

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

* * *

IN THE MATTER OF THE)
REQUEST OF ROCKY MOUNTAIN)
POWER FOR A WAVIER OF THE) DOCKET NO. 08-035-35
SOLICITATION PROCESS AND)
FOR APPROVAL OF)
SIGNIFICANT ENERGY)
RESOURCE DECISION.)
)
)

TRANSCRIPT OF HEARING PROCEEDINGS

TAKEN AT: Public Service Commission
160 East 300 South, Room 403
Salt Lake City, Utah

DATE: July 17, 2008

TIME: 9:10 a.m.

REPORTED BY: RENEE L. STACY, CSR, RPR

A P P E A R A N C E S

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DPU 1.0, 1.1, 1.2, 2, 2.1, 3, 3.1	11
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June 2, 2008
9:10 a.m.

P R O C E E D I N G S

CHAIRMAN BOYER: This is the time and place
duly noticed for the hearing in Docket 08-035-35,
which is captioned "In the Matter of the Request of
Rocky Mountain Power for Waiver of Solicitation
Process and for Approval of Significant Energy
Resource Decision," sometimes referred to as the
Project Blue docket.

So we welcome you all here. We thank you
for your participation. As always, we have read the
pleadings and we have read the prefiled testimony.
We'll, of course, let you do summaries, but we urge
you to be as succinct as possible on that.

With that, let's take appearances for the
record.

MR. MONSON: Gregory Monson and Mark Moench
for Rocky Mountain Power.

MS. SCHMID: Patricia E. Schmid with the
Attorney General's Office representing the Division
of Public Utilities.

MR. PROCTOR: Paul Proctor on behalf of the
Committee of Consumer Services.

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

2 CHAIRMAN BOYER: Okay. Very well. We'll
3 proceed as informally as we can with dispatch, and
4 we'll start -- we'll just take witnesses one by one.
5 We'll start with the Company. We'll move, then, to
6 the Division, the Committee, and UAE, in that order,
7 if that's satisfactory with everyone.

8 With respect to the prefiled testimony, the
9 last couple of hearings we've introduced that at the
10 beginning of the hearing, and that seems to have
11 worked pretty well. Would that work as well in this
12 case, or would you rather do it witness by witness?
13 Any preference on that?

14 MR. MONSON: No preference.

15 MS. SCHMID: No preference.

16 CHAIRMAN BOYER: Okay. Well, why don't we
17 do that, then, and maybe we could swear all of the
18 witnesses at the outset as well and try to expedite
19 matters. Not that we're in any rush. We've
20 scheduled the whole day, and tomorrow, if we need it,
21 but just to keep things moving and expedited.

22 Let's swear the witnesses first, and then
23 we'll deal with the testimony, and let's begin with
24 the Company witnesses.

25 MR. MONSON: We have Mr. Bird and Mr.

1 Duvall, and then -- and we also have testimony from
2 Mr. Williams that everyone agreed could be admitted
3 without objection and without him being here, so...

4 CHAIRMAN BOYER: Correct. And then the
5 Division has Mr. Peterson?

6 MS. SCHMID: We have Mr. Charles Peterson,
7 Ms. Shauna Benvegna-Springer, and Mr. Jeffrey
8 Bodington. And, also, I believe it's customary for
9 the Division to introduce the Commission's IE --

10 CHAIRMAN BOYER: Mr. Oliver.

11 MS. SCHMID: -- who is here today,
12 Mr. Wayne Oliver.

13 CHAIRMAN BOYER: Would you please stand,
14 too, Mr. Oliver? Okay. Very well. And the
15 Committee witness?

16 MR. PROCTOR: The Committee will present
17 testimony and evidence from Phil Hayet and Michele
18 Beck, director of the Committee of Consumer Services.

19 CHAIRMAN BOYER: Okay. Very well. Would
20 you please stand? All right. Will all of you --

21 Mr. Dodge, have you any witnesses today?

22 MR. DODGE: We do not.

23 CHAIRMAN BOYER: Will you please raise your
24 right hand?

25 (Witnesses sworn.)

1 CHAIRMAN BOYER: Thank you very much. You
2 may be seated.

3 Let's proceed, then, with Mr. Monson's
4 prefiled testimony, and then we'll go to the
5 Division, Committee, and UAE, and then we'll begin
6 with the first witness.

7 MR. MONSON: Do you want us -- if we have
8 corrections to the testimony, do you want us --

9 CHAIRMAN BOYER: If you can do that now,
10 that would be great.

11 MR. MONSON: -- to do that as part of this
12 process?

13 Mr. Bird has presented two pieces of
14 testimony, which have been marked as RMP 1 and RMP
15 1R, and there's one exhibit attached to RMP 1 -- RMP
16 1.1 -- and Mr. Bird does have a correction to make to
17 his testimony, so, Mr. Bird, would you go ahead and
18 make that correction?

19 MR. BIRD: Thank you, Greg.

20 Commissioners, I have one correction on
21 Page 3 of my rebuttal testimony. On Lines 47 and 48
22 at the top of the page, strike the word "provides"
23 and replace that with "states that." And then after
24 the word "analysis," strike the remainder of that
25 sentence, "as Confidential Exhibit RMP 2.1R," and

1 replace that with "was provided in supplemental
2 responses to DPU Data Request 6.2."

3 CHAIRMAN BOYER: Very well.

4 MR. MONSON: Any other corrections?

5 MR. BIRD: No.

6 MR. MONSON: And then we also have the
7 testimony of Gregory Duvall, which has been marked as
8 RMP 2, with one exhibit, RMP 2.1, and RMP 2R, which
9 is his rebuttal testimony. We have the testimony of
10 Bruce Williams. And then we also have two documents
11 that were filed as pleadings but which were verified,
12 the Verified Request for Waiver of Solicitation
13 Process and for Approval of Significant Energy
14 Resource Decision, which we've marked as RMP 4, and
15 Supplement to Verified Request for Waiver of
16 Solicitation Process and for Approval of Significant
17 Energy Resource Decision, which we've marked as RMP
18 4S, so we would offer all those exhibits into
19 evidence.

20 CHAIRMAN BOYER: Very well. Are there any
21 objections to the Rocky Mountain Power exhibits?

22 MR. PROCTOR: No objections.

23 MS. SCHMID: None.

24 CHAIRMAN BOYER: Very well. Rocky Mountain
25 Power Exhibits RMP 1, RMP 1.1, RMP 1R, RMP 2, RMP

1 2.1, RMP 2R, RMP 3, RMP 4, and RMP 4S are admitted
2 into evidence. Okay. Thank you.

3 Ms. Schmid?

4 MS. SCHMID: Thank you. The Division would
5 first like to move the admission of the evidence from
6 Mr. Peterson. That consists of DPU Exhibit Number
7 1.0, the prefiled direct testimony of Mr. Peterson
8 filed on June 20th, accompanied by DPU Exhibit 1.1
9 and DPU Exhibit 1.2. Of note, there was both a
10 confidential version and a public version of this
11 testimony filed.

12 Next, the Division would like to move the
13 admission of the testimony of Ms. Shauna
14 Benvegna-Springer, which consists of DPU Exhibit
15 Number 2.0, the prefiled direct testimony of Shauna
16 Benvegna-Springer, with certificate of service,
17 accompanied by DPU Exhibit 2.1.

18 And, finally, the Division would like to
19 move the admission of Mr. Bodington's material, which
20 is DPU Exhibit Number 3.0, a DPU cover memo to Jeff
21 Bodington, and a few -- and a longer title, and DPU
22 Exhibit Number 3.1, which is reply comments.

23 CHAIRMAN BOYER: Thank you, Ms. Schmid.
24 Were there any corrections to the testimony of any of
25 these persons?

1 MS. SCHMID: No.

2 CHAIRMAN BOYER: Very well. And you'll
3 submit those, then, for admission?

4 MS. SCHMID: Yes, please.

5 CHAIRMAN BOYER: Are there any objections
6 to the admission of the Division's prefiled
7 testimony?

8 MR. MONSON: No.

9 CHAIRMAN BOYER: Okay. Very well, then.
10 The testimony of Mr. Peterson, Ms. Benvegna-Springer,
11 and Mr. Bodington are admitted into evidence.

12 MS. SCHMID: Thank you. The Division next,
13 on behalf of the Commission, would like to request
14 the admission of the independent examiner's --
15 sorry -- independent evaluator's testimony, which has
16 been marked as PSC-IE Exhibit Number A with Exhibit
17 Number WO-1.1 and Exhibit -- sorry -- WO-1.0 and
18 WO-1.1. This consists of the testimony of Wayne
19 Oliver of Merrimack Energy, his prefiled testimony,
20 his direct testimony, and qualifications, as well as
21 PSC-IE Exhibit Number B, which is a Division of
22 Public Utilities cover memo introducing Mr. Oliver's
23 prefiled direct testimony, and PSC-IE Exhibit Number
24 WO-1.0 Supp, prefiled direct supplemental testimony
25 of Mr. Oliver, and the Division would like to request

1 admission of those documents, please.

