that this state preserve the right to participate in the formation and shaping and operation of an RTO?

A Yes. And every indication I have is that they will have the opportunity to provide input to FERC while they're reviewing and figuring out what they're going to do in their ultimate ruling.

Q You understand, sir, that in the absence of some order -- some condition in this order, that this Commission's participation may indeed be limiting to filing comments at FERC?

A Well, I'm a little less clear about that, I guess is the problem.

Q Let's go to my next favorite topic, stranded costs. Have you had occasion to examine the stranded costs of PacifiCorp?

A The only occasion we had to deal with it was up at the legislature, I believe it was in '97. 1997. Possibly a little bit in '98 at the Electric Dereg Task Force meeting. Meetings.

Q Do you have an opinion about the occurrence or probable occurrence of stranded costs inside PacifiCorp and, if so, what is that opinion?

A Well, I think the opinion we have is one I think we expressed at the legislature at those task force meetings, and that is that we have not tried to determine precisely if and how much stranded cost PacifiCorp has. We've looked at independent studies, made presentations showing what the results of those are, and all the independent studies we saw showed that they had, as I recall, stranded benefits, not stranded cost.

Q Mr. Alt, turning to the stipulation, Paragraph Number 44 -- do you have a copy of that in front of you?

A Yes.

Q The "as a result" language? Do you have that language in front of you?

A Yes.

Q If, as a result of a change in management, a change of philosophy arises having to do with rate cases, would that change in management and change of philosophy be an event that this paragraph would preclude as a cause for rate increases?

A Well, my opinion would be that possibly. I think that it's a very simple general statement and I think that each party in a future rate case should have the right to interpret it as they see fit and make a presentation and argue for whatever treatment that their interpretation would support, and so I wouldn't preclude any party's position at this point. I think it's -- you know, can be interpreted in a lot of different ways today.

Q Do you have Cross Examination Exhibit No. 4?

A I don't recall what that is. I'm sorry.

Q It is the proxy of PacifiCorp.

A I don't have that with me, no.

Q Can we get an extra copy of it? If someone could loan the witness a copy. I wanted to look particularly at page 31. Mr. Alt, do you have in front of you page 31 from Cross Examination Exhibit No. 4, the proxy solicitation of PacifiCorp in this matter?

A Yes.

Q Directing your attention to the last full paragraph on that page, would you begin that paragraph and read that paragraph for me?

A The whole paragraph?

Q Please.

A "As a result of the discussions held at the

October 5 meeting, on October 12, 1998, ScottishPower and PacifiCorp entered into a confidentiality and standstill agreement. On the same date, ScottishPower formally engaged Morgan Stanley as financial advisor to assist in the discussions with PacifiCorp. Initial discussions regarding utility regulatory matters, including regulatory approvals that might be required in connection with a potential transaction, took place on October 14. On October 16, 1998, at a meeting of the PacifiCorp board of directors, Mr. McKennon reported to the PacifiCorp board on the status of management's strategic review and the discussions with ScottishPower, and the PacifiCorp board authorized the management of PacifiCorp to continue discussions with ScottishPower regarding a possible strategic transaction. Later, a staff working session, headed by Mr. Russell and Mr. O'Brien, was conducted on October 17 and 18, at which the participants reviewed threshold regulatory strategic and financial due diligence issues, and

ScottishPower's representatives were advised regarding PacifiCorp's intentions to refocus on its core electricity business in the Western United States."

Q Mr. Alt, does it appear to you that the refocus program of PacifiCorp and the ScottishPower transaction were coming together at the same time?

A Well, I remember you talking about this last week. I mean, it seems like it's the same general time frame. I don't know that I can be more specific than that, certainly since I didn't have party to any more details other than this paragraph.

Q Mr. Alt, what kind of an investigation are we going to have to conduct to present evidence to this Commission to help it sort out what is as a result of this merger in light of at least a coincidence of the two events occurring simultaneously?

A I think that's a very difficult question to answer. I think each party is going to submit whatever they think will carry their burden in making the demonstration. You know, the eye of the beholder. I think I don't know other than that.

Q Have you given any consideration to the kind of investigation the Division is going to have to take to determine whether or not the stipulation condition precludes rate increases that come about as a result of a plan to make attractive PacifiCorp as a takeover candidate?

A I have not heard that.

Q You don't have any idea what kind of investigation you're going to have to conduct to determine whether that's true or not?
A No. I mean, we don't try to prejudge things. I think that we felt that that particular statement was general enough that it would give -- not restrict us in the future in making whatever claims we felt for disallowance, and I'm not sure, but I was thinking maybe that similar condition was in the last merger order. I can't recall. But, anyway, the point is, in the future we wouldn't be restricted as to our interpretation, and if we felt that we thought something clearly was merger related and shouldn't be allowed in rates later that fell under this condition, we would make our case for it, and it's hard at that point to envision the specifics.
Q It would be a difficult investigation and a difficult decision, wouldn't it?
A I wouldn't disagree with that.

Q Let's talk about special contracts for a minute or two. You're familiar with the exhibits of ScottishPower that shows the years in which they expect the cost savings from their plans to occur, are you not?

MR. GINSBERG: Can you be more specific?
Q   (BY MR. REEDER) On Cross Examination Exhibit No. 23, isn't it true --
A   Which one is that?
Q   -- that the bulk of the savings are to occur in years 2002, 2003?
MR. BURNETT: Would this be a confidential exhibit?
CHAIRMAN MECHAM: Yes.
THE WITNESS: Oh.
MR. BURNETT: Perhaps Mr. Reeder should refrain from disclosing on the record the contents of confidential exhibits.
MR. REEDER: Counsel, if the years in which the savings will occur is confidential, please advise me.
MR. BURNETT: I'm informed that the entire exhibit and the contents of it is confidential.
MR. REEDER: All right.
Q   Let's refer to the testimony of Mr.

MacRitchie in connection with the transition plan wherein Mr. MacRitchie, I believe, testified that the savings will most likely arise in the out years. Are you familiar with that testimony?

A   Yes. I mean, if the point you're making is that -- like if the merger were to be approved at the end of this year and the first year of the merger would be 2000, that there's not expected to be a lot of savings, that more of them will -- they will RAMPP up or they will be implemented through programs that take time and money to implement, and that -- so in the later end of those early four or five years is when we will start seeing savings. That's my -- or more substantial savings. That's my understanding.

Q So if on this record it should appear that the savings from the merger largely occur in the out years, about 2003, you wouldn't have any quarrel with that?

A No. I mean, it's possible that there may be, beyond that year, savings, also, but, you know, I don't know.

Q But we expect the savings from the new management style to be most significant in the 02 and 03 years, don't we?

A I'm not sure I could make that

characterization. I know -- I would say a larger amount in those years than in the earlier years between now and then. That much I know for sure.

Q Were you present when Mr. Brubaker testified on Friday?

A Yes.

Q Is there some uncertainty about the relative -- this exhibit is confidential so I'm going to try to choose my words carefully. Is there some question about the relative significance of the level of O&M costs under two operating strategies?

A Possibly. I mean, if you're referring to an exhibit that --

Q Exhibit No. 25.

A This was the confidential exhibit --

Q Yes.

A -- that parties didn't have adequate time to explore and figure out the source of the data and how it was derived. It spoke for itself, whatever numbers are on there, but in terms of whether we believed them or not, that's a whole different question.

Q Okay. And you're aware that the source data is the studies that are already in this exhibit as confidential documents provided by PacifiCorp?

A I understand that's what was represented, but I personally wasn't able to validate that because we didn't have the time.

Q Taking the exhibit on its face -- because you don't have the confidential exhibits and, in fact, can't validate the information, can you?

A Correct.

Q Okay. Taking on its face that Mr. Brubaker adequately reported the numbers -- recorded the numbers and it simply reports the numbers that are on the exhibits that only the Commission has, there's some question about the -- here I'm trying to choose my words carefully. There is some uncertainty about whether the savings are better under one operating regime than the other, are they not?

A I would say yes, there's a question, because, again, as I said, we weren't able to validate the numbers. We weren't able to draw any real significant conclusions because of that.

Q But on the exhibit itself, it suggests, does it not, that there's some question about some of the underlying assumptions?

A Well --

MR. BURNETT: I think the exhibit speaks for itself, Mr. Reeder.

THE WITNESS: Right. That's what I said earlier. The exhibit -- the numbers are what they are, but what conclusions you draw from it have to be based on some analysis, not just a cursory review of the numbers. That's the way I look at any exhibit.

I'm a very skeptical person. When I see a chart of numbers that someone uses to show something, first thing I want to know is are the numbers accurate, where did they get them, and does it make sense to me.
Q (BY MR. REEDER) Okay. Let's go to the foundation documents, Mr. Alt. Did you examine the base case in this conservative case prepared by PacifiCorp in connection with their forecast of their future?
A I personally did not, no.
Q Did you examine the base case in the conservative case of ScottishPower where they, too, forecasted their future?
A No, I did not.
Q So you don't have, based on your own knowledge, any way to know whether or not a comparison of the two would produce some uncertainty?
A No. I mean, you're right.
Q All right. And if Mr. Brubaker's exhibit

shows that a comparison of the two gives rise to some uncertainty --

MR. HUNTER: Objection. I think he just adequately explained why there's a lack of foundation to ask this witness any of those questions. He didn't review the source documents, doesn't know what they mean. I would suggest that we move on and actually have him ask these questions of someone who might know the answers to those questions.

Q (BY MR. REEDER) I think the question, sir, is simply: Isn't there reason for some uncertainty in light of the lack of knowledge you have?

A Yes.

Q Thank you. I would hope so.

Now, Mr. Alt, in a period of uncertainty, isn't it true that you recommended in your testimony that rates be capped?

A Originally, yes.

Q And, sir, isn't, as a regulator, that a better protection device or a good protection device for ratepayers in a period where there's some uncertainty about what that cost should be?

A A rate cap provides good protection, yes.

Q Now, isn't it true, sir, that if this Commission were to choose to cap rates for all customers, including special contract customers in this case, extending the special contracts would not in any way result in any kind of a transfer of risk that you described in your testimony a few minutes ago?

A I think technically the level of the cap might determine whether or not risk was transferred, because -- I mean, if you have a real small cap over what would be allowed, then I would grant you that there would be minimal risk transferred, but if the cap is -- and we didn't really nail it down in our direct testimony. We just tossed out a couple ideas and, quite frankly, they were a range from a small cap to, you know, a potentially much bigger cap.

The bigger the cap in terms of allowing the bigger rate increase, then potentially more risk could be transferred, I would think.

Q But isn't it the case, Mr. Alt, that with a rate cap, the concerns would be smaller than the rate caps -- than they are without a rate cap?

A I would agree with that.