2 CHAIRMAN BOYER: Thank you, Ms. Schmid.

3 And were there any corrections to Mr. Oliver's
4 testimony?

5 MS. SCHMID: No.

6 CHAIRMAN BOYER: Very well. Any objection
7 to the testimony of Mr. Oliver being admitted?

8 MR. PROCTOR: No.

9 CHAIRMAN BOYER: Seeing none, it is also
10 admitted into evidence.

11 MS. SCHMID: Thank you.

12 CHAIRMAN BOYER: Thank you, Ms. Schmid.

13 Okay. If there's nothing further, let's
14 proceed with the case in chief.

15 Mr. Monson?

16 Oh, I'm sorry. Mr. -- sitting over there
17 so quietly in the corner.

18 MR. PROCTOR: Which is so atypical.

19 CHAIRMAN BOYER: So atypical and so unusual
20 as to be noteworthy. I beg your pardon.

21 MR. PROCTOR: Okay. The Committee filed,
22 on April 23rd, 2008, comments on behalf of the
23 Committee of Consumer Services prepared by and under
24 the direction of Michele Beck, director, and Cheryl
25 Murray, utility analyst, consisting of four pages,

1 and we would like that marked as CCS Exhibit 1.0.

2 Then on June the 20th, 2008, the Committee
3 of Consumer Services prepared and filed with the
4 Commission comments upon this matter, confidential
5 and subject to a protective order, prepared by
6 Ms. Beck or under her direction. Included within
7 those comments was -- and we would like that to be
8 marked as CCS Exhibit 2.0, and we have copies of
9 these for the reporter in case there was questions.

10 We would like the report from Phil Hayet of
11 Hayet Power Systems Consulting to be marked as
12 CCS-Hayet 2.1 Attachment, and that's consisting of 27
13 pages, the initial comments -- I'm sorry. We'll put
14 the page numbers in. And the only correction that we
15 would ask be made is on Page 22 to the attachment
16 from Mr. Hayet. The second full paragraph down, the
17 last line, the word there is "duration." It should
18 be "deration," or "derating," and with that, we would
19 offer into evidence the exhibits, the comments, and
20 the evidence that we've outlined above.

21 CHAIRMAN BOYER: Thank you. Are there any
22 objections to the admission of the Committee's
23 testimony?

24 MS. SCHMID: None.

25 MR. MONSON: No objection.

1 CHAIRMAN BOYER: Very well. Committee
2 Exhibits CCS 1.0, 2.0, and Hayet 2.1, the attachment,
3 are admitted into evidence.

4 And I guess I've overlooked Mr. Dodge as
5 well, who is behaving himself on the left side of the
6 room. Our left.

7 MR. DODGE: Mr. Chairman, UAE submitted no
8 prefiled testimony. We did file comments. I don't
9 know if you want that marked or if it needs to be
10 formally introduced. It's in the record.

11 CHAIRMAN BOYER: I don't think it needs to
12 be marked. It's in the record, and we've read that
13 as well.

14 MR. DODGE: Thank you very much.

15 CHAIRMAN BOYER: Thank you, Mr. Dodge.

16 All right. All right. Now, what have I --
17 have I overlooked anything else?

18 MR. MONSON: I do have a -- before we go to
19 the witness, I have just a question for you on a
20 procedural issue, and we can do it on the record or
21 off the record.

22 CHAIRMAN BOYER: We're on the record.
23 Let's go ahead and deal with it.

24 MR. MONSON: When we spoke to the parties,
25 we assumed that the witnesses would all be sworn and

1 all present their summaries and then there would be
2 any questions for the witnesses, and so I'd
3 characterize that kind of like a panel; however,
4 there was, as I mentioned in my e-mail to the parties
5 and the Commission -- one party wanted to make sure
6 that that didn't mean they couldn't ask questions to
7 an individual witness and be answered by that
8 individual witness, but -- and I don't know if that
9 will be any faster or any more efficient, but I just
10 wanted you to -- I wanted to make the comment that
11 that's at least what my understanding was, based on
12 the comments of the parties, so -- or the discussion
13 with the parties.

14 CHAIRMAN BOYER: Mr. Proctor?

15 MR. PROCTOR: I think we should proceed
16 witness by witness, and we can certainly be informal
17 and they can remain at their seats, for example, but
18 -- so they needn't take the time of going up and
19 back, but doing it on the basis where we hear
20 summaries from everybody, then go back and try to
21 re-ask questions of particular witnesses I think is
22 inefficient and, frankly, difficult, so that would be
23 my preference.

24 CHAIRMAN BOYER: Okay. And we really have
25 no preference, so I think we'll accede to

1 Mr. Proctor's request, go witness by witness, and
2 then allow cross examination, Commission questions,
3 and then redirect. Okay?

4 MR. MONSON: Okay.

5 CHAIRMAN BOYER: You may proceed,
6 Mr. Monson. Thank you.

7 MR. MONSON: May we call Mr. Stefan Bird?

8 STEFAN BIRD

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

11 DIRECT EXAMINATION

12 BY MR. MONSON:

13 Q Mr. Bird, could you state your name for the
14 record?

15 A Stefan Bird.

16 Q And your business address?

17 A 825 Northeast Multnomah, Portland, Oregon.

18 Q And what's your position with the Company?

19 A Senior vice-president, commercial and
20 trading, PacifiCorp Energy.

21 Q Okay. And you've made a correction to your
22 rebuttal testimony, so, with that correction, if I
23 were to ask you the questions set forth in your
24 direct and your rebuttal testimony today, would your
25 answers be the same as set forth?

1 A Yes.

2 MR. MONSON: Mr. Bird is available for -- I
3 mean has got a brief summary. Can he present that
4 now?

5 CHAIRMAN BOYER: Yes. Let's hear the
6 summary right now. Thank you. Mr. Bird?

7 THE WITNESS: Thank you, Chairman,
8 Commissioners.

9 I'll summarize first my direct testimony.
10 In that testimony, we demonstrate PacifiCorp complied
11 with all necessary regulatory requirements in the
12 process to arrive at the conclusion that the
13 acquisition of Chehalis is in the public interest.
14 The acquisition is consistent with the Utah Energy
15 Resource Procurement Act.

16 The acquisition satisfies a portion, but
17 certainly time-critical portion, of the Company's
18 future resource requirements, as demonstrated in its
19 IRP, its Utah-approved 2012 RFP, and its pending
20 all-source RFP, but certainly does not satisfy the
21 full magnitude.

22 The acquisition necessarily required a
23 waiver of the solicitation process, which has been
24 granted. The acquisition is consistent with the 2012
25 RFP. The acquisition results in significant present

1 value savings to customers, not to mention avoidance
2 of material construction cost risks associated with
3 construction of a new resource.

4 The upper range of estimated customer
5 savings in Mr. Duvall's testimony, \$197 million, is
6 now known to be understated, in light of the bid
7 updates which we just received in the 2012 RFP just
8 this last week. These bids have increased above
9 their previous indicative bids that we had received
10 in March, due, as claimed by the parties that are
11 bidding, to severe cost escalation on equipment, such
12 as steel piping that they noted as escalated as much
13 as 30 percent just in the last month and a half.

14 These costs that they have proposed remain
15 subject to continued price escalation, as the RFP
16 allows up to 40 percent of the price to float.

17 Therefore, the Chehalis acquisition is
18 shown to be a great opportunity and looks better for
19 our customers every day. Timely approvals are
20 certainly critical to capture this opportunity for
21 customers.

22 In summary, my rebuttal testimony, in
23 response to my original testimony, several factual
24 and policy issues were raised by the independent
25 evaluator and the Committee of Consumer Services. I

1 will not summarize each of those items here, other
2 than to say I believe all those items have been
3 addressed adequately in my rebuttal testimony, and
4 I'll highlight a couple of those items here.

5 First, following receipt of the Company's
6 data request responses, the independent evaluator,
7 Wayne Oliver, filed supplemental testimony where he
8 agrees that the acquisition of Chehalis is in the
9 public interest based on his review that if Chehalis
10 had been into the 2012 RFP, it would have been
11 selected.

12 Furthermore, Mr. Oliver notes the
13 acquisition of Chehalis avoids the risks associated
14 with construction of new resources.

15 The Committee raised the question of
16 whether any costs above the agreed purchase price
17 should be recovered by the Company in light of a fair
18 market valuation report prepared by Bodington &
19 Company, which resulted in a stand-alone merchant
20 plant value just above the agreed purchase price for
21 Chehalis.

22 The Committee's conclusion is shown to be
23 unfounded when the Bodington valuation is modified to
24 reflect Chehalis not as a stand-alone merchant plant,
25 but as a regulated asset with PacifiCorp's actual

1 weighted average cost of capital. This single change
2 results in more than doubling Bodington's valuation
3 of Chehalis to 689 million.

4 Moreover, in the IRP analysis in Mr.
5 Duvall's testimony utilizes the Company's actual
6 weighted cost of capital and captures the significant
7 savings created by the displacement of the Company's
8 alternative to acquire a resource through the 2012
9 RFP, which we've shown would be much more expensive.

10 Other questions raised by the Committee
11 dealt primarily with issues raised by PacifiCorp's
12 due diligence team throughout due diligence and
13 appropriateness of costs associated with the
14 acquisition.

15 In short, due diligence was extensive, with
16 review of nearly a thousand documents, and no fatal
17 flaws were raised.

18 All the various issues were raised and some
19 plant improvement opportunities were highlighted for
20 consideration in the future. There were no items
21 raised that are unusual for a combined-cycle plant of
22 this common vintage. The exclusivity payment of 8.7
23 million was a requirement by seller to maintain the
24 ability to acquire the facility through an extended
25 period to obtain regulatory approvals.

1 All the costs associated with the
2 acquisition to date have been summarized and are
3 customary for this type of acquisition.

4 In addition to the Company's extensive
5 analysis, there's certainly been much information
6 shared through the testimony and data request
7 process, and we appreciate the effort by all parties
8 involved to deal with this process in the time
9 contemplated by the Energy Resources Procurement Act
10 and by this opportunity.