Q And so it's really the absence of a rate cap that gives rise to our concern about whether special contracts should be extended in the

Commission's review with respect to them, isn't it?

A I --

Q It is the absence of a rate cap to protect all ratepayers that gives rise to our concern, isn't it?

A That's my understanding.
Q Now, in the absence of a rate cap, what are the circumstances that you're going to place the special contract customers in as they go to negotiate with PacifiCorp?
A Well, I would think a situation very similar to when they negotiated the last contract.
Q Isn't it true, sir, that will be in a, hopefully, decreasing cost regime with the bulk of the decreases yet to occur?
A That's the ideas that have been tossed out. You know, the hope or the expectation, maybe.
Q So we begin to negotiate with PacifiCorp in 2001 or 2002, and the question is, what will our costs be for the future years, and it's everyone's expectation they'll be lower, but we have no certainty, right?
A I would agree with that.
Q All right. As we begin that negotiation, we're negotiating with the new owner of PacifiCorp

who has a plan to reduce costs, do we not?

A From what I heard of the testimony, that would be technically true. What I heard from Mr. Richardson was the people that would actually be negotiated with you would be given some range or some guidance but then they would -- the people that maybe you normally negotiate with would normally be -- would be negotiating with you.

Q So isn't it true, Mr. Alt, that without some action of this Commission, what you're asking is this state's largest employers to really take the risk of the new company and their strategy?

A Well, you said something that caught my attention last week, and you just said it, so I have to make a comment.

Q Please. Both answer the question and make a comment.

A Okay. Your question contains a statement that we're talking about the largest employers in the state.

Q Yes.

A The very largest?

Q It's Hill Air Force Base.

A What?

Q It's Hill Air Force Base. Yes, it is true.

The private sector we're talking about. We're not talking about government today. Let's take out the government employers. The largest employer is Hill Air Force Base. I'll spot you that. Let's talk about private sector employers.

A And let's see. Hill Air Force Base. Well, okay. According to my chart, they're the six largest employer in the state. 7,500 employees in 1997.

Q I'm sorry. You and I were teasing each other about who the largest employer is, whether it's the federal government. And their defense establishment is the largest employer of the state government?

A State of Utah is the largest employer in the state.

Q Let's talk about private sector employers.

A Okay.

Q We're talking about some of the state's largest private employers here, aren't we?

A I have a list that I got off the Internet this morning from the State of Utah web page that shows the top 50 employers in the state of Utah by employee count in 1997, and I found that two of the special contracts show up on the list and the other four don't.

Q Isn't it true, sir, that on that specialist, smelting and refining show up different from mining?

A I'm not sure I understand.

Q Isn't it true that on that list, smelting and refining show up as a different category from mining?

A Well, I see Kennecott Copper with 2,000 employees. Is that who you're referring to?

Q Is that only mining or does that include smelting and refining?

A It's the only Kennecott that I see on the list. If you add them together, is it more than 2,000 employees?

Q Do you know?

A The only knowledge I have is this sheet.

Q Okay. Nonetheless, they are fairly large employers. We won't get into the argument about how states report statistics.

A Well, you characterized it as the largest employer in your sentence. That's why I had trouble answering the question.

Q Let's go back to the question. Among the state's largest employers and among the state's largest taxpayers.

MR. GINSBERG: I think the question is very argumentative, and why doesn't he just ask a question, rather than trying to put all these preliminaries on it?

MR. REEDER: I think I did, Mr. Ginsberg.

I think I did ask a question. Mr. Alt wanted to make a comment and answer the question and I invited him to do so, and I'll stand by that.

CHAIRMAN MECHAM: Then we got into the size of employers and so on, which is interesting, but --

MR. REEDER: I agree with Mr. Ginsberg. It's only fun. It's not really where we need to go.

Q Do you have in mind the question and your comment?

A I'm afraid I've lost it. Restate it.

Q The question to you, sir, was: Isn't the bottom line of what you proposed here is to put some of the state's larger employers -- let's not get into a debate about largest -- some of the state's larger employers and taxpayers into a position of negotiating with a new owner at a period of time when that new owner's cost curves are hopefully declining?

A I think that's a possibility. I won't deny that.

Q Isn't the result of that that you're really asking the state's larger employers -- staying away from the largest -- the state's larger employers to really assume a significant part of the risks of this transaction?

A I don't see that as a significant part of the risk of the transaction. I mean, getting back to the list of employers, there are other companies in Utah with substantially more employees, and they don't have special contracts, and so what risk --

Q Who has the largest electric bills, Mr. Alt? To whom is the cost of electricity most important?

A I don't have that information.

Q Would you be surprised to learn it's the people sitting at this table?

MR. GINSBERG: How would he check that? Are they going to inform us what their electric bill is?

CHAIRMAN MECHAM: Perhaps.

MR. GINSBERG: I mean, that's -- you know, maybe Mr. Reeder would like to tell us, then. There's no way for him to check the relationship of the electric bill to individual customers.

MR. REEDER: Mr. Ginsberg, an annual filing with you, I expect, discloses the amount of revenue on each special contract each year, so I don't think you can deny that you know the amount of revenue.

MR. GINSBERG: I can certainly deny that.

MR. REEDER: I'll spot you that, but

there's someone inside of this building who may know.

THE WITNESS: I'm sure that we have that information or can get our hands on it.

Q (BY MR. REEDER) Would you be surprised to learn that they were some of the special contract customers?

A I wouldn't be surprised.

MR. REEDER: I have nothing further.

CHAIRMAN MECHAM: Thank you. Mr. Hunter?

CROSS EXAMINATION

BY MR. HUNTER:

Q To clarify for the record, in answer to a question from Mr. Reeder, did you indicate that the only concern the Division had about the automatic extension proposal of the industrial customers was that -- was, in the absence of a cap, if a cap had been your proposal, then the extension proposal condition would have been acceptable to the Division? Is that what you meant to say in answer to that question?

A No.

Q And, indeed, at the time the Division had a cap proposal, they opposed the extension proposals of the special contract customers? I refer you to Mr. Powell's testimony.

A Okay. I was trying to remember what we actually stated, and I really -- my memory is a little fuzzy there, and that's probably why, because it's Ken Powell's testimony. I was thinking, I don't remember saying -- dealing with that directly, but the point is that -- I would grant you that with a rate cap, we would still -- even if we had a rate cap proposal today, we would still want Commission review based on whatever the appropriate criteria they think should be at that time for any extension of any special contracts.

Q So the Division hasn't changed its position from that expressed in Mr. Powell's rebuttal testimony?

A If that's where it is, that's true.

MR. HUNTER: Okay. Thank you.

MR. BURNETT: I have just a couple questions.

CHAIRMAN MECHAM: Oh. I'm sorry, Mr. Burnett. Go ahead.

CROSS EXAMINATION

BY MR. BURNETT:

Q Mr. Reeder explored a topic with you briefly discussing some of the larger employers of the state negotiating their contracts at the end of the term and he mentioned that that would be with a new owner at that time. Do you recall that?

A Yes.

Q And that the new owner's costs would be declining?

A Yes.

Q That was the form of question. Do you perceive that's any different than the special contracts customer would be presented with today without a new owner if their contracts were up for renewal? They would be negotiating with someone whose costs were declining, hopefully?

A We certainly hope.

MR. BURNETT: I have nothing further.

CHAIRMAN MECHAM: But even if they weren't declining, isn't there always uncertainty lurking out there, up or down? I mean --

THE WITNESS: That's right. Absolutely. I mean, you know, we don't know whether the costs are going to decline or not. I mean, those are some of the expectations. We don't know for sure.

COMMISSIONER WHITE: So as I understand it, the proposal of the special contract customers is that we extend these contracts through the transition period subject to approval of the terms and conditions. Does the Division still oppose extension under those circumstances?

THE WITNESS: Our only condition is if the Commission wants to extend those contracts, you know, let's say to the end of the merger credit period, that four-year period, we're not opposed to the extension of the contracts as long as they meet the condition or the requirement that they be reviewed to see if they still meet the criteria that's appropriate at that time for continuation of the contract, just like we would for any contract, you know, one of the key provisions being are they still projected to cover their incremental cost?

Most of these contracts, as I recall, had an initial five-year term or they were extended for another five years from the earlier contract, and so the exposure the Division saw when we evaluated them was a five-year period, and so we did avoided cost comparisons to the revenues expected to be received in that five-year period to make sure that they exceeded the incremental cost and made a contribution.

But beyond the five years, I went back and looked at some of our recommendation letters on some of those contracts and found that Mr. Powell, who had written them, had language in those that said that they were concerned about what would happen beyond the five years because that was too far to look out. There were expected changes in the Company's capacity and possibly costs and avoided costs and therefore it was hard to predict that far out whether or not they would actually make a contribution in the sixth or seventh year.

Some of those contracts had a five-year period with provisions to renew them beyond the five years, and our position was always, if you do want to renew them beyond the five years, you got to bring them back in to the Commission and go through the review process again, and that's still our position today.

We're not opposed to extending contracts. We just want to make sure that they meet the criteria that makes them in the public interest. That's all.

COMMISSIONER WHITE: So a review every five years or --

THE WITNESS: Or less. Whatever the term is. And at the time, five years, we felt, was a reasonable length of time. We didn't want to go beyond that. Again, we'd like to reserve the right on the term, you know, at the time we look at them, but, I mean, today we are not opposed to like -- I think they were talking -- most of the contracts expire halfway through the four-year merger credit period, which means that they were looking for like maybe another two-year extension. We don't have a problem with a two-year term. That's not the problem. The problem is, can there be a showing that they meet the criteria, particularly that they cover the incremental cost.

COMMISSIONER WHITE: Now, I understand that one of the conditions that has to exist in order for a special contract to be viewed as appropriate is that the large customer has an option to obtain power some other way. To leave the system, I guess, in a way.

THE WITNESS: Right. That is one of the other key criteria that I mentioned again this morning. That, to us -- the reason they are able to get a special contract is because they have an alternative.

COMMISSIONER WHITE: But you don't want
them to exercise that alternative because another
measurement is that you believe the remaining
customers would be worse off if that particular
customer were to leave?

THE WITNESS: Right. In other words, they have to show that if the customer with the special contract didn't get the special contract, it wasn't approved, that the other tariff customers would be worse off.

COMMISSIONER WHITE: But if we didn't approve the contract -- I mean, that is an option, that the Commission might not approve the contract and they might elect to leave, but is it the Division's view that if we were to do that, the remaining customers would be worse off?

THE WITNESS: Well, the only way to tell that is to do the review and analysis that we typically do with each contract. We compare it to the projected avoided costs that the Company gets us and we analyze that and make a judgment about whether we think that's the appropriate avoided cost to compare the contract revenues to.