11 I'm pleased to report that six of the seven
12 regulatory approvals necessary for the acquisition to
13 close have been received. Most recently, the
14 approval by the Oregon Public Utility Commission of a
15 waiver for an RFP process that was supported as well
16 by their own independent evaluator who concluded that
17 the acquisition of Chehalis is a time-sensitive
18 opportunity that brings a unique value to customers,
19 and approval just this morning by the Federal Energy
20 Regulatory Commission under Section 203 of the
21 Federal Power Act.

22 We are hopeful to address any question that
23 the Commission may have today and receive the Utah
24 Commission's approval order by the end of July.
25 Thank you.

1 CHAIRMAN BOYER: Thank you, Mr. Bird.

2 MR. MONSON: Mr. Bird is available for
3 questions.

4 CHAIRMAN BOYER: Thank you, Mr. Monson.

5 Let's begin with the Division. Ms. Schmid,
6 have you questions for Mr. Bird?

7 MS. SCHMID: I just have one clarifying
8 question.

9 CROSS EXAMINATION

10 BY MS. SCHMID:

11 Q Mr. Bird, in your rebuttal testimony filed
12 most recently, you refer to the use of independent
13 consultants to aid you in the evaluation and study of
14 the acquisition. Could you just please identify
15 those independent consultants for the record?

16 A I may not recall all of them. I mean, as
17 is standard for this type of acquisition, we commonly
18 retain outside legal and environmental consultants to
19 support the effort. We retained CH2M HILL to perform
20 an environmental Phase 1 survey of the site, and I
21 recall that particular consultant.

22 We also hired various external legal
23 consultants to support different aspects of the
24 effort. Perkins Coie was one law firm that was
25 utilized. James Cowan was the primary lawyer that

1 worked for us on this particular effort. And then we
2 also had Delaware counsel looking at a particular
3 special issue in regard to the organizational concern
4 that was raised through due diligence to make sure
5 that that was addressed to our satisfaction.

6 There may have been others, but I don't
7 recall any other independent consultants.

8 MS. SCHMID: Thank you. My only question.

9 CHAIRMAN BOYER: Thank you, Ms. Schmid.

10 Mr. Proctor?

11 MR. PROCTOR: Thank you, Mr. Chairman.

12 CROSS EXAMINATION

13 BY MR. PROCTOR:

14 Q Mr. Bird, I have some questions concerning
15 some of the -- of your testimony in your rebuttal,
16 and, in particular, if we could start with Page 8 at
17 Line 156. That's where the answer begins. Do you
18 have it, sir?

19 A Yes, I do.

20 Q Thank you. Mr. Hayet had commented upon
21 the fact that the Company was anticipating
22 potentially -- or he had identified potentially \$16
23 million in capital improvement costs. If you recall,
24 that was the question you were addressing. And you
25 note that, at some point afterwards -- and this would

1 have been after June 20th, I assume, when Mr. Hayet
2 raised the issue -- that the Company had been able to
3 secure \$13 million in spare parts, and without
4 increasing or changing the terms of the purchase and
5 sale, correct?

6 A That is correct.

7 Q So this was something that your due
8 diligence reports had identified as a problem, and
9 you then went about and tried to resolve it, and, in
10 fact, did resolve it favorably to the Company,
11 correct?

12 A Correct.

13 Q Wouldn't that indicate that, in fact, there
14 are questions within your due diligence reports that
15 may still appear where costs were either not
16 identified, underestimated, overestimated, and --
17 that you don't know about yet?

18 A In general, I'd say with any facility
19 that's mechanical in nature and has the operating
20 facility, there are certainly issues that become
21 identified through the course of operation and
22 improvement opportunities that are identified by good
23 engineers reviewing those sorts of opportunities, so
24 I would certainly expect that to be true for Chehalis
25 just like Carrant Creek or Lakeside or any similar

1 sort of combined-cycle facility.

2 But I would say our due diligence was quite
3 thorough and, you know, did anticipate, you know,
4 those sort of things coming in the future that we
5 want to look closer at, but we'll need to spend, you
6 know, more time looking at those before we actually
7 commit to investing in certainly those items that
8 were noted, and noted in your report as well, things
9 like the vacuum pump, NOx boiler, you know, those
10 things which, you know, may or may not be appropriate
11 for this facility.

12 Q So even a thorough review of an existing
13 facility can miss or not identify liabilities or
14 benefits to that particular facility, correct?

15 A In terms of 100.0 percent, yes, but I
16 think, again, in terms of the nature of the due
17 diligence and the thoroughness of the effort, I
18 believe we more than adequately identified the issues
19 we needed to identify to negotiate a purchase price
20 and feel very good about our acquisition and the
21 terms.

22 Q All right. To negotiate a purchase price,
23 to set the purchase price, you feel you've done
24 everything that you should reasonably be expected to
25 do?

1 A Yes.

2 Q You mentioned that you had retained CH2M
3 HILL to perform an environmental assessment. Did you
4 participate or are you familiar in the results of
5 their assessment?

6 A Yes.

7 Q Last night, after five o'clock, the
8 Commission -- or, excuse me, the Committee was able
9 to acquire from the Company -- and we appreciate
10 it -- a copy of the report. Do you have a copy,
11 yourself, with you?

12 A I do not.

13 Q Are you familiar enough with it that I
14 could ask you some questions about it?

15 A I did not read the report. I relied, you
16 know, on our own internal environmental counsel, who
17 summarized the nature of that report.

18 Q Well, let me just mention some things to
19 you, because my questions are more general rather
20 than specific to the problem. In that report, in
21 their -- Section 7 is entitled "Conclusions and
22 Recommendations." They mentioned, in 7.1, with
23 respect to current regs, that, in connection with an
24 oil spill, small -- if there is such a thing as
25 small, 20 gallons -- that it could not be determined

1 which standard was used to evaluate site soil
2 subsequent to the cleanup.

3 In other words, there's a question about
4 whether or not they did it correctly. That's the way
5 I read that.

6 But be that as it may, that's something
7 that you're going to learn more about as you begin to
8 operate the plant after the transaction closes,
9 correct?

10 A I don't know. In my recollection, I am
11 familiar, I think, with that area that referred to a
12 small, 20-gallon or so, oil spill. Is that correct?

13 Q That's true. That's what I said, yeah. It
14 was petroleum-based cooling oil.

15 A And it was remediated, and that was
16 commented on by our environmental counsel. They did
17 look at that particular issue, and it didn't have --
18 what, you know, you ideally like to have, as you
19 pointed out, you know, a direct reference to a
20 specific standard, you know, by which it was
21 remediated, but, you know, that was one of the items
22 that was noted. It's a risk, and that was factored
23 in in our acquisition.

24 Q All right. So in determining the purchase
25 price?

1 A Purchase price, terms, indemnities, all the
2 aspects of the purchase and sale agreement.

3 Q Well, is there an environmental indemnity
4 clause that -- whereas the seller would accept those
5 responsibilities, those liabilities?

6 A There is an environmental indemnity clause
7 in the agreement, yes.

8 Q Well, if it turns out that, in connection
9 with your 20-gallon spill, the standard to determine
10 that it was, in fact, cleaned up was the wrong
11 standard used by the Company, who is going to be
12 liable for the remediation and any penalties that may
13 be assessed? PacifiCorp, or will it be SUEZ?

14 MR. MONSON: I'm going to object to the
15 question on the grounds that it calls for a legal
16 conclusion, but I'm happy to have Mr. Bird state his
17 opinion based on what he understands about the
18 circumstance.

19 THE WITNESS: I mean, my main --

20 CHAIRMAN BOYER: Mr. Bird, you can answer
21 with that qualification.

22 THE WITNESS: Okay. Thank you. My main
23 comment would be, you know, we negotiated all the
24 terms of the agreement, including the indemnity
25 aspects and the term to which those indemnities

1 apply. Those are always hotly contested,
2 difficult-to-negotiate items. You know, we ended up
3 with a reasonable, you know, outcome in that regard,
4 but that does not protect PacifiCorp forever on those
5 items.

6 My recollection is the environmental clause
7 went three years, but I could be wrong. I don't
8 recall precisely what we negotiated in that term.

9 Q (BY MR. PROCTOR) CH2M HILL also
10 identified, in Section 7.5.1.1 of its conclusions and
11 recommendations, that there was unknown issues
12 revolving around the fallout of rust, and I have to
13 admit I have no idea what they'd be talking about,
14 but does the Company -- or do you have any
15 understanding as to what that liability might be?

16 A I don't recall that issue, no.

17 Q And in the next section they talk about the
18 fact that, in June of 2005, there was apparently --
19 they exceeded the particulate emissions limit on a
20 daily basis, and there apparently was not clear
21 evidence of an emission violation, but they aren't
22 certain -- and let me just read this. "However, the
23 regulating agencies could consider the test" -- and
24 that was the determining of the emissions
25 exceedence -- "consider the test credible evidence of

1 a violation if the fallout problem becomes a
2 compliance issue."

3 Now, is that the type of thing that would
4 be absorbed by the seller in this case, or is that
5 something that the Company may be liable for later?

6 A I do not recall the precise terms in the
7 PSA, whether that would be covered or not. It may
8 be.

9 Q Do you recall, in your rebuttal testimony,
10 that one of the things you pointed out was that prior
11 to June of '06, I believe it was, there was -- there
12 were some omissions in records pertaining to the
13 environmental compliance of the plant? Do you recall
14 that?

15 A I recall the summary was, there wasn't a
16 robust record, yeah, prior to 2006, correct.

17 Q Okay. With respect to your rebuttal
18 testimony, also, which was filed on July 11th, a week
19 ago, you pointed out that, in addition to the other
20 costs that the Company was seeking this Commission to
21 include in rates was -- I think it's \$1.4 million in
22 attorneys' fees and consultant fees. Is that
23 correct?

24 A I think the number is 1.6 million to date.

25 Q Oh. Sorry for understating attorneys'

1 fees.

2 Has any party to this proceeding been given
3 the billing records, for example, the hourly rates,
4 even identity, just today, of who the counsel is that
5 charged a million six for that assessment? Has
6 anybody been provided those records?

7 MR. MONSON: If you know.

8 THE WITNESS: To my knowledge, I don't
9 know.

10 Q (BY MR. PROCTOR) Do you know the breakout
11 of the fees with respect to the work in connection
12 with the regulatory work to acquire approvals versus
13 the Delaware counsel in his examination of the
14 organizational concerns?

15 A I can comment that, in regard to the work
16 involved in the regulatory approvals, is more than
17 half of the total. It's very significant.

18 Q So at least 800,000?

19 A Yes.

20 Q But you don't know, for example, what was
21 spent on the Delaware counsel?

22 A I don't know.

23 Q Do you know what the organizational concern
24 was? Was it related to PacifiCorp or was it related
25 to the seller?

1 A Entirely related to the seller and the
2 specific entity. I mean, in simple terms -- and I'm
3 not the legal expert here, obviously, but there was a
4 conversion of the ownership of the Company in years
5 past from a limited partnership to an LLC, and they
6 lacked the clear title history that demonstrates that
7 they had done all the right things in making that
8 conversion, so it required them to actually go back
9 and follow very strict Delaware law to re-create the
10 Company and state the appropriate minutes into the
11 record and demonstrate that there was a clear trail
12 of solid title ownership from the conversion of the
13 LP to the LLC.

14 Q And you're seeking to include within rates
15 in Utah the attorneys' fees that the Company incurred
16 in order to point this out to the seller; is that
17 right?

18 A Those would have been very small. I mean,
19 the seller, you know, raised the issue towards the
20 tail end of due diligence, because we made that very
21 point. This, frankly, came out of our big push to
22 ensure that we had that particular term and indemnity
23 in the purchase and sale agreement, and with our
24 focus on having that coverage on the organizational
25 issue, they delved in deeper, couldn't satisfy

1 themselves that they had a clean record, and so we
2 renegotiated certain terms, which was, frankly, what
3 took us that extra week there the first part of April
4 to delay the payment of the 8.7 million until after
5 they had satisfied that organizational issue, and
6 we've been watching that along the way.

7 Most of the attorneys' expenses have been
8 to validate what their own Delaware counsel has
9 dictated they need to do to satisfy the issue in
10 order to meet their condition in the purchase and
11 sale agreement, so those fees are not as significant
12 as what's involved, for example, on the FERC filings
13 and so forth.

14 Q So the answer to my question is yes, you
15 are expecting the Utah ratepayers to pay for the cost
16 of the Delaware counsel to point out the problems
17 with the seller's organizational structure? That's
18 your answer, "yes"?

19 A We are asking for approval, but you're
20 incorrectly characterizing what we did. You know, we
21 did not point out the issue, and that was not why we
22 hired counsel, so counsel is there to ensure that
23 what SUEZ is doing is valid.

24 Q You're asking the ratepayers to pay that --
25 those costs, correct?

1 A Yes.

2 Q On Page 18 of your rebuttal testimony, if
3 you could turn to that -- the answer begins on 17,
4 but I'm particularly interested about Page 18, and
5 this would be on Line 383. Actually, beginning on
6 382 at the very top of the page.

7 A Yep.

8 Q And you're talking there about the working
9 capital, the fact that it's unknown at this point in
10 time, and you state, on Line 383, that you do not
11 anticipate that the amount will be a significant
12 adjustment to the purchase price.

13 Now, how would you define "significant" in
14 your rebuttal testimony here in connection with a
15 monetary adjustment?

16 A Our expectation is that it's quite possible
17 this number could be zero. We really don't
18 anticipate that there's going to be, you know, much
19 of a change in the target working capital that was
20 established at the time we executed the agreement,
21 but it's possible that in, you know, assets and
22 liabilities, the current assets and liabilities that
23 feed into that calculation for working capital, which
24 is very explicitly described, that there could be
25 some movement, you know, on the order of several

1 hundred thousand to, you know, in the extreme, you
2 know, a million dollars, I suppose, but I really
3 don't know.

4 It's highly speculative for me to forecast
5 what that could be, but I do not anticipate -- you
6 know, our high-probability expectation is that will
7 be a very small number.

8 Q So if it's highly speculative for
9 PacifiCorp to estimate that amount, it would also be
10 highly speculative for the Commission, then, to
11 include that in rates, would it not?

12 A No. This is a standard agreement. Again,
13 the -- this is very typical of any acquisition of an
14 entity of this sort. You know, you commonly have a
15 working capital true-up. Again, we're acquiring the
16 balance sheet and the entirety of the Company, and so
17 we get, you know, the entirety of the Company at
18 closing, and so this is a, you know, pretty standard
19 adjustment.

20 We're getting the value of what is there,
21 so I would not say that -- you know, it's important
22 what that number is, but, you know, we've narrowed
23 the scope of what could possibly cause that to move,
24 such as -- it's more likely to be a smaller number
25 than you would typically see in a true-up in most

1 agreements.

2 Q Well, earlier in your testimony here today,
3 you noted that your due diligence identified, after
4 Mr. Hayet pointed it out, a \$13 million swing out of
5 a \$16 million capital additions issue pertaining to
6 hot gas parts, did you not?

7 MR. MONSON: Can I interpose a comment? I
8 guess it's not an objection, but I think there was
9 a --

10 MR. PROCTOR: If it's not an objection,
11 then it shouldn't be made.

12 MR. MONSON: Well, then I'll make it an
13 objection.

14 CHAIRMAN BOYER: Make your objection,
15 Mr. Monson.

16 MR. MONSON: I think there was a
17 misunderstanding in the first question that was asked
18 about this, and Mr. Proctor has just emphasized that
19 misunderstanding by saying "after Mr. Hayet pointed
20 it out." I don't know that Mr. Bird heard the first
21 part of his original question, which was, "We didn't
22 know about this \$13 million hot gas part issue until
23 after June 20th when Mr. Hayet brought it to our
24 attention," and so I wonder if we ought to clarify
25 that so we don't keep going down a path that's

1 incorrect and based on a misunderstanding.

2 THE WITNESS: Yeah, if that was the point
3 being made, I certainly didn't understand that.

4 CHAIRMAN BOYER: Let's go back to
5 Mr. Proctor and let Mr. Proctor ask his question
6 again, now that the witness has been coached in
7 the -- why don't you ask --

8 MR. PROCTOR: You know, after the witness
9 is coached, it's probably better to just move on.

10 THE WITNESS: I would like to make a
11 comment, Mr. Chairman. I mean --

12 MR. PROCTOR: No. There's no question
13 before this witness.

14 MR. MONSON: I can ask him on redirect.

15 CHAIRMAN BOYER: Let's move on. Thank
16 you, Mr. Proctor.

17 MR. PROCTOR: Thank you.

18 Q Mr. Bird, on that same page, Page 18 of
19 your rebuttal, and carrying over onto Page 19, you
20 reference a July 8, 2008 order from the State of
21 Washington's energy facility site evaluation counsel.

22 A Yes.

23 Q And you reference an order that requires
24 that the Company pay \$1.5 million towards greenhouse
25 gas mitigation projects and that that was a condition

1 for the approval of the transfer of the site
2 agreement -- site certification from the owner to
3 PacifiCorp. Is that your understanding of that
4 order?

5 A Yes.

6 Q How was the \$1.5 million calculated?

7 A There's no formula. It was a negotiated
8 amount with the signing counsel.

9 Q Did the Company consider whether or not the
10 site -- the greenhouse gas mitigation cost had
11 already been paid by the Chehalis plant when it was
12 constructed?

13 A We were quite familiar with the terms that
14 SUEZ had negotiated for track development when the
15 original facility was created, but the signing
16 counsel made it very clear that that was for them.
17 If PacifiCorp is going to own this asset, yeah, there
18 needs to be a negotiated agreement to mitigate CO2 in
19 the state of Washington.

20 Q Do you know whether or not that plant paid
21 a greenhouse gas mitigation cost or project
22 contribution when that plant was given its site
23 certification?

24 A I don't recall.

25 Q Is there anybody in the Company that would

1 know that?

2 A There might be.

3 Q Do you know who that person might be?

4 A I would go to my environmental counsel who
5 reviewed all of that history. I don't know that it's
6 relevant.

7 Q Do you know when that amount was
8 negotiated?

9 A No.

10 Q Is it the Company's position --

11 A You're talking about the historical amount,
12 not the 1.5?

13 Q No, the 1.5. This amount that you've
14 agreed to pay.

15 A Oh, yeah. I was there, yes.

16 Q And when was that negotiated?

17 A A few days prior to July 8th, and then
18 ultimately agreed on July 8th by the Commission.

19 Q Now, we just received your testimony on
20 July 11th. Would the Company be willing, at this
21 point in time, to submit all of its records
22 pertaining to the application to the energy siting
23 board and also the records pertaining to the
24 negotiation of the \$1.5 million?