Another analysis area we do is looking at the integrated resource planning process where they have a model that projects the Company's resource costs, and we -- I think we've actually had them make -- run scenarios where they run it with and without the industrial special contract to see what the integrated resource plan least cost is, present

value over the future years with and without the
contract, to show again that we're better off having
it than not having it.
COMMISSIONER WHITE: I think that answers
it, yeah. I think we've belabored this enough.
Based on what you've heard in this hearing
during the last week, all the testimony, all the
witnesses, does the Division still support the
proposed stipulation and conditions?
THE WITNESS: Oh, absolutely.
COMMISSIONER WHITE: Based on what you've
heard, do you think that it's appropriate to consider
adding any more?
THE WITNESS: I think there were a few
occasions where we said that we wouldn't oppose some
new statements added on. I think the way we would
phrase it is that we don't feel it's necessary to
make a showing that it's in the public interest, the
merger, if you use the 51 conditions, but we wouldn't
be opposed to some additional more -- you know, that

would make it clearer -- conditions on top of it.

And I remember that there were questions about some of those, and I can't specifically remember what they were, though.

COMMISSIONER WHITE: Let me make sure I

understand this. You said you don't think it's necessary to show that the merger is in the public interest?

THE WITNESS: To add conditions to the original 51. In other words, we feel the stipulation on its own, as originally filed with the Commission, still -- after hearing all the testimony, is still sufficient to meet the net positive benefit to the public interest and therefore should be approved.

COMMISSIONER WHITE: Okay. One more time on the stipulation, Paragraph 44, that says as a result -- rates will never go up as a result of the merger. I'm a little nervous by the acknowledgement that, for some time in the future, we may be arguing about what that means, about what parties intended it to mean and whether or not it may apply in some situation, but I think that's what I heard you testify, that we are in for some uncertainties.

THE WITNESS: Yes. Especially after hearing Mr. Reeder's cross questions, I think that we might be, but I don't know how you avoid that. I mean, we had the last merger and I think there was a similar condition, and with time, I could probably look and find out, but I don't recall, but I don't know how you get around that.

COMMISSIONER WHITE: Okay. Thank you.

CROSS EXAMINATION (Continued)

BY MR. REEDER:

Q Mr. Alt, have we had a rate increase since the last merger?

A Not that I'm aware of.

Q That was my recollection, is we never confronted the problem in the last merger. Now, Mr. Alt, in answer to Commissioner White -- she asked you questions that lead to this question: If I were to present to you today an extension of the contract -- let's do a foundation question first. Isn't it true that most special contract customers extend their contracts before their expiration? They don't wait up until the last minute?

A Right. And I heard that discussion last week and that seems like a very appropriate thing. When you're in business you can't wait till the last day. You're probably in a much better negotiating position early on than you are after your contract has expired.

Q In fact, for the clients that I represent, you recall those contracts were extended some two years before they expired?

A I know that when we reviewed those earlier contracts, they were all quite a bit before the expiration time, so that seems reasonable.

Q So we could be bringing to you in the next six months contract extensions for your review, could we not?

A Sure.

Q What costs are you going to measure them against? How are you going to measure the costs in 02 and 03 to determine whether or not the revenue in the contract equals these new ScottishPower costs, based on the evidence that you see?

A We do like we always do. We use the best information available at the time that we do our analysis, and whatever that is, that's what we use. If we think that some change in the future is on the horizon but we don't have any data, we'll make comment on it or a recommendation letter about that uncertainty and what impact it might have, but we wouldn't be able to be definitive because we wouldn't have the data, so just do the best we can with what we've got, basically.

Q So if we take PacifiCorp's stand alone and enhanced forecasts and ScottishPower's stand alone and enhanced forecasts, would that be the information you suggest we use? Do you have that level of confidence in that information?

A First of all, I think maybe this is where I should start deferring to Mr. Powell, Ken Powell. He has done -- led the review of the last six contracts and he's -- in fact, Becky Wilson on our staff helped him. And I know that two of the things we look at is the Company's projection of avoided cost. We analyze those, like I said earlier, to make sure they're the appropriate avoided cost. We also look at the IRP process and the modeling to determine what impact it has on that, those contracts. There may be other information that Mr. Powell looks at. You might better ask him the more detailed questions.

Q But you would agree that it's important to have some certainty in the 02 and 03 information, wouldn't you?

A Well, it's certainly desirable. The more information you have, the better decision you make, but you can't put off the decision. You wouldn't want us to do that.

MR. REEDER: That's all.

CHAIRMAN MECHAM: Thank you. Is there any redirect?

MR. GINSBERG: I have a few questions.

//

REDIRECT EXAMINATION

BY MR. GINSBERG:

Q The rate cap that the Division proposed was not for the same period that the rate credit is for; is that right? Wasn't the rate cap you proposed for less --

A Correct. It was only for three years, as I recall. Up to three years.

Q And it wasn't an absolute rate cap similar to the ones proposed by the industrial customers, was it?

A I am not sure what -- quite frankly, I don't remember what specific rate cap proposal they made. I don't recall specific details about it, but I could be wrong. We didn't have a specific proposal. We had two different ideas about how the cap would be determined, but we didn't get into any specifics.

Q But both of the proposals that you made would have allowed for some form of rate increases, depending on what actually the cap mechanism turned out to be?

A That's correct.

Q Can you sort of tell us what incremental cost means? Is that -- and how that -- what does incremental energy cost and a contribution to fixed cost mean? What kind of costs are those? Is that mainly just fuel?

A Well, you're my attorney, but I think we should defer that question to Mr. Powell. He's the expert. My problem is I'm afraid I might misstate something.

MR. GINSBERG: Okay. That's fine. Thank you.

CHAIRMAN MECHAM: Okay. Thank you, Mr. Alt. Let's go off the record.

(Discussion off the record.)

CHAIRMAN MECHAM: Let's go back on the record. We now have Mr. Ken Powell on the stand. Why don't we swear you in.

KENNETH B. POWELL

called as a witness and sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GINSBERG:

Q We previously have marked your exhibits and they've been identified for the record. Do you have any corrections you wanted to make in any of those exhibits?

A No.

Q Do you have a brief summary you can give of your testimony?

A The answer to your question is yes. I reviewed the needs, current practices and Scottish assurances in four areas: merger impact on integrated resource planning and acquisition, merger impact on existing obligations, merger impact on employees, and merger impact on state and local economies.

I found generally that the ScottishPower assurances covered regulatory needs, except that, as assurances, they aren't firm enough the PSC to be able to enforce. Therefore, we recommend the PSC adopt the following as a part of the conditions of approval of the merger: ScottishPower will continue to produce integrated resource plans every two years, according to the current schedule and current PSC rules, ScottishPower's commitment to develop an additional 50 megawatts of renewable resources is conditioned on those resources meeting the cost effectiveness standards of the IRP then in place, and for the two years following the final approval of the merger, Utah PacifiCorp employee benefits will be held stable.

I made two other recommendations that don't have the strength of conditions, but the Division strongly recommends that, for the two years following the final approval of the merger, no Utah PacifiCorp employee should lose a job as a result of the merger, only through attrition. Employees leaving employment to take advantage of any termination benefits package offer will not be considered as losing a job to the merger. For the three years following that two-year period, reduction in employees should be made in such a manner that employment levels and average salary levels remain in an approximately consistent proportion between the states served by PacifiCorp. Following the two-year freeze on employee benefits, any changes to employee benefits will be based on comparisons to U.S. practice.

That concludes the summary.

Q   Your rebuttal testimony mainly dealt with special contract issues?

A   Yes. In the rebuttal testimony, summarized in a few words, we recommended against any automatic extensions of the special incentive contracts and we also recommended against granting of direct access as a part of this case.

Q And when Mr. Alt was on, I sort of asked a question with respect to trying to give some definition as to what incremental energy costs and a contribution to capacity meant. What is it that -- what kind of costs are included in these special contracts?

A Typically, in the analysis of those contracts, they only include the fuel costs if there is presently sufficient capacity on the system to provide the capacity that the customer needs, or if the new capacity is required, whatever new incremental capacity is required, typically O&M costs are not a part of that, other than if a specific line extension is needed to that customer. Then he pays those directly and it's not a part of the specific rate or price.

Q So they pay some contribution, though, to the fixed overheads?

A Yes.

Q They're not subject, then, to the same fluctuations of upward and downward cost pressures as a customer on a rate schedule?

A   Not O&M costs. They share the costs for fuel cost changes, but not the O&M cost changes or investment changes.

MR. GINSBERG: Thank you. That's all we have.

CHAIRMAN MECHAM: Okay. Is there any objection to the admission of DPU 5, which is Mr. Powell's direct testimony, with attachments 5.1 through 5.12, and DPU 5R, which is Mr. Powell's rebuttal testimony? Thank you. We'll receive them.

(Whereupon Exhibits DPU 5, 5.1 - 5.12 and 5R were marked and received.)

CHAIRMAN MECHAM: Mr. Dodge, would you like to go first?

MR. TINGEY: Would you like me to go first again?

MR. DODGE: I submit that would be more appropriate.

CHAIRMAN MECHAM: All right. Go ahead, Mr. Tingey.

MR. TINGEY: Thanks.

CROSS EXAMINATION

BY MR. TINGEY:

Q I just wanted to get a sense for the size of this issue, and I've asked other witnesses. I don't know if you'll have the answer, either, but let's give it a shot. We have gotten the number of special contracts. Is it eight in Utah?

A That's an interesting question. We're aware of six that have been renewed recently, one that has not yet been renewed, and in the course of the task force, we became aware of another contract that somehow had never been filed with the Commission, so yes, the answer is eight in Utah.

Q And one of those is currently in the renewal process?

A Yes.

Q Do you know how many total kilowatt hours are delivered?

A Let me correct my last answer. There has been one additional new contract recently filed beyond those eight that is in consideration.

Q Do you know the total kilowatt hours in the aggregate for any special contracts?

A I don't have that.

Q Do you know their percentage of the load, anything like that?

A No.

Q Do you know how many of those are -- or the relationship between the firm and interruptible portion of the kilowatt hours?

A Typically the interruptible portion is much, much larger than the firm portion. One or two of the customers, for example, the firm portion might be about four megawatts, and the interruptible about

88, in that vicinity. That gives you an idea of the relative size.

Q Do you know what kind of annual total revenue we're talking about for special contracts?

A No. We can certainly provide those numbers after a break if you're interested in getting those numbers.

Q One more. Same question I asked Mr. Alt. In fact, you're heading the task force on special contracts, aren't you?

A Yes.

Q So the same question with Mr. Alt. If new or different criteria come out of that task force and are approved by the Commission, that's what ought to be applied to whatever contracts come up for renewal?

A Yes.

MR. TINGEY: Okay. Thanks.

CHAIRMAN MECHAM: Thank you. Mr. Dodge.

MR. DODGE: Do you want to go to the Company witnesses first? Or Company attorneys, excuse me.

CHAIRMAN MECHAM: Do you have any questions?

MR. HUNTER: I do.

CHAIRMAN MECHAM: Mr. Dodge, you're kind of hesitant today.

CROSS EXAMINATION

BY MR. HUNTER:

Q Mr. Powell, maybe we can start by identifying who the six special contract customers you're aware of are. Are they basically the customers that are represented at the table on my right?

A They represent, I think, five of those six contracts.

Q So we're talking Geneva, WECCO, Nucor, Praxair, Kennecott, and who is the other contract?

A MAGCORP.

Q MAGCORP. And just for the purposes of the record, who is the additional special contract customer that you became aware of whose contract hasn't been filed with the Commission?

A I think it's called Central Valley Water Users.

Q And subject to check, would you accept that the contract they have is one of those one-year tariff contracts, the contract that reflects market prices under the provisions of the Company's tariff?

A I'll accept that, subject to check.

Q There was some talk on Friday about the

current paradigm, that this contract extension only applies under the circumstances if the Commission has a chance to look at these contracts again under the current paradigm, so let's talk about that briefly. Were you involved in the task force which led to the '92 criteria, the criteria you use currently?
A Yes. I was chair of that task force as well.
Q I previously handed you a document that's entitled Report to the Public Service Commission of Utah of the Economic Incentive Contract Task Force and ask you whether that's the report that resulted from that '92 task force.
A Yes, it is.
MR. HUNTER: I request that it be marked Cross 26.
CHAIRMAN MECHAM: Okay.
(Whereupon Cross Exhibit 26 was marked.)
Q (BY MR. HUNTER) Would you turn to page A-3 of that document.

A Yes.

Q Are those the guidelines that are currently used by the Division of Public Utilities to analyze whether or not special contracts should be approved by the Commission?

A Yes, they are.
Q And the six contracts that we were discussing, have all those contracts been analyzed using those four criteria?
A Yes, they have.
Q And my memory is that you have been involved in the analysis of each of those contracts.
A Yes, I have.
Q Turning to Guideline Number 1, this is what we've referred to as the "but for" guideline?
A Yes.
Q And each of those six contracts has satisfied this "but for" guideline?
A Yes. Two of the six contracts have the potential for self-generation and four have convinced us that they have an alternative source.
Q Criteria Number 2, the incremental capacity and energy costs that you've discussed with Mr. Ginsberg, during the period in which you were doing an analysis of those six contracts, either the

initial contract or the renewals that have happened recently, were there -- did the Company's load and resource balance show a need for new capacity during the time line of the contracts?

A No, it did not.

Q Are you aware of any changes in the
Company's load and resource balance that might
require new capacity additions?
A Yes. The Centralia plant, if that's
completed, is one. We also, as work we're doing on
the IRP, found that the forecast of Utah loads is
considerably understated and that will be increased
in the next RAMPP.
Q And are those -- the need for new capacity,
is that something that is impacted by the cost
reductions that we're talking about as a result of
the merger?
A Generally not, no. It has to do with the
loads being added or changed.
Q While each of the contracts met these
guidelines, they all have different prices; is that
true?
A That's correct.
Q They also have different expiration dates,
different dates on which they terminate?

A Yes.

Q Several had extension provisions that, as addressed in the order, the Division at least was uncomfortable with, provisions which allowed for extensions unless either one of the parties objected. Why was the Division uncomfortable with those extension provisions?

A We were -- at the time when we were evaluating those contracts, at a time when we could see that the cost structure of the future might well change, there was some talk about deregulation. There was talking about selling of power plants and service territories. There were a lot of uncertainties that were going on at the point in time and we felt that five years was as far ahead as we could look with any kind of assurance of reliability.

Q Just talking generally, while the extension provisions in those agreements might have been different, isn't it true that they shared one characteristic? They required the mutual agreement of both the Company and the special contract customer in order for them to be extended?

A That's my recollection, yes.

Q You've discussed and Mr. Alt has discussed, in part, some of the reasons why you're uncomfortable with the automatic extension of those contracts. Is another reason that hasn't been addressed directly the idea that special contracts have not previously been regarded as a customer entitlement? They're not something you got automatically?

A Yes. The Division became concerned early -- the entitlement concern. I like the way you worded that, is that if we give this incentive for long enough, then people feel like they're entitled to it. Originally this was intended to help encourage business in the state of Utah and encourage startup of business. We anticipated sometimes startup costs are higher than running costs, and once the business got established, hopefully they would be able to pay their own full way, and if we had too long a contract or too free of conditions, then we'd create entitlements where people think that this is their right forever.

Q Is that one of the possible results of having an automatic extension of those contracts?

A Well, it's the possible consequence of any extension of contract, automatic or otherwise.

Q Is one of the objectives of the special contract process to get the maximum -- once those special contract customers have covered their fixed costs, is one of the objectives to make sure that they've made the maximum possible contribution?

A Yes. We look very closely at a ceiling that's, in effect, the alternative source of power price and we expect the Company to negotiate as close to that ceiling as they can above a floor, if you will, of the incremental cost. So you maximize the contribution of fixed cost from the customer.

Q And if you reduce the Company's negotiating leverage, could that have an adverse effect on their ability to get that maximum contribution?

A Yes.

Q And would an extension which required -- or would a condition which required an extension, even absent the Company's agreement, potentially result in that loss of maximum negotiating power?

A Assuming for the moment only that change, yes. If the Commission still had some latitude to look at it, the Commission would be concerned about that, but yes.

Q Finally, as I understood the condition as it was explained on Friday, the extension of those special contracts now would result in a cap for special contract customers, even in the absence of any cap for the rest of the tariff customers. Is that your understanding?

A Well, it depends on the language in the contract and extension. If they -- the answer is yes and no. Three of the contracts have escalators built in and so those three would continue to escalate, we would assume, with renewal. The other three that don't have escalators would be, in effect, capped, yes.

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

CHAIRMAN MECHAM: Thank you. Is there any objection to the admission of Cross Examination Exhibit 26? All right. We'll admit it.

(Whereupon Cross Exhibit 6 was received.)

CHAIRMAN MECHAM: Mr. Burnett, do you have anything? Let's take a recess.

(Recess, 10:32 a.m.)

(Reconvened, 11:00 a.m.)

CHAIRMAN MECHAM: Let's go back on the record. Before we go to continuation of cross examination of Mr. Powell, we have marked Mayor Dolan's testimony as ULCT 1 for Utah League of Cities and Towns, and then we marked the exhibits of the three witnesses from Deseret Generation & Transmission in the following way: DG&T 1 is the testimony of Mr. Stover. There are attachments 1.1

through 1.10. Mr. Bowler's testimony we marked as DG&T 2, and Mr. Albrecht's testimony we marked as DG&T 3. Are there objections to the admission of those exhibits?

MR. BURNETT: No objection.

CHAIRMAN MECHAM: All right. Thank you. We will admit them as I've identified them.

(Whereupon Exhibits ULCT 1, DG&T 1, 1.1 - 1.10, 2 and 3 were marked and received.)

CHAIRMAN MECHAM: Now let's go back -- Mr. Dodge, shall we go to you?

MR. DODGE: Thank you.

CROSS EXAMINATION

BY MR. DODGE:

Q Mr. Powell, looking at Cross 26, the first question: This report was never formally adopted by the Commission; is that right?

A That's correct.

Q And it included Appendixes B and C that had some descending, if you will, or differing comments from customer groups and the Committee?

A Yes.

Q They're not attached to this particular excerpt; is that right?

A That's correct.

Q On what is marked page A-2, the first full
-- well, the second paragraph indicates that, although the report is addressing economic incentive contracts, that it's not addressing contracts that recognize a customer's unique service requirements

and is priced to fully recover those unique requirements, such as an interruptible contract; is that right?

A That's correct.

Q Or, secondly, a firm contract of sufficient size to warrant its own class of service, right?

A Yes.

Q So although you indicated the Division used these guidelines to analyze all six of the contracts submitted since these guidelines, I guess, were prepared, many of those contracts, in fact, were interruptible contracts; is that accurate?

A That's correct.

Q And others presumably large enough to warrant their own class of service?

A Yes, perhaps.

Q You indicated in your comments that typically these contracts have been evaluated based on fuel costs and no O&M, et cetera, and I think you said something like assuming that there's sufficient capacity to provide the service, or something to that effect. What if, in the term of an extension, the Company shows that they may be capacity deficient before the end of that contract, and setting aside for right now interruptible contracts, but a contract that may impose capacity costs. Would the Division then look at capacity costs and O&M costs in deciding what was the appropriate price in the contract?

A They would look at capacity costs but not O&M costs.

Q And in what manner would the Division analyze projected capacity costs?

A Basically there's two ways. One, a change in capacity requirements affects the avoided cost that's used in the time period that we're reviewing the contract for and we would look at that, and the second way is that the need for additional capacity would affect the integrated resource plan and the capacity expansion plan of the utility and we'd review that with and without the contract.

Q Do you accept that the special contract customer's request for an extension of contracts through the transition period, the four-year -- or through the remainder of the transition period is intended by them to be a form of risk mitigation?

A They have stated that. I have no opinion on it.

Q Do you accept that there could be different risks imposed by the merger, either costs added by the merger or changed by the merger or different management or different philosophies? You said those are risks that the customers face that are brought about for the first time by this merger?

A I'd prefer you take those risks one at a time and allow me to answer individually.

Q Well, let's start with management style. Is it a risk when there's a new owner that the new owner will view things from a different perspective?

A That's always a risk, but PacifiCorp has had four changes of style and direction without changing owners, and so it's not a unique risk to the merger.

Q Have you heard large customers complain that, as a result of the PacifiCorp takeover of Utah Power, that they lost access to a utility with local ties and local concerns?

A Yes.

Q You heard Mr. Gardner, for example, state that in the public witness day?

A Yes.

Q And you've heard probably larger customers make the same comments; is that fair?

A Yes. We have documents on the record stating that. Not on this record, but in other cases.

Q So they face those risks with the new Company and have complained that they're not as sensitive to local concerns. Do you accept that those customers might face the risk of dealing with an overseas utility ownership as even more removed and more immune, if you will, to the local issues and concerns?

A I don't see that that's adding necessarily more risk. When you have remote management, you have remote management. The location of that remote management doesn't have much to do with the decision making.

Q But it's a new set of -- what we do know is it's a new set of owners?

A Yes.

Q And we don't know what management philosophy -- we don't know what attitudes or views they will bring to bear on this Company; is that a fair statement?

A No, I think that's not a fair statement.