25 A There's no record in regard to 1.5 million,

1 other than the July 8th meeting.

2 Q Did you take any notes when you were at
3 that meeting?

4 A No.

5 Q Is it your understanding that the state of
6 Washington's energy facility site evaluation statutes
7 require the payment of an additional greenhouse gas
8 mitigation cost to acquire a transfer of the site
9 certification in this particular case? Is that your
10 understanding?

11 MR. MONSON: I'm going to object on the
12 grounds that it calls for a legal conclusion as
13 originally asked, but I don't have any problem if
14 Mr. Bird gives his understanding about that.

15 CHAIRMAN BOYER: Yeah. Why don't you just
16 restrict it to your opinion, rather than a legal
17 opinion.

18 MR. PROCTOR: Does he have an understanding
19 that it, in fact, is required?

20 THE WITNESS: My understanding is, yeah, we
21 had no choice but to agree to that condition to -- in
22 order to effectuate the site transfer.

23 Q (BY MR. PROCTOR) Is that understanding
24 based upon any particular evaluation of the manner in
25 which a site certification is transferred in the

1 state of Washington under that act?

2 A I can't comment on a legal opinion.

3 Q Did you review such a legal opinion?

4 A Personally, no.

5 Q Now, the \$1.5 million, when it's paid, will
6 be distributed to whom?

7 A It will go to fund specific projects that
8 have a preference in the vicinity of the facility or
9 in the state of Washington that meet the standards in
10 the state of Washington. We've highlighted various
11 agencies, the DNR, the Department of Ecology, and
12 other parties, that could potentially use those funds
13 for an approved CO2 mitigation project.

14 Q And those funds may also be used to pay the
15 administrative and operational costs of the energy
16 facility site evaluation counsel, will they not?

17 A That is correct.

18 Q And they can also be used to pay
19 administrative fees and operational costs, for
20 example, the Department of Ecology in operating its
21 projects pertaining to greenhouse gases, will it not?

22 A I don't recall the other agencies being
23 stipulated in that manner.

24 Q Will the \$1.5 million provide any
25 benefit -- well, excuse me. Let me ask this: Will

1 it provide any funding of any projects to reduce
2 greenhouse gases within the state of Utah?

3 A No.

4 Q Are there any restrictions on the nature of
5 the projects that may be used -- or that may use the
6 \$1.5 million?

7 A I don't recall what the exact criteria is
8 for approval, but yes, they must be approved CO2
9 mitigation projects. Historically, those funds have
10 gone to the Energy Trust of Oregon. Most parties are
11 not as engaged as PacifiCorp is in ensuring that
12 those, you know, funds are used, you know, to the
13 best possible ability.

14 We have a vested interest to see that those
15 have -- those funds are directed, and so we
16 negotiated in our agreement the right to participate
17 in the selection of where those funds may go, but
18 commonly they go to the Energy Trust, and they might
19 be invested in Bolivia, you know, to plant trees,
20 but, you know, we've oriented this to satisfy a, you
21 know, more specific value nearer to the plant.

22 Q And the \$1.5 million may also go to the
23 Washington Department of Community Trade and Economic
24 Development, will they not -- may they not?

25 A I know we listed various agencies. That

1 may have been one of them.

2 Q And you're asking this Commission to order
3 that the ratepayers in the state of Utah pay a
4 proportionate share of the \$1.5 million, are you not?

5 A Yes.

6 MR. PROCTOR: Thank you. That's all I
7 have.

8 CHAIRMAN BOYER: Thank you, Mr. Proctor.
9 Mr. Dodge, have you questions for Mr. Bird?

10 MR. DODGE: No questions. Thank you.

11 CHAIRMAN BOYER: Commissioner Allen?

12 COMMISSIONER ALLEN: A couple quick
13 questions to kind of bring us up to date here. Since
14 this has played out over the last couple of months,
15 Mr. Bird, has anything changed in the last couple
16 weeks that we should be aware of? Is the plant
17 running? Is it still there?

18 THE WITNESS: The plant is still there;
19 it's running. It's been a great asset for us during
20 the towing agreement that we started on March 1st,
21 was particularly beneficial. When the hydro was
22 delayed, we ran it there in the first quarter, as
23 well as into that period, but no issues. Nothing new
24 since we brought this to you.

25 COMMISSIONER ALLEN: Okay. Great. And

1 then you also mentioned that you received other
2 approvals and mentioned the feds this morning. Were
3 there any unusual conditions or requirements that
4 have come forward that could affect your claims for
5 economic benefit during those last few approvals,
6 that you know of?

7 THE WITNESS: I've not studied it. I
8 literally just got an e-mail that said it's been
9 approved, and I've seen the summary of the order, but
10 I'm not aware of any conditions. Mark or Greg?

11 MR. MONSON: Can we comment?

12 COMMISSIONER ALLEN: Sure.

13 MR. MONSON: There's no conditions in the
14 order.

15 COMMISSIONER ALLEN: Okay. Great. Thank
16 you.

17 CHAIRMAN BOYER: Okay. Neither
18 Commissioner Campbell nor I have any questions, so
19 let's go to redirect.

20 MR. MONSON: Thank you.

21 REDIRECT EXAMINATION

22 BY MR. MONSON:

23 Q Mr. Bird, Mr. Proctor asked you a question
24 about the 13 million hot gas half parts, which are
25 referred to in your testimony. When did the Company

1 arrange to have that included in the purchase price
2 for the plant?

3 A That was a known item at the very beginning
4 that -- you know, it's a very large contract, as
5 typical with, again, a large combined-cycle facility,
6 so we began negotiating that item very early on. You
7 know, we received a copy of the GE contract early on
8 in the negotiations, read it, dealt with that issue
9 and tee'd that up early, but we didn't resolve the
10 ultimate issue until, you know, later in the
11 negotiation.

12 Q Is the fact that they're -- that the seller
13 is required to provide that set of spare parts a term
14 of the purchase and sale agreement that was signed on
15 April 11th?

16 A Yes.

17 Q You were asked some questions about the
18 CH2M HILL report, and I understand you said you
19 haven't personally read the report. Are you aware of
20 the conclusion of the report?

21 A Yes.

22 Q Could you briefly describe the conclusion
23 of the report?

24 A The basic conclusion of the report were
25 there were no material issues identified through the

1 course of their environmental assessment.

2 MR. MONSON: That's all we have.

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

5 Let's now proceed with your next witness.
6 I think we'll try to go till about 10:30, if the
7 reporter is comfortable. Can you go till 10:30?

8 THE REPORTER: No.

9 CHAIRMAN BOYER: Do you need a break now?

10 THE REPORTER: Yes.

11 CHAIRMAN BOYER: All right. Well, this is
12 a good breaking point, then. Let's take a ten-minute
13 break, and then we'll hear from Mr. Duvall.

14 (Recess, 9:59 a.m.)

15 (Reconvened 10:12 a.m.)

16 CHAIRMAN BOYER: Okay. Let's go back on
17 the record, and I'll remind you that we're still
18 talking about confidential information. Maybe we'll
19 ask Mr. Peterson to close that door.

20 And, also, just to reassure you, for that
21 reason, we are not streaming the audio for this
22 hearing today, for the same reason.

23 Oh, it's Dave.

24 MS. SCHMID: Thompson.

25 CHAIRMAN BOYER: Thompson. We'll be

1 hearing from Mr. Peterson soon enough.

2 Okay. I think now it's time to hear your
3 next witness, Mr. Monson. Is it Mr. Duvall?

4 MR. MONSON: It's Mr. Duvall.

5 GREGORY DUVALL

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

8 DIRECT EXAMINATION

9 BY MR. MONSON:

10 Q Mr. Duvall, could you state your name for
11 the record?

12 A Yes. My name is Greg Duvall.

13 Q And could you provide your business address
14 and position?

15 A My business address is 825 Northeast
16 Multnomah, Suite 600, Portland, Oregon, and my
17 position is director, long-range planning and net
18 power costs.

19 Q And you filed two pieces of testimony in
20 this case; is that right?

21 A That's correct.

22 And if I were to ask you the questions set
23 forth in your testimony today, would your answers be
24 the same as set forth in your prefiled testimony?

25 A Yes. Yes, they would.

1 Q Do you have a summary of your testimony?

2 A I do.

3 Q Could you present that?

4 A Yes.

5 In my direct testimony, I present the
6 analysis performed by the Company to determine that
7 the acquisition of the Chehalis plant is beneficial
8 to the Company and its customers and is in the public
9 interest. I used data and models from the 2007 IRP
10 2008 business plan, the 2012 RFP, and information
11 that we acquired through due diligence.

12 I used the system optimizer model, which is
13 an IRP model, to modify the business plan portfolio
14 to include Chehalis beginning in 2012, and the result
15 of that was the avoidance of front-office
16 transactions through 2011 and the avoidance of a
17 combined-cycle combustion turbine beginning in 2012.

18 This new portfolio is subject to analysis
19 through the Company's hourly dispatch model, the
20 planning and risk model, or PAR model.

21 The results of that showed a benefit to the
22 Company or to the acquisition of the -- for the
23 acquisition of the Chehalis plant of 142 to 197
24 million dollars.

25 In my rebuttal testimony, I clarified how

1 my direct testimony addressed both the IRP and the
2 2012 RFP. I also describe the additional information
3 that was provided by the Company through data
4 responses, specifically responses to the DPU Data
5 Request 6.2 where the Company provided the stochastic
6 results and went through that analysis that included
7 the Chehalis plant in comparison to the other
8 resources in the 2012 RFP evaluation. I also
9 responded to specific comments raised by the
10 Committee, which were -- they are suggesting
11 establishing a -- what I would call a higher prudence
12 standard for the Chehalis plant as compared to
13 plants -- other plants that we're not asking for
14 preapproval, and state these conditions are
15 inequitable, which include disallowance of capital
16 improvements and indemnification by the Company for
17 risks associated with the acquisition of the plant.