Since we have this new management, we have had a new contract filed under the same terms and conditions of the previous contracts, so it appears that there's a continuation of the same policy.

Q Is it your statement that ScottishPower is

today running PacifiCorp?
A No. I believe it was your statement earlier in cross examination of other witnesses.
Q That cross examination of other witnesses was to the effect that at least since they announced the merger they have refused to negotiate with special contract customers; is that fair?
A No. There was comments, and I believe it was by Mr. Reeder's cross examination, that the coincidence in timing between the change in philosophy and change in owners of the Company. Certainly ScottishPower has had the ability, I think, since the time the merger was announced, to have some influence on any new contracts to be signed, and since that time a new contract has been filed.
Q But you heard, for example, Mr. Lee Brown testify that the Company has refused to negotiate with him since the merger was announced?
A I've heard Mr. Brown make those same allegations for about ten years. I don't that it's

anything unique with this merger.

Q Now, let's prepare, Mr. Powell. Tell me the last time Mr. Brown said the Company refused to negotiate with him. He's had a 20 or 30-year contract. When did he -- it's only now expiring for the first time, so when he has ever in the past stated they refused to negotiate with him?

A He has filed a petition with the Commission stating the Company refused to negotiate with him and they were misapplying the contract and he couldn't get a hold of anybody there to answer his questions and get corrections to the contract made, and he withheld a part of his bill for a number of years -- or months, and we've had a very extensive history with Mr. Brown here.

Q Well, in fact, that led to extensive litigation in court, did it not?

A No. It led to negotiations and a new contract.

Q Well, there was a lawsuit filed, too, wasn't there?

A Yes.

MR. HUNTER: No, that's not true.

MR. DODGE: Maybe I'm misinformed.

THE WITNESS: There was a threat of

lawsuit. I don't know whether or not it was filed.

MR. HUNTER: Just for the purposes of the record, there was a complaint filed before the Utah Public Service Commission addressing it. No lawsuit in court was ever filed.

Q (BY MR. DODGE) Okay. Then PSC litigation was filed?

A Yes.

Q So you just completely discount large customers' concerns that, since the merger was announced, the Company has not been willing to negotiate with them as they have in the past?

A I don't completely discount it, but I would say that anytime that a delicate negotiation is in progress, that's a time when a lot of things get frozen in place for a time until those issues get resolved, and then you proceed with business as usual.

Q Right. And with a new management, you don't know how business as usual will proceed, do you?

A I guess there's always an element of uncertainty, but we've had new management with the same utility.

Q Let's assume that when the Division sits down and uses whatever criteria it chooses to use in evaluating a new contract in the future or a contract extension, that it concludes -- well, let's talk about a contract extension. The Division concludes the prices have to go up significantly to cover what you view as incremental capacity costs being added into the mix, and let's further assume that company cannot or is unwilling to pay that kind of price. Would the Division support the ability of that customer to find alternative sources that would be willing to provide it at a price they can afford to pay?

A I don't know this Division's role to support or do anything with regard to that. The customer is a private individual and they have their own role in that process.

Q Would the Division oppose that?

A No.

Q The Division would not oppose that customer's efforts to find an alternative source?

A I'm probably misspeaking because I'm not the policy witness for the Division, but in my position --

MR GINSBERG: It also is a little vague about what you're talking about. Are you talking about having direct access or are you talking about using its own generation? I mean --

MR. DODGE: We can discuss any of the above.

Q   Let's assume there's another utility certificated in Utah and other areas that would be willing to extend service to one of these customers at a price lower than what the Company is willing to pay and at a price that customer believes would allow it to remain competitive. Would the Division oppose efforts by that customer to get alternative service from someone willing to supply it cheaper?

MR. GINSBERG: I think the question is too hypothetical to be answered.

CHAIRMAN MECHAM: Turn your microphone on.

MR. GINSBERG: I think it's just a hypothetical question that is trying to tie down some sort of future policy with a witness in the proceeding who really didn't even address direct access.

MR. DODGE: No, I believe his testimony did directly address direct access, but in the hypothetical I just gave, it was not addressed at retail access. It was addressed at efforts to have another utility in Utah extend service into that area.

MR. GINSBERG: And, again, it's a hypothetical question that probably can't be answered except in the facts of that specific circumstance at the time. How can you generally answer a question that yes, you would support or not support another utility serving a customer that -- where the question is not before you?

CHAIRMAN MECHAM: It's obviously fact dependent.

MR. GINSBERG: And also a legal question of whether that can actually occur.

CHAIRMAN MECHAM: I'm not sure he asked that question, but I would guess that Mr. Powell would say that it's fact dependent and take it on a case by case basis.

THE WITNESS: There is one additional set of facts that are not in the supposition, and that is the status of any determination of stranded costs or stranded benefit, and if a customer were to leave, whether or not the Division would recommend or support that may well depend on whether that customer is leaving paying any stranded costs, if any. And the timing may be a factor. The Division has often encouraged the IRP process to consider the departure of an industrial customer as an alternative to adding new capacity, and if that turned out to be a cheaper alternative, then we would certainly weigh that fact in the mix.

Q (BY MR. DODGE) Mr. Brown on this record has specifically requested that his facility be decertified if this merger is approved so that he can pursue alternative sources. Has the Division looked at that request?

A I have not. I don't know about the Division as a whole on the policy.

Q You stated in response to a question from Mr. Hunter that one of the objectives is to maximize each customer's contribution in the form of energy prices. Is that an objective regardless of what it does to the competitiveness of the Company?

A I think you're talking about two different points of view. Our objective is to maximize the revenues to the degree possible. The customer may well have concerns about competitiveness and not sign the contract under that condition. We have to look at the "but for" condition and we have to look at the contributions that makes the fixed costs and we have to balance those with the needs of the other customers as well as that customer.

Q Does the Division consider it within its purview, its jurisdictional purview to consider things like whether or not maximizing the contribution from a customer could make it noncompetitive in a way that it wouldn't be able to exist in the long term?

A No. We assume that the contracts are brought to us by the customers and PacifiCorp jointly, that each of those parties have reviewed their own position and are satisfied that this is a good contract for them. The question that remains was whether this is a good contract for the other customers, and that's the area that we examined.

Q And you recognize that the special contract customers' suggestion on this record is aimed directly at the fact they're not so convinced the Company will agree on a contract that they, the customers, consider good, don't you?

A Yes.

MR. DODGE: No further questions.

CHAIRMAN MECHAM: Thank you. Mr. Mattheis.

MR. MATTHEIS: No questions.

CHAIRMAN MECHAM: Mr. Reeder.

CROSS EXAMINATION

BY MR. REEDER:

Q Good morning, Mr. Powell.
A Good morning.
Q Let's talk about your incentive contract guidelines, Cross Examination Exhibit No. 26 first, if we might. Is it fair to say there's some question

about which contracts those criteria apply to?
A I don't understand the question.
Q Is it fair to say that there's some question about which contracts the criteria in this document apply to?
A I think it's fair to say there's some question if they apply to any contract if they have not been approved by the Commission.
Q Is it fair so say that there is even a legitimate position that the contract criteria in this document may not apply to some of the contracts at this table?
A That's correct. Particularly interruptible contracts.
Q In fact, is it fair to say that some of these criteria may not even be appropriate to apply to some of the kinds of contracts that exist here?
A We are in the process of looking at various of these issues in the special incentives contract task force and one of the things we're looking at is

splitting special contracts into new categories, those that are incentive triggered, I guess we'd call it, and those that are triggered by special operating conditions, such as interruptibility, and there will be some difference in the way the two kinds of contracts are looked at, and there will be some ways they're looked at in the same way.

Q Fair enough. So that there may -- so that the criteria for approving contracts isn't necessarily something that's carved in stone that this Commission should assume exists and they must slavishly adhere to?

A No.

Q Now, you have before you a new contract for approval. What's the term on that contract?

A Five years.

Q Five years ending when?

A I don't have that in front of me. I think the contract was signed in '99, so it would be 2004.

Q Ending in 2004. Are you in the process of evaluating that contract?

A Yes.

Q In connection with evaluating that contract, what have you used to determine the costs in the out years of 03 and 04?

A The information provided by PacifiCorp. But, again, our evaluations are at the very, very early stage and so it's hard to say what we're looking at.

Q Have you requested the information from

ScottishPower about what their forecasts for costs might be in those out years?

A Not at this point.

Q Before today's -- before this proceeding began, were you aware that there were forecasts by ScottishPower?

A Yes.

Q Had you requested those forecasts?

A No.

Q Will you be requesting those forecasts to conduct your evaluation?

A I think it's prudent to do that, yes.

Q Mr. Powell, do you have an opinion about the confidence level that you have in the costs that you've seen thus far forecasted?

A I think the cost level -- they're reasonably confident in that they are consistent with what has been recent trends. There's no major reversal of patterns. If there are, in fact, cost savings, that will make the project more attractive rather than less.

Q Do you have a sufficient level on the cost savings to use those cost savings in evaluating the special contracts?

MR. GINSBERG: Can you be more specific

about what you're actually referring to?

MR. REEDER: I'm trying not to get into the confidential documents.

MR. GINSBERG: Maybe just -- if that's what you're referring to, at least tell him that, because I think it was just a general question and I don't know how --

MR. REEDER: I think that's a fair criticism. I'm trying to avoid going right to the pink sheets, Mr. Powell, but if we're talking about --

MR. GINSBERG: I don't think he's even looked at them, so --

Q (BY MR. REEDER) Have you seen the pink sheets?

A No, I have not.

Q You have not?

A No.

MR. GINSBERG: So it would be hard for him to have an opinion on them.

MR. REEDER: Fair enough.

Q If, on this record, it should appear that there are forecasts prepared by ScottishPower which forecasts project, A, their future, and B, the changes that they forecast, would those be material to you in your evaluation?

A If those forecasts can be brought down to an avoided cost level so they're meaningful in the comparison we have to make, yes.

Q Let's talk about the avoided cost level. When you do an avoided cost study, Mr. Powell, you begin with an assumption that there will be some addition in the plant in the future, do you not?

A No, not necessarily. What you begin is with the load, and then you assume or determine the amount of resource that will be needed to meet that load and develop a balance between that, and from that, determine costs of that resource when and if it occurs.

Q What's the time interval for balancing?

A The current RAMPP studies are looking at a 20-year period and focusing more intensely on the most recent ten years.

Q So we try to balance once every ten years?

A As far as balancing load and resource, no.

We try to balance on a year by year basis.

Q We try to balance annually?

A Yes.

Q Now, Mr. Powell, isn't it true that the load varies hourly?