18 I also comment on the acquisition costs
19 that were identified in Mr. Bird's rebuttal
20 testimony, the 4.7 million in maintenance costs,
21 which were already included in my analysis. I've
22 also -- I had not included the 1.6 million, which was
23 estimated for the outside professional services, or
24 the 1.5 million greenhouse gas payment, but conclude
25 that inclusion of those in my analysis would not have

1 a material result -- or impact on the results of the
2 analysis.

3 Finally, I conclude that, given the direct
4 testimony I provided, the studies that I provided,
5 along with the additional analysis that was requested
6 through data responses, that that definitively shows
7 that the Chehalis plant is in the public interest.

8 MR. MONSON: Mr. Duvall is available for
9 questions.

10 CHAIRMAN BOYER: Okay. Thank you, Mr.
11 Duvall.

12 Ms. Schmid, questions for Mr. Duvall?

13 MS. SCHMID: I think just perhaps one, as
14 he -- Mr. Duvall already made one of my points in his
15 summary.

16 CROSS EXAMINATION

17 BY MS. SCHMID:

18 Q Mr. Duvall, in your confidential rebuttal
19 testimony at Line 118, you particularly describe the
20 impact of these -- the 1.6 and the 1.5 million
21 payments. Could you please tell us that precise
22 description? It's the beginning of Line 118.

23 A I'm sorry? The description of the impact?

24 Q Yes. How did you describe the impact of
25 these payments?

1 A Well, I mean, together they're 3.1 million,
2 and so if you look at the 142 million to 197 million,
3 you subtract 3.1 million from each of those, you
4 still have a pretty large benefit.

5 Q And did you, indeed, call the impact of
6 these payments immaterial?

7 A Immaterial to the result of the analysis
8 and the conclusion that I would draw from that
9 analysis.

10 MS. SCHMID: Thank you.

11 THE WITNESS: Thank you.

12 MS. SCHMID: That's all.

13 CHAIRMAN BOYER: Thank you, Ms. Schmid.

14 Mr. Proctor?

15 MR. PROCTOR: No questions.

16 CHAIRMAN BOYER: Mr. Dodge?

17 MR. DODGE: No questions.

18 CHAIRMAN BOYER: Commissioner Campbell?

19 COMMISSIONER CAMPBELL: Just one question.

20 It relates to the economics of Path C. I believe you
21 were asked this question, but I don't believe the
22 Commission saw the answer to it. If Path C were
23 delayed several years, does that affect the result of
24 your economics as it relates to this acquisition?

25 THE WITNESS: No, it doesn't. In fact, we

1 provided a data response. First of all, Path C is
2 expected to be in place in 2010, so it would have to
3 be at least a two-year delay to have it even come
4 into play, and second of all, we did some studies
5 where we looked at if -- you know, given our current
6 system and given a system that had Path C addition,
7 looking at the benefits, it still showed that
8 Chehalis was a benefit to customers.

9 COMMISSIONER CAMPBELL: And just to follow
10 up, what if Path C were never to be upgraded? Would
11 this plant still be a benefit?

12 THE WITNESS: Yes, it would. And I think
13 basically we have, indeed, on our system and in prior
14 IRPs, we've looked at adding combined cycles on the
15 west side, and this certainly would compete well with
16 a cycle on the west side of the system.

17 CHAIRMAN BOYER: Just one follow-up, Mr.
18 Duvall, on Commissioner Campbell's question. What
19 about reliability if Path C is delayed or not
20 undertaken? Any effect?

21 THE WITNESS: Well, I think that it
22 probably has nothing to do with Chehalis. I mean, if
23 Path C doesn't go in, we have to deal with
24 reliability in the eastern control area and in the
25 Wasatch Front in particular.

1 CHAIRMAN BOYER: Mr. Monson, any redirect?

2 MR. MONSON: No. Thank you.

3 CHAIRMAN BOYER: Okay. Thank you, Mr.

4 Duvall.

5 THE WITNESS: You're welcome.

6 CHAIRMAN BOYER: Do we have Mr. Williams?

7 No, Mr. Williams is not here, so --

8 MR. MONSON: We understand he was excused.

9 The parties indicated they had no questions for him,

10 and we hope the Commission didn't, either. If the

11 Commission does have some questions for him, we

12 certainly will make him available in some way.

13 CHAIRMAN BOYER: No. Okay. Anything

14 further from the Company's side?

15 MR. MONSON: No.

16 CHAIRMAN BOYER: Okay. Very well. Let's

17 proceed now with the Division witnesses, Mr. Peterson

18 and Ms. Benvegna-Springer.

19 And I'm wondering, do the parties have any

20 preference as to when we hear from the independent

21 evaluator, Mr. Oliver? Should we do that after the

22 Division or at the end of the hearing? Does anyone

23 have any preference one way or another?

24 Mr. Oliver, you don't have any particular

25 schedule problems? You can --

1 MR. OLIVER: Not this time.

2 CHAIRMAN BOYER: -- endure with us this
3 time?

4 MR. OLIVER: I'll be here till tomorrow.

5 CHAIRMAN BOYER: All right. Well, let's
6 see how it goes.

7 Let's then hear from your witnesses,
8 Ms. Schmid.

9 MS. SCHMID: Thank you. The Division would
10 like to call Mr. Charles E. Peterson.

11 CHARLES E. PETERSON

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

14 DIRECT EXAMINATION

15 BY MS. SCHMID:

16 Q Mr. Peterson, have you been sworn in this
17 docket?

18 A Yes.

19 Q Could you please state your name and
20 business address for the record?

21 A Yes. My name is Charles E. Peterson. My
22 business address is 160 East 300 South, Salt Lake
23 City, Utah, and I'm a technical consultant with the
24 Division of Public Utilities.

25 Q Could you please briefly describe your

1 involvement on behalf of the Division in this docket?

2 A Yes. I was involved in investigating the
3 Chehalis plant as part of the Division's due
4 diligence. I visited the plant in early May, along
5 with Ms. Springer, and our hired consultant, Jeff
6 Bodington, and his engineer.

7 I have provided to the Company data
8 requests in behalf of the Division and evaluated the
9 answers to those data requests, as well as read
10 through the other documents that came to the fore as
11 a result of our investigations. I've pretty much
12 been involved in this matter from start to finish
13 since the Company has -- or from start till the
14 current time since the Company filed the request.

15 Q Your exhibits, DPU Exhibit Number 1.0, your
16 direct testimony, DPU Exhibit Number 1.1 and DPU
17 Exhibit Number 1.2 have been admitted in this docket.
18 If you were asked the same questions as set forth in
19 this prefiled testimony, would your answers today be
20 the same as those presented in that prefiled
21 testimony?

22 A Yes.

23 Q Mr. Peterson, do you have a summary and
24 comments you would like to give today?

25 A Yes.

1 I would like to summarize, basically, my
2 testimony for the record here. To assist the
3 Division in evaluating the Chehalis purchase, the
4 Company hired an outside consultant, Bodington &
5 Company, to independently assess the market value of
6 the Chehalis plant and also give an opinion as to the
7 current physical state of the plant.

8 We received the Bodington report, which
9 generally supports the purchase price as being within
10 the range of fair market value for a merchant plant
11 without a long-term purchase power agreement. The
12 Bodington report also supports the idea that the
13 plant is in good condition and essentially nearly new
14 condition, an observation that my relatively
15 untrained eye also made when I toured the plant.

16 The Company has raised an issue regarding
17 the Bodington valuation and the search that the
18 Commission should consider, the higher investment
19 value of the plant that the Company would arrive at
20 in applying its own cost of capital figures to the
21 income streams.

22 While PacifiCorp's investment value may
23 well be much higher than market value, the Division
24 has relied on the Bodington report and valuation in
25 coming to its conclusions and making its

1 recommendations.

2 As I mentioned earlier, the Division has
3 visited the site, along with Mr. Bodington and a
4 representative of the Company. The Division has also
5 evaluated Mr. Duvall's calculations, and we requested
6 Mr. Duvall make additional calculations related to
7 the IRP analysis, especially using the PAR model,
8 which the Company complied with and did.

9 And, also, in conjunction with Merrimack
10 Energy, the Division looked at and evaluated the
11 analyses the Company did with respect to comparing
12 the Chehalis plant to the RFP bidders in the 2012
13 RFP.

14 All these analyses and scenarios suggest
15 that the most likely result would be that the
16 Chehalis plant would be selected in an IRP analysis,
17 and if it had been bid into the 2012 RFP, it likely
18 would have been selected as well.

19 These analyses show that, in all
20 likelihood, there is a net positive benefit to
21 ratepayers in Utah. Mr. Duvall's initial estimates
22 range from about 100 million to 200 million. The
23 subsequent analyses requested by the independent
24 evaluator, Merrimack Energy, and the Division, using
25 the stochastic analysis, suggest that perhaps the net

1 benefit is somewhat lower, in the 50 to 80 million
2 dollar range; however, in any case, it supports the
3 notion that there is a likely benefit to the
4 ratepayers in several tens of millions of dollars, at
5 least, as a result -- or would be a benefit as a
6 result of this -- of the purchase of this plant.