A Yes.
Q Isn't it true that the price of electricity varies hourly?
A Price on the market, perhaps.
Q Isn't it true the production cost varies hourly?
A Yes.
Q What analysis, as you do your avoided cost study, do you make of the hour by hour change in price?
A We do not look at hour by hour change.
Q Can you tell me the magnitude of the hour by hour changed price in PacifiCorp for the last month?
A No.
Q Can you tell me the magnitude of the hour by hour change of PacifiCorp in any month?
A No.
Q Can you tell me for any day?
A No.

Q If a customer has the opportunity to shape his load so as to avoid taking power in a particular hour, wouldn't it be important to know the hour by hour cost changes?

A We, when we evaluate interruptible

contracts, look at off peak hours as a sum and on peak hours as a sum, frequently, in looking at those revenues and the balances, yes.

Q But you do it on an annual basis, not an hour by hour, don't you?

A Yes. But we sum up the individual hours to get that on peak and off peak total.

Q So to the extent we use the avoided cost analysis to determine the appropriateness of a contract, we're using a tool that measures costs once a year when costs vary hourly, aren't we?

A No. The tool, basically we're looking at seasonal or a way of looking at monthly in the avoided cost. Not daily and not hourly, but monthly. Not annual.

Q Mr. Powell, in response to some questions from Mr. Hunter, you described the changes that have occurred recently in PacifiCorp. Let's talk about the changes that have occurred in both PacifiCorp and the electric power market. What happened in 1992?

A A lot of things.
Q What significantly to the electric power market happened in 1992, Mr. Powell?
A I don't know what you're referring to.
Q Was the Energy Policy Act of 1992 passed in

1992?

A I assume, yes.

Q What impact did that have on the electric power markets, Mr. Powell.

A It had very little impact on Utah markets.

Q Isn't it true that it opened access for transmission?

A Utah Power -- or PacifiCorp already required open access for transmission because of the merger order three years prior to that.

Q Is it your testimony that the conditions of 888 and the open access order of PacifiCorp are identical?

A No.

Q I didn't think so.

A But they had open access. You're referring to it in general. If you want specific details, yes, it has changed somewhat.

Q It has changed significantly, hasn't it? 888 made it quite different, didn't it?

A "Quite" is a definitional word. I don't know how far you'd take it, but it is different.

Q What about EWGs, exempt wholesale generators? Didn't EWGs come into existence in 1992?

MR. GINSBERG: Can you define what an EWG is?

MR. REEDER: Exempt wholesale generator.

GINSBERG: A what?

MR. REEDER: Exempt wholesale generator.

THE WITNESS: That particular title did; however, we had independent power producers for ten years prior to that time, and to a degree, exempt wholesale generators is a -- to a large degree, just renaming same group of people.

Q (BY MR. REEDER) Isn't it true that exempt wholesale generators gained an exemption from the Public Utility Holding Act in 1992 and began to flourish and heretofore had not?

A Yes.

Q Isn't it true that since 1992 we've had the introduction of significant new independent power, EWGs in the West?

A Yes.

Q Can you name some of them for us?

A Enron --

Q That's an unfair question. There's significant plants in the addition. Now, the addition of EWGs in the market and open access transmission has changed the way the electric utility industry functions, hasn't it?

A I have not reviewed the industry as a whole. It's inappropriate for me to comment on how the industry changed.

Q It changed the way PacifiCorp operates, hasn't it?

A In what way?

Q They ceased to build plants and are now buying, haven't they?

A That has always been PacifiCorp's philosophy, even since prior to the merger.

Q Are they a customer of EWGs and IPP plants in the West today?

A Yes.

Q Are they a customer of new plants that have been built in the West since 1992?

A Of their own?

Q Yes.

A No.

Q They are not customers of new EWG plants in the West?

A Oh. I said, "Of their own?" You said yes.

Q Can they own an EWG, Mr. Powell?

MR. BURNETT: We're all confused at this point.

MR. HUNTER: At least PacifiCorp is.
Q (BY MR. REEDER) Can PacifiCorp own an EWG?
A PacifiCorp can own EWGs, I believe, but you're asking for a legal interpretation I'm unaware of, but not to serve themselves.
Q Okay. Let's go back to the platform, then. They cannot -- are they customers of exempt wholesale generators in the West?
A They have 180 interconnection points, something like 200 interconnection contracts. I'm not aware of moment by moment whether or not -- I assume they are buying some power from EWGs, but --
Q Do they buy from Hermiston?
A Yes.
Q Do they buy from Klamath Falls?
A Yes.
Q What other exempt wholesale generating facilities in the West are they buying from, Mr. Powell? We didn't want to go through the list. We know there's quite a list of them they're buying

from, though, don't we?

A Yes.

Q All right. Now, we know that open access has occurred since 1992 and we know that EWGs have been introduced since 1992. Now, the question is:

How should that fit into what the criteria ought to be to looking at incremental costs, Mr. Powell? Shall we go there?

MR. BURNETT: You know, this might be really interesting for another -- like the special contract task force, but it bears little relationship to this particular proceeding and he's asking -- Mr. Reeder is a bright and intelligent individual. I suspect he's read 888 and the Energy Policy Act and he can go on extensively with this witness about it, but it doesn't have anything to do with this particular proceeding.

CHAIRMAN MECHAM: Well, he's not going to go on extensively about it.

MR. BURNETT: He's just getting warmed up. Can't you tell? Just kind of getting his juices flowing here and getting excited about it. I mean, the bottom line is, you know, I really don't want to go through the Energy Policy Act of 1992, and the fact that ScottishPower is going to buy the stock of

PacifiCorp doesn't change the fact that the Energy Policy Act is there. It doesn't change the fact that 888 was put in place. We're just buying the stock of this Company. We're not changing all of these things. They are what they are.

MR. REEDER: They're here resisting the extension of the special contracts, contending that the 1992 criteria should apply or the results of the task force should apply before they get extended, and the simple question is whether any of that is relevant. The Commission can observe, hopefully, that there have been significant changes and sufficient questions that they ought not act as an excuse.

THE WITNESS: I would suggest you ask the simple question and let me give you the simple answer to the simple question, rather than the route we've been going.

MR. HUNTER: Now it's your turn to guess where he's going.

CHAIRMAN MECHAM: Yeah. Which simple question?

THE WITNESS: The simple question is whether the criteria should change because of events that occurred since 1992.

CHAIRMAN MECHAM: And what's the simple answer?

THE WITNESS: The simple answer is the basic criteria is that these contracts should only be signed when they have a "but for" provision and when they make a contribution to other customers, and that criteria -- either one of those criteria I think has not changed since all the changes in 1992.

Q (BY MR. REEDER) Mr. Powell, we've had considerable discussion about the "but for" contract before. We shan't have it today, but you would agree that should not be an issue with respect to most of the customers at this table, wouldn't you? You've satisfied yourself on that for a number of years.

A If you will divide it between the interruptible contracts and those who have special incentive contracts for other reasons, yes. The interruptibles may not have the same criteria in full with regard to "but for," for example, but it's still expected to cover costs.

Q Let's talk about what -- the dilemma we're confronted with about having to examine special contracts arises, in large, because of the absence of a rate cap, doesn't it, Mr. Powell?

A Within the specific hearing context, yes.

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

CHAIRMAN MECHAM: Mr. Burnett.

MR. BURNETT: I don't have any questions at this point. I think we've beat this horse to death, frankly.

MR. REEDER: Well, will it leave town?

CHAIRMAN MECHAM: Did your wife tell you you regained your humor?

MR. BURNETT: Briefly over the weekend. Apparently not today.

MR. REEDER: We're sorry to see you ill of humor, but we wish you well.

CHAIRMAN MECHAM: Mr. Tingey?

MR. TINGEY: Thank you.

CROSS EXAMINATION

BY MR. TINGEY:

Q We talked earlier about costs and totals and whatnot of special contracts and you said that you could get them, and I think we found it. Do you have it in front of you what is page 3.2.1 of PacifiCorp's semiannual report?

A Yes, I do.

MR. TINGEY: Can we mark this?

CHAIRMAN MECHAM: Yes. It would be Cross

Exhibit 27.

(Whereupon Cross Exhibit 27 was marked.)

Q (BY MR. TINGEY) The title on that page is PacifiCorp System Allocated Special Contracts, 12 months ended December 1998; is that correct?

A Yes.
Q And then it actually lists all the PacifiCorp state's special contracts; is that correct?
A It lists all the special contracts that are allocated. There are some special contracts that predate 1997 that are not allocated that are not on this list.
MR. GINSBERG: 1987?
THE WITNESS: 1997.
Q (BY MR. TINGEY) And where we were going with this, what does it show for a total in Utah for revenue?
A Total revenue is about $66 million.
Q How does that compare to total Utah revenue for all customers? About 10 percent?
A Yeah. A little larger than 10 percent.
Q You've just had a nice discussion with Mr. Reeder about costs. Has the Division done, for example, in the last year, an analysis to see if any

of these special contracts are covering costs and making contribution toward fixed costs?

MR. REEDER: I'd object to the question as vague unless you define the word "cost."

Q (BY MR. TINGEY) Well, what's the term you used? It wasn't variable costs. It was --

A Incremental costs?

Q Incremental. Thank you. Has the Division done -- I'll try again. Has the Division done an analysis of any of these contracts to see if they are covering incremental costs and contributing toward fixed costs?

A The last one we reviewed prior to the one currently before us was probably reviewed more than a year ago, so the answer to your question is no. We have not made a special attempt to go back and relook at those contracts.

Q So the Division, at least, doesn't know, as of today, whether any of these contracts are covering incremental costs?

A We know that the costs the Company have incurred have been similar to what were forecast in general, but we haven't gone back specifically with these individual contracts, no.

MR. TINGEY: Thanks.

CHAIRMAN MECHAM: Thank you, Mr. Tingey.

MR. TINGEY: Can we get this admitted?

CHAIRMAN MECHAM: Is there any objection to the admission of Cross Examination 27?

MR. DODGE: No objection, other than we

have requested that it be treated as confidential.

MR. TINGEY: Which doesn't make a lot of sense, since it's a publicly filed document.

MR. DODGE: Which we learned today and we think is in violation of the contract terms, identifying customers specifically. We may need to take steps with the Company to make sure it doesn't happen that way, but there's no need to disseminate even further what ought to be confidential information.

MR. HUNTER: And we certainly don't object to it being confidential on this record and then we will have those discussions about what information is in the exhibit that is inappropriate.

MR. BURNETT: Yellow confidential, not pink.

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

(Discussion off the record.)

CHAIRMAN MECHAM: Let's go back on the

record. Mr. Dodge has made the request that, for purposes of this record, Cross Examination Exhibit 27 be treated in a proprietary way. We'll do that and admit it, but recognize, as Mr. Ginsberg points out, that it's in the semiannual filing. It is not treated confidential there and we're not going to go back and try to retrieve those documents.