7 The Division believes that the Company's
8 application and analyses have substantially complied
9 with Utah Code Annotated 54-17-302, Subsection -- or
10 Subpart -- or Paragraph 3(c).

11 Based upon the analysis performed or
12 review, the Division has concluded that the purchase
13 of the Chehalis plant at the stated purchase price is
14 just and reasonable and in the public interest.
15 Consequently, the Division recommends that the
16 Commission approve the acquisition at the said
17 purchase price -- and since this is a confidential
18 hearing, I'll say the \$305 million. The Division is
19 supporting that purchase price.

20 Especially in its rebuttal testimony, the
21 Company has mentioned four additional costs that it
22 apparently wants the Commission to decide on in this
23 hearing or in this docket. These include the true-up
24 of the working capital, the payment of the transfer
25 of the environmental permit in Washington, or the

1 \$1.5 million, acquisition costs for outside attorneys
2 and consultants, and the maintenance contract with
3 General Electric.

4 The Division at this time takes no position
5 on whether some, all, or none of these costs should
6 be recovered by PacifiCorp; however, we do not
7 believe that at this time the Commission should
8 decide whether or not these costs should be included
9 or not included, for that matter, because -- for the
10 following reasons:

11 First, the General Electric contract is a
12 maintenance contract that will be booked to -- will
13 be placed on the books as a prepayment and will be
14 amortized over the life of the contract. This is
15 clearly an operating expense that will be handled in
16 a general rate case.

17 Secondly, the working capital true-up is
18 not yet known, as has been earlier indicated. The
19 Company does not know whether it will be zero, a
20 negative true-up, or a positive true-up, and until
21 the amount is actually known and the Division and
22 other parties have the opportunity to investigate
23 those costs, the Division believes the Commission
24 should defer any decision on those costs until a
25 general rate case or some other proceeding that would

1 be appropriate to consider it.

2 Similarly, for the first time, the Division
3 learned of the attorney and consulting costs in the
4 rebuttal testimony just this past week, and also the
5 amount of the environmental transfer payment. In
6 neither case has the Division had the opportunity to
7 investigate the amounts or the reasonableness of
8 these payments or whether they should be included in
9 Utah rates, and while it is possible that those
10 amounts are completely legitimate and should be
11 included or not, the Division again recommends that
12 the consideration of those expenses be deferred to a
13 later rate case or some other appropriate hearing.

14 And that concludes my summary.

15 Q Mr. Peterson, just a couple of clarifying
16 questions. You mentioned the environmental fees, and
17 earlier today the CH2M HILL report has been
18 mentioned. When did the Division receive its copy of
19 that report?

20 A Yesterday afternoon about three o'clock.

21 Q And has the Division received any documents
22 or papers relating to the FSEC payment or the
23 attorneys' fees and outside consultant costs?

24 A No.

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

1 now available to answer questions.

2 CHAIRMAN BOYER: Thank you, Mr. Peterson.

3 Does the Company have cross examination of
4 Mr. Peterson?

5 MR. MONSON: Just a couple of questions.

6 CROSS EXAMINATION

7 BY MR. MONSON:

8 Q Mr. Peterson, Ms. Schmid just asked you
9 about if the Division had received information about
10 the 1.6 million in outside services. Had the
11 Division asked for any information about that?

12 A The Division didn't specifically ask for
13 outside services; however, it was a surprise to us to
14 learn that CH2M HILL had been retained as a
15 consultant, and we were indeed curious about
16 Mr. Bird's references to consultants in the plural in
17 his direct testimony -- or his rebuttal testimony
18 that we received about a week ago.

19 I think that up until the rebuttal
20 testimony, we were, I guess, blissfully unaware of
21 these costs.

22 Q Are you familiar with whether the kind of
23 costs for outside services that we're talking about
24 are a normal part of an acquisition like this?

25 A I would expect that they are. My only

1 concern is, is that the Division and other parties
2 have not yet had an opportunity to examine the costs
3 and evaluate, you know, what amounts should be in or
4 whether we can take a position to recommend whether
5 some, all, or none of the costs should be included.

6 Q On the CH2M HILL report, are you aware that
7 the report was referenced in documents provided to
8 the parties very early on in the discovery process in
9 this case?

10 A I'm aware of one reference that I actually
11 found yesterday where it is mentioned that CH2M HILL
12 had been apparently used as a consultant, so the
13 answer to your question is yes, there was at least
14 one document that the Company provided as part of a
15 data request that did make a reference to CH2M HILL.

16 Q And was CH2M HILL at the site visit that
17 the Division made to the plant?

18 A At the time we were there?

19 Q Yes.

20 A I'm not aware that they were.

21 Q And you mentioned that there was a document
22 that referred to that report, and you said it
23 referred to it. Doesn't it actually refer to the
24 conclusion in the report, state the conclusion in the
25 report?

1 A Well, it is a stated -- there is a stated
2 conclusion and discussion about what was found.

3 MS. SCHMID: Excuse me. If Mr. Monson
4 wants to pursue this further, it would be helpful to
5 have a copy of what he's referencing in front of the
6 witness and the witness's attorney, please.

7 MR. MONSON: I just have one copy, but I'll
8 be happy to --

9 CHAIRMAN BOYER: Please pass that over, if
10 you would, then.

11 MS. SCHMID: Could you please direct us?

12 MR. MONSON: Sure.

13 MS. SCHMID: Thank you.

14 Q (BY MR. MONSON) Did you want to modify
15 your answer or expand on it based on what you've just
16 been handed, Mr. Peterson?

17 A No. I think I answered it correctly, that
18 CH2M HILL is referenced in this document. This is
19 the one that I was referring to, and there is a
20 discussion of the findings there.

21 Q And maybe, for the record, could you
22 identify what that document is?

23 A It appears to be a memorandum from Bill
24 Lawson, or William K. Lawson, director of
25 environmental services, to Stefan Bird and Stacy

1 Custers, and it's dated April 9th, 2008. And in case
2 I didn't identify it, Mr. Lawson is an employee of
3 PacifiCorp Energy, or appears to be, rather.

4 Q Okay. And in connection with the actual
5 production of the report, would you agree that the
6 fact that that report hadn't been produced came to
7 the attention of people in connection with the
8 rebuttal testimony filed by the Company; is that
9 right?

10 A That's correct. We had been verbally given
11 the impression, at least, that the Company had not
12 hired any consultants.

13 Q Okay. And, in any event, the late
14 production of it or the production of it yesterday
15 was a result of conversations that took place
16 yesterday, or possibly the day before, saying, "Hey,
17 what about this report? Can we have a copy?" Is
18 that right?

19 A Well, that's -- yes, in conjunction with
20 prior data requests of both the Division and the --
21 and Merrimack Energy that requested, we believed, all
22 such reports and had not previously received them.

23 Q Okay. And do you recall that the Company
24 understood those requests to mean reports that were
25 shown to senior management and to the board and

1 that's why they didn't produce that?

2 A Well, that was -- well, the Division's data
3 request specifically said, "To management, senior
4 management, or the boards of directors of both
5 PacifiCorp and MidAmerican Energy Holdings Company."
6 When we said "management," then, I guess, since
7 Mr. Lawson -- I don't know what you're getting at. I
8 would think Mr. Lawson, being a director of
9 something, would be considered management, but --

10 Q Okay.

11 A -- that's an interpretation on my part.
12 I'd also add that Data Request 1.16 of Merrimack
13 Energy did not put any restriction on whether it was
14 management, senior management, or otherwise, so it's
15 still a little bit surprising to the Division that
16 this report surfaces in just the recent day or so.

17 Q The report itself, but as you've stated,
18 the report is referenced in a document that the
19 Division got a long time ago; is that right?

20 A Well, it's in answer to a data request a
21 few weeks ago, yes.

22 Q Okay.

23 MR. MONSON: Just a moment, please.

24 (Time lapse.)

25 MR. MONSON: I'm sorry. Just another

1 moment.

2 (Time lapse.)

3 Q (BY MR. MONSON) Mr. Peterson, you made a
4 reference in your summary to the stochastic analysis
5 and the results of that analysis, and you referred to
6 a number that was the result of that analysis; is
7 that correct?

8 A Yes.

9 Q Isn't it true that the number is actually a
10 range that goes from the number you stated up to 132
11 million?

12 A Well, I was specifically referring to
13 the -- in my own testimony, if I can find it
14 quickly -- on what I have as lines -- well, the
15 sentence starts at Line 274 and continues basically
16 to the end of the page. I reference a mean net
17 present value of about 77 million and then a
18 stochastic risk analysis that had a risk
19 adjustment -- a risk-adjusted mean benefit of \$54
20 million, so there are additional range numbers there
21 that are both much higher and both much lower as you
22 get out to the tails of the risk analysis, but in my
23 comments, that was -- the 54 million and the 77
24 million were what I was referencing when I think I
25 said in my comments 50 to 80 million dollars.

1 Q And if the costs of the assets or the
2 resources that are being displaced by the plant are
3 actually much higher than was assumed in those
4 analyses, those numbers would go up; is that right?

5 A I would assume so.

6 MR. MONSON: Thank you. That's all I have.

7 CHAIRMAN BOYER: Thank you, Mr. Monson.

8 Mr. Proctor, have you --

9 MR. PROCTOR: No questions.

10 CHAIRMAN BOYER: No questions.

11 Mr. Dodge?

12 MR. DODGE: No questions.

13 CHAIRMAN BOYER: Commissioner Allen?

14 Commissioner Campbell? Okay. Commissioner Campbell
15 had a question.

16 COMMISSIONER CAMPBELL: I'll just ask one
17 quick one. So it's the Division's position that this
18 Commission can approve the acquisition of a
19 significant energy resource and then save for later a
20 calculation of the exact amount of the prudent costs
21 associated with that acquisition and do that in a
22 subsequent rate proceeding?