(Whereupon Cross Exhibit 27 was received.)

MR. GINSBERG: Nor does it impose any obligation on the Division, now that this has been marked confidential, unless we're going to somehow go and treat all the other documents -- this actually, as a confidential document, is it intended that this now impose an obligation to make this a confidential document from this point on, which currently is filed as a nonconfidential document with the Division.

CHAIRMAN MECHAM: When you say "from this point on," what do you mean? In this record, perhaps, but --

MR. GINSBERG: Not in any other way?

CHAIRMAN MECHAM: No.

MR. GINSBERG: So we're under no obligation to treat this --

CHAIRMAN MECHAM: In this record, we'll treat it as a proprietary document. If there are other uses of it, it is out there and there's nothing we could do about that. It was filed as a nonproprietary document. We're not going to go retrieve those, so --

MR. GINSBERG: So if there's a desire --

CHAIRMAN MECHAM: To the degree there's an obligation, it's in this record and this record only. All right.

COMMISSIONER JONES: Mr. Powell, I wondered if you could help me understand the "but for" clause as it relates to the -- as I read the guidelines there are in Cross 26, I don't see the "but for" clause in there and I wonder if you could help me with that.

THE WITNESS: Basically the "but for" is Provision Number 1 on page 83. If electricity sales resulting from a contract would not otherwise occur in the absence of such a contract.

COMMISSIONER JONES: Oh, okay.

THE WITNESS: In other words, except for or but for this contract, the sales would not occur.

COMMISSIONER JONES: Okay. And then you mentioned that two of the contracts have self-generation and then the other contracts have other forms. What are they? How are they able to get their electricity?

THE WITNESS: Four of the contracts I've stated they can buy their electricity either through municipalities or an REA. In some cases municipalities have artificially altered their boundaries to include these industrial customers to make that a potential, but it has never gone beyond that.

COMMISSIONER JONES: So from either municipalities or REAs, basically, are the sources?

THE WITNESS: Yes.

COMMISSIONER JONES: That's the only question I had.

COMMISSIONER WHITE: Mr. Powell, I need a little help in understanding, with respect to customers on special contracts, how to separate the risks that they face as a result of this merger as opposed to maybe the risks that they would face in any case, even if there were no merger, and it seems to me there may even be some areas where they don't face any risk at all, and I'm trying to sort those out. I hope you can help me understand this. And I may tread some ground we've been on before.

As I understand Cross 26, they're at risk that the cost of incremental capacity could increase, I suppose. Is that what I understood you to say, or at least I understand what the implication of 26 is?

THE WITNESS: Are you looking at the time frame after the expiration of their contract?

COMMISSIONER WHITE: Well, no. I'm --

well, no. I think I'm just looking at, during the contract, what are the relative risks that a special contract customer might face?

THE WITNESS: During the period of the contract, for three of the customers there are no price risks. There are no escalators in the contract. For two of the customers there is a fuel cost inflater, and so they face a risk as fuel costs change, with or without the merger, that their costs can go up. And one of the six contracts has a production cost escalator, which would include O&M for the generation facilities, so that one is at risk for any change in O&M costs, as well as fuel costs and others.

COMMISSIONER WHITE: And then when a contract expires, they run risks again.

THE WITNESS: They run the risk that the utility now requires some new capacity and, by requiring new capacity, will change avoided cost and the rate that the utility can offer them. That's with or without a merger as well.

COMMISSIONER WHITE: I wanted to ask you what you meant by being at risk for O&M costs. You said that there's one contract or a couple of contracts that have automatic escalators?

THE WITNESS: There's one contract that has an escalator that's based on power production costs, is the general term, and within the power production cost category, it includes fuel costs and O&M costs for the generators, not O&M for the transmission and distribution.

COMMISSIONER WHITE: Okay. So during the course of the contract, only those customers would be at risk if O&M costs increased in generation?

THE WITNESS: Yes. That's 106.

COMMISSIONER WHITE: So -- well, I want to ask you a few more questions about O&M in a minute. Stepping back from maybe these contracts in particular -- well, no. I'm sorry. In these contracts, actually, another risk that the customer runs is that fuel costs will increase and they incur that risk in that, if they have an automatic escalator clause, then if fuel costs increase, some of that gets passed on to them?

THE WITNESS: Three of the six contracts

have an automatic escalator based on fuel cost.

COMMISSIONER WHITE: And the other three would run the risk that when the contract expires or it's time to renegotiate it, then they may be asked to pay higher fuel costs?

THE WITNESS: Yes.

COMMISSIONER WHITE: And those are risks that those customers run whether or not this merger is approved; is that right?

THE WITNESS: Yes.

COMMISSIONER WHITE: Now, when you talk about generation costs and whether special contracts customers are at risk if generation costs go up, that would be reflected in the capacity charges?

THE WITNESS: Well, let me narrow that a little bit. When you say generation costs, that term can include both the cost of the generators and the cost of the fuel to generate electricity. The cost of new resources, the cost of new generators would show up in the need for new capacity, yes.

COMMISSIONER WHITE: How much of a risk is that to these customers under the present circumstances, do you think, with a merger or without a merger? If there's no merger, is it your view that they're at risk for increases in costs due to these generation categories?

THE WITNESS: I think largely it depends on the time period we're looking at for renewal of the contracts, and the changes that have happened in the system have not yet been reflected in a new integrated resource plan. We're in the process of doing that now. Clearly, the Centralia will have some effect and also some of the other system sales. We don't know what that impact is.

Right now, if we're looking back at RAMPP 5, for example, we could extend these contracts out through possibly through 2007 without the need for a new resource or capacity charges, but that is old data. We don't know what the new data will show.

COMMISSIONER WHITE: But to extent the Company have been efficient and costs have gone down or not risen, or to the extent that costs go up, that's going to impact the special contract customers?

THE WITNESS: Yes.

COMMISSIONER WHITE: And if costs go down or go up as a result of the merger, that will also be a risk that they will take?

THE WITNESS: Let me amend my answer to the previous question. Whether or not it impacts those special contract customers depends on a couple of things. Number one, it may make their contribution to fixed costs appear less, but as long as there's still some contribution to fixed costs, they may well be -- negotiate a new contract at the same rate, even though costs overall have risen slightly.

So we are attempting to set a rate that's somewhere between their "but for" contract where they can get generation somewhere else and what the incremental cost of fuel is. We have a fair margin there. That margin can continue to exist, even though -- or the price level can continue to exist even though the margin may shrink a little bit with the new contract. That's up to the parties.

COMMISSIONER WHITE: Okay. Do you have any view or any prediction about how the risks might change with respect to generation costs if the merger is approved? Keep in mind that -- I recall in one of the documents, I believe ScottishPower expressed its view that generation appeared to be relatively inefficient, and it was my impression they didn't see a lot of opportunity for cost cutting there.

THE WITNESS: I was hoping somebody would ask me that question. My early opinion of Scottish engineers was formed by Rudyard Kipling. He quotes a

Scottish engineer as saying, "They can copy my inventions but they cannot copy my mind, and so I'll leave them sweating and straining, a year and a half behind." And I wouldn't be surprised to see new owners find cost cutting measures that all the owners did not see. We found that in the merger with PacifiCorp.

At the time of the merger with PacifiCorp, Utah Power had coal costs of $40 a ton. They've now dropped to $19 a ton. And Utah Power said we can't change it. That's fixed. That's where they are. New owners take a fresh view and that wouldn't surprise me to find that they do take a fresh view.

COMMISSIONER WHITE: So despite the fact that ScottishPower seemed to say they didn't see a lot of opportunities for cost cutting and generation, you think, nevertheless, they will find some?

THE WITNESS: Yes.

COMMISSIONER WHITE: What about transmission? What sorts of costs would you characterize as being included in transmission that special contracts customers may be at risk for?

THE WITNESS: Most of the time, and particularly with interruptible customers, they are not at risk for anything on the transmission system.

COMMISSIONER WHITE: So if costs of the transmission system go up or go down, you're saying that's not likely to affect prices very much that special contract customers pay?

THE WITNESS: Well, it won't affect the

current contract. It could have an impact on -- if a system becomes capacity constrained, it may have an impact on whether even capacity is available to those customers, and so it may have -- they may end up having to pay constriction pricing, in effect, because the power can't be got to them without creating new lines or something else.

COMMISSIONER WHITE: And that's a risk they face with or without a merger; is that right?

THE WITNESS: Yes.

COMMISSIONER WHITE: But if a company invests in transmission, pays more, and the company's costs go up, are those transmission related costs passed on to special contracts customers?

THE WITNESS: The interruptible portion of interruptible contracts, no. For the firm portion, yes.

COMMISSIONER WHITE: Anything else about transmission costs that I need to know?

THE WITNESS: No.

COMMISSIONER WHITE: I don't know what to ask here.

THE WITNESS: Probably a lot, but I don't know what, specifically.

COMMISSIONER WHITE: Distribution costs.

Are special contracts customers at risk for any costs that would be included in distribution?

THE WITNESS: No. They are, I think, uniformly served at a higher voltage. They pay no distribution costs.

COMMISSIONER WHITE: So if costs go up, they're insulated from that?

A Yes.

Q But if ScottishPower is very efficient and costs go down in distribution, special contracts customers wouldn't expect to share in a portion of that benefit?

THE WITNESS: Right.

COMMISSIONER WHITE: I'm not sure I understood everything you said about operation and maintenance costs and I wanted to get back to that. Those primarily are reflected in fuel costs and capacity costs?

THE WITNESS: Let me start again. O&M costs of the generators, so the power production facilities are considered to be a part of power production cost, along with fuel, is another element of power production costs, so the one company who has an escalator based on power production costs would pay for changes in both of those features.

There are two other contracts that have only fuel costs adders. They would pay only fuel costs, but not see O&M, and the three other contracts that have no escalators would not see any of those. I should say two of those three have no escalators. One has a fixed escalator that just goes year by year, regardless of what changes in power costs.

COMMISSIONER WHITE: And so O&M costs are attributable to transmission and distribution?

THE WITNESS: No. We're only looking at the O&M. Their escalator has the term "power production cost," so it only limited to those.

COMMISSIONER WHITE: Okay. How many special contracts customers are headquartered in Utah or primarily based in Utah?

A I guess we can go down the list. I don't know the ultimate owners, necessary, of all of these. I think MAGCORP is primarily based in Utah. Geneva Steel is based in Utah. Kennecott is based in Utah, largely. Nucor, they're based in Utah. And

WECCO, I don't know the ownership structure. Texaco or Mobil, I don't know the ownership structure.

COMMISSIONER WHITE: So it would be fair to say that, to some extent, some special contract customers may have local interests at heart perhaps more than others?

THE WITNESS: Yes.

COMMISSIONER WHITE: Okay. That's all I have. Thank you.

CHAIRMAN MECHAM: I thought Nucor was based out of Pennsylvania or --

THE WITNESS: That may be.

MR. MATTHEIS: North Carolina.

MR. GINSBERG: When you were answering the question about where there were, you didn't -- they might be based here, but you don't necessarily know whether they're a subsidiary of someone else?

THE WITNESS: No.

MR. GINSBERG: Like MAGCORP might be a subsidiary of some other company. In fact, I think they are.

THE WITNESS: They've changed owners a number of times. The answer to your question is yes. I don't know the owners.

MR. GINSBERG: Their business, Kennecott

Copper, is located here, but you don't know who owns them, whether they're a subsidiary of some other corporation?

THE WITNESS: Now that you mention it, I believe they are a subsidiary of another out of state corporation, so I should have answered in the first place I don't know.

CHAIRMAN MECHAM: Mr. Powell, is the Division's position opposing direct access in the event that the special contract customers are unable to negotiate a new contract based on the fact that that policy decision hasn't been made here, or what is the basis for it?

THE WITNESS: It was based on the fact that that policy decision and a host of related policy decisions, such as stranded investment, have not yet been decided, and also based on that the state legislature seems to have preempted that away from the Commission in making those major decisions, so it's the wrong time and the wrong place.

CHAIRMAN MECHAM: Okay. Is there any redirect?

MR. GINSBERG: No.

CHAIRMAN MECHAM: Mr. Reeder, did you have something else?

MR. REEDER: I think it's largely argument. I'll save it for argument.

MR. HUNTER: In that case, so will I.

CHAIRMAN MECHAM: Thank you, Mr. Powell. Okay. Let's go off the record.

(Discussion off the record.)

CHAIRMAN MECHAM: Let's go back on the record. Mr. Maloney, why don't we swear you in.

ROBERT J. MALONEY

called as a witness and sworn, was examined and testified as follows:

CHAIRMAN MECHAM: Thank you. Mr. Ginsberg.

DIRECT EXAMINATION

BY MR. GINSBERG:

Q We've previously marked as Exhibit DPU 6 through 6.5 and 6R. Those are the testimony and exhibits you prepared?

A Yes.

Q And I know you have some corrections. Could you make those?

A Yes. In my direct testimony on page 18, line six, a change from 5 percent to five minutes. On that same page of 18, on line eight, again change 5 percent to five minutes. Page 20, line 19, change Exhibit 6.4 to Exhibit 6.5. On page 20, line 19 again, change page 26 to page 27. And on page 21, line one, change Exhibit 6.1 to Exhibit 6.5.

Q And do you have a summary of your testimony, any additional comments you wanted to make?

And prior to that, could we go ahead and have his exhibits introduced?

CHAIRMAN MECHAM: Yeah. Is there any objection to the admission of DPU 6 with 6.1 through 6.5 attached and 6R? All right. We'll admit them.

(Whereupon Exhibits DPU 6, 6.1 - 6.5 and 6R were marked and received.)

Q (BY MR. GINSBERG) Go ahead.

A Summary?

Q Summary and any additional things you wanted to say.

A I've got two preliminary points. The first point is I would like to clearly define service quality, the scope of service quality. I want to make the point that it includes reliability, obviously, and it also includes field responses. In the case of PacifiCorp, we're talking about 16 different types of field responses. It includes telephone access under normal conditions. It also includes telephone access under wide scale outage conditions.

The second preliminary point I want to make with regard to service quality is that the single best way to measure it is to measure customer losses, meaning that, as service quality improves, customer losses decrease.

With regard to my summary, I'd like to clarify that summary to assure that the Commission has a clear understanding of the Company's proposed package. And by package, I'm referring to the eight performance standards and the eight guarantees.

First I want to address the $60 million annual estimate, which is an estimated annual reduction in power outage cost for the PacifiCorp service territory. Using the numbers of customers as a basis, the Utah component of that would be 25 million annually, which would continue each year. I want to make the point that I believe that the 60 million for the total system or the 25 for the Utah component is understated. I suggest it is understated because if we look at the power -- if we look at the costs that are measured for a particular business, what we find is that the -- that it measures such things as there are lost production costs and lost customer costs attributable to a particular business; however, the measure doesn't include the consequential effects. By that I mean if we have a business that is incurring costs because it's operating with no electricity.

There are also costs incurred by the

suppliers of that business. There are also costs incurred by the customers of that business. Those customers are dependent upon the output. The suppliers are dependent upon their customer, and so there are interdependencies, and those interdependencies and the cost of the ripple effect, so to speak, are not included in the $60 million estimate.

Another point with regard to that $60 million estimate of 25 for Utah is that it reflects a package which includes 15 points, eight performance standards, eight -- excuse me -- seven performance standards, eight guarantees. The $60 million is attributable solely to the first three performance standards. No one has yet attempted to quantify the impact of the other 12 criteria in the package.

Mr. MacLaren in his rebuttal testimony cited three studies in addition to the Electric Power Research Institute Study for Bonneville Power. He referred to the Southern California Edison Institute study, the Duke Power study, and I believe it was Puget Sound study, all of which provided evidence that there are significant power outage reduction costs, and the EPRI study is certainly in the ball park.

In my direct testimony I used the term "may" and "possible" when referring to the $60 million estimate. The reason I used the terms "may" and "possible" is because the $60 million is not guaranteed. The 25 million for the Utah, this is not guaranteed. It's contingent upon the Company, in fact, realizing the 10 percent reduction that they've anticipated and that they're planning.

Now, in the event that they didn't -- they wouldn't achieve that in Utah in five years, then in that case there would be a payment of roughly $2 million, and if you compare that $2 million payment against the $25 million that the customers would not have realized in power outage reduction costs, you know, certainly the $2 million doesn't adequately compensate the customers for the 25 million they didn't realize.

However, if we look at the management team's performance in Scotland, what we find is that the -- in the case of ScottishPower, they realized a

23 percent reduction over a five or six-year period, and with Manweb they realized a 47 percent reduction over a five or six-year period. Given that, it would seem that the Company's team, the management team has been very conservative in their estimate of shooting

for a 10 percent reduction, so, in my personal opinion, there's a lot more to be lost if we don't go forward with the merger than if we do.

Second point I want to make about the proposed package is that the package is voluntary. The Company came forward and they committed to all 15 of the criteria. They did that -- it did that largely, I believe, on their own initiative, as far as I'm able to determine.

For about two years I audited the Company's network and their service standards, their feedback, customer complaints and such against that -- with regard to the output. My effort was intended to result in standards and a monitoring report, and after two years I wasn't making a lot of headway. Ultimately the Company voluntarily decided that they would put in place a monitoring report. We worked for about another six months and we got a monitoring report in place.

The monitoring report, in my view, has some value, a negligible value. It has a few targets in it. It largely reflects aggregated statewide data. It's not very usable, actually, in terms of evaluating service quality, but it's better than nothing.

In about the last month, two months, as we proposed conditions in this, we've looked at the package and negotiated the stipulations, we've achieved more in that last six weeks or so than we did in the prior three years, so I'm quite hopeful, based upon that record, if it continues in the future, that we can achieve a lot more in terms of reducing costs and improving service quality.

The other point with regard to those commitments being voluntary is that if we don't go forward with the merger -- if we didn't go forward with the merger, in my view, even if there were strong external pressure to encourage the Company to put the targets in place, we'd probably work two to three years before we'd get anything close to what we've got on the table right now, and if we did get to the point where we agreed about service standards, the probability is that we would get excuses instead of results because it would be coerced, and the result of coercing a management team is not usually very productive, so I -- I can't overstate the value of the fact that this package is voluntary.

Third point is that the -- if you look at the 15 criteria, what you find is that every one of them is quantified and/or has a time requirement associated with it. If you look at the corresponding Utah rules that are currently in place for each of those 15 criteria, what you'll find is that there are just very, very few rules. The few rules that do exist consist of argument terms, terms like adequate, reasonable, prompt.

It's almost impossible to audit against criteria like audit, like adequate and reasonable and prompt, because they're not quantified and because they don't have time requirements.

However, if you look at the 15 criteria, since they are quantified and since they are measurable and auditable, verifiable, they are enforceable, so there's a lot of value associated with it, with their being quantifiable and verifiable and measurable.

Most of what I said so far has been relatively positive. My responsibility was to look at the package and try to identify some areas where it needed to be improved. In doing that, what I noted was that the -- for four of the performance standards, they required only performance improvements on a statewide aggregated basis. The Company is planning to become increasingly efficient over the next several years and, at the same time, improve service. Well, the easiest way to achieve performance improvements on an aggregated statewide basis is to target the investments, to target the expenditures in the areas that are most heavily populated. That way you get the biggest bang for the buck in terms of improving the performance.

To get at that, we put in place Condition 33. Condition 33 requires that the Company set internal targets for each of its 14 districts in this state and then to report performance against those quarterly -- against those targets on a quarterly basis.

The value of that to the Division is that, with the targets in place for each of the 14 districts and with the performance reports showing the outage levels against those targets, we can identify a large unfavorable variance. We can identify a trend. With that data we can follow up using our statutory authority to audit and then we can identify cost curves and how customer dissatisfaction will decrease against those cost curves for a particular district, and each district's operating characteristics is going to vary.

So what I'm saying is that the monitoring reports provides us with a tool in which we can, in fact, identify exceptions, deficiencies throughout the state, and if we identify deficiency and we're unable to get a good response from the Company in terms of a corrective action plan or an explanation, we could then provide that information to the Commission and ask the Commission to either, under its statutory authority, to either set a standard or to order the Company to correct the deficiency.

In other words, we've got in place not just a comprehensive package, but we've got in place a tool with which to evaluate and monitor service quality throughout the state on a continuing basis and initiate corrective action whenever we need to do so.

There's also a Condition 34 which addresses the 15 or 16 different types of field responses in the state. Condition 34 requires the Company to report set targets for each of the 15 field responses and to provide that information to us continually and, just as with the outages, we can initiate corrective action through the Commission whenever there's a need to do so.

That summarizes my summary. Concludes my summary, rather.

MR. GINSBERG: Thank you. He's available

for any questions.

CHAIRMAN MECHAM: Thank you. Mr. Tingey?

MR. TINGEY: No.

THE COURT: Mr. Hunter?

MR. HUNTER: No.

CHAIRMAN MECHAM: Mr. Burnett?

MR. BURNETT: No questions.

MR. DODGE: No questions.

CHAIRMAN MECHAM: You're getting off easy, Mr. Maloney. Thank you.

THE WITNESS: Thank you.

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

(Discussion off the record.)

(The following pages, 1464 - 1481, contain the in camera portion of the proceedings and is bound separately and designated confidential.)

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