23 THE WITNESS: Well, the Division's position
24 is that the Commission can and we recommend that you
25 do approve the acquisition of the plant at the

1 specified purchase price, which is \$305 million. We
2 do not take a position right now on whether the
3 Company should or should not recover these other
4 costs that have been recently brought to the fore and
5 suggest that those be deferred to either some other
6 appropriate proceeding or the general rate case. If
7 that doesn't answer your question, then I guess I
8 didn't understand it.

9 COMMISSIONER CAMPBELL: I mean, there's
10 nowhere in the statute that says when the Commission
11 approves a significant energy resource decision that
12 the Commission at that time needs to identify the
13 exact amount that's going to go into rates.

14 MS. SCHMID: And I don't know if I can
15 object to a question from a commissioner. It makes
16 me really nervous, but that could call for a legal
17 conclusion.

18 COMMISSIONER CAMPBELL: Well, the lawyers
19 can answer it. I don't care.

20 THE WITNESS: Do you want to answer it,
21 or --

22 MS. SCHMID: I don't believe that there's
23 such a restriction.

24 CHAIRMAN BOYER: Okay. I -- maybe we'll
25 discuss that issue a little bit later here in the

1 day, but I have no questions, then, of Mr. Peterson.

2 Your next witness?

3 MS. SCHMID: I actually have one redirect.

4 CHAIRMAN BOYER: Redirect? Please proceed.

5 REDIRECT EXAMINATION

6 BY MS. SCHMID:

7 Q Mr. Peterson, you were asked by the
8 Company's attorney about costs related to an
9 acquisition and purchase price. Isn't it possible
10 that it's -- you can distinguish, perhaps, costs
11 related to an acquisition from the purchase price
12 actually paid?

13 A Oh, yes. Those are set out separately.
14 Yes, definitely.

15 MS. SCHMID: Thank you. That's all I have.

16 CHAIRMAN BOYER: Okay. Thank you,
17 Mr. Peterson.

18 Next witness, Ms. Schmid?

19 Welcome, Ms. Benvegna-Springer.

20 MS. BENVEGNA-SPRINGER: Yes.

21 MS. SCHMID: The Division has called
22 Ms. Benvegna-Springer.

23 SHAUNA BENVEGNA-SPRINGER
24 called as a witness and sworn, was examined and
25 testified as follows:

1 DIRECT EXAMINATION

2 BY MS. SCHMID:

3 Q Ms. Benvegna-Springer, you have been sworn
4 in this docket; is that correct?

5 A That's correct.

6 Q Could you please state your name and
7 business address for the record?

8 A Shauna Benvegna-Springer. I'm employed at
9 the Division of Public Utilities located at 160 East
10 300 South in Salt Lake City.

11 Q In what capacity are you employed by the
12 Division of Public Utilities?

13 A I am hired as a utility analyst.

14 Q Thank you. Could you please briefly
15 describe your involvement on behalf of the Division
16 in this matter?

17 A Yes. In being assigned to this particular
18 project, we were asked to visit the site, which I did
19 with Mr. Peterson and our consultant, Mr. Bodington,
20 and his engineer. We viewed the site, reviewed
21 numerous records submitted by the Company through
22 various data requests, through their application,
23 et cetera, and I've also reviewed numerous other
24 documents, both FERC documents and federal
25 regulation, regarding to the accounting treatment of

1 the acquisitions.

2 Q Your exhibits, DPU Exhibit Number 2.0, your
3 prefiled direct, with accompanying Exhibit DPU
4 Exhibit 2.1, were admitted earlier this morning. If
5 you were asked the same questions as set forth in
6 that prefiled testimony, would your answers today be
7 the same as those set forth in that prefiled
8 testimony?

9 A Yes, they would.

10 Q Do you have a summary you would like to
11 give today?

12 A Yes, I do.

13 Q Please proceed.

14 A Thank you for the opportunity to summarize
15 and highlight the major points in the Division's
16 position submitted in my testimony which was filed on
17 June 20th of 2008.

18 My testimony addressed the proposed
19 accounting treatment of the acquisition by PacifiCorp
20 of a natural gas-fired power plant located near
21 Chehalis, Washington. My testimony also addresses
22 the requested accounting order to establish a
23 regulatory asset and acquisition premium.

24 The Division is recommending approval of
25 the Chehalis power plant. The Division has

1 determined that the proposed accounting treatment
2 does meet the FERC accounting rules as adopted by the
3 Commission in Rule 746-310-7.

4 The Division has determined that the
5 Chehalis plant neither has operated as a public
6 utility since it began operations in October of 2003,
7 nor has the plant been a licensee by FERC.
8 PacifiCorp would be the first entity to devote the
9 property to public utility service; therefore, the
10 purchase price would be the amount recorded as
11 original cost for plant in service in the appropriate
12 accounting entries following the FERC instructions.

13 PacifiCorp has also requested an accounting
14 order to record the exclusivity payment as a
15 regulatory payment -- as a -- excuse me, as a
16 regulatory asset. The Division is not addressing
17 this motion at this time, since, one, the Division is
18 recommending approval of the acquisition; two, the
19 need for the order does not exist unless the
20 transaction is not approved; three, testimony or
21 additional information has not yet been filed
22 regarding this motion by the Company; and four, the
23 motion is not required -- is not a required part of
24 the approval of this docket.

25 The Division will address the accounting

1 order should the Commission deny the purchase
2 approval of the Chehalis plant or if the purchase
3 transaction should fail for some unknown reason. The
4 Division recommends that appropriate rate treatment
5 of the exclusivity payment be determined in a future
6 rate proceeding if the transaction does not close.

7 If additional acquisition costs above and
8 beyond the purchase price have occurred or will
9 occur, they -- we are recommending that they also be
10 reviewed and approved in a further proceeding after
11 investigation.

12 That concludes my summary.

13 Q Thank you.

14 MS. SCHMID: Ms. Benvegna-Springer is now
15 available for questioning.

16 CHAIRMAN BOYER: Thank you.

17 Does the Company have cross examination of
18 this witness?

19 MR. MONSON: No questions.

20 CHAIRMAN BOYER: Mr. Proctor?

21 MR. PROCTOR: No questions.

22 CHAIRMAN BOYER: Mr. Dodge?

23 MR. DODGE: No questions. Thank you.

24 CHAIRMAN BOYER: Commissioner Allen?

25 COMMISSIONER ALLEN: No.

1 CHAIRMAN BOYER: And neither do I.

2 Thank you very much. I think this is the
3 first time you've testified before us.

4 MS. BENVEGNU-SPRINGER: Thank you.

5 CHAIRMAN BOYER: Thank you.

6 MS. SCHMID: The Division would now like to
7 call Mr. Jeffrey Bodington to the stand.

8 DIRECT EXAMINATION

9 BY MS. SCHMID:

10 Q Good morning, Mr. Bodington.

11 A Good morning.

12 Q Could you please state your name and
13 business address for the record?

14 A Jeffrey Charles Bodington. My firm's
15 address is 50 California Street in San Francisco,
16 California.

17 Q By whom are you employed in this matter?

18 A I'm employed by my firm, Bodington &
19 Company.

20 Q I'm sorry. In what capacity did you
21 participate in this docket? That was an inartful
22 question.

23 A We were retained as a consultant to the
24 Division here in Utah.

25 Q Since we are not familiar with you like we

1 are with many of the other witnesses, could you just
2 take a moment and tell us about your qualifications
3 and those of your firm?

4 A Yes. Let me give you just two sentences on
5 myself and a few more on my firm and our practice.
6 Education, UC Berkeley, Cornell University. I also
7 hold a string of securities licenses that is
8 necessary for what my firm does.

9 My firm, Bodington & Company, I founded in
10 1990 after years with Bechtel, and what we do is sell
11 power plants, we finance power plants, we advise
12 clients on power plant deals that have gotten into
13 trouble, so we do a lot of restructuring work.

14 We do some consulting engagements, such as
15 this one, where our market information will be useful
16 to clients.

17 Of particular relevance here to Chehalis is
18 that we have sold similar combined-cycle facilities.
19 We have advised clients on three other combined-cycle
20 facilities located in the state of Washington.

21 Q Thank you. Your Exhibits Number -- DPU
22 Exhibit Number 3.0 and DPU Exhibit Number 3.1 were
23 admitted earlier this morning. Do you have any
24 changes or corrections to those?

25 A No, I do not.

1 Q Thank you. Do you have a summary that
2 you'd like to give this morning?

3 A Yes.

4 What I'd like to do is tell you what we did
5 and what we found. What we did first was to analyze
6 the plant. That included a site visit where I
7 brought along my engineer who has decades of
8 experience in operating and maintaining gas turbines.
9 We also reviewed hundreds of megabytes worth of data
10 provided to us by the Division. We analyzed six
11 things about the power plant. And, by the way, we
12 used an approach here that we use when we're retained
13 to actually sell a plant.

14 We analyzed the markets that it
15 participates in; the participants, who is involved;
16 the facilities; the operations; the agreements; and
17 the financial performance.

18 On that basis, we undertook a fairly
19 standard approach to estimating market value. We
20 considered the cost approach, the market approach,
21 and the income approach.

22 We then looked at the results of those
23 three methods of appraisal and formed a conclusion by
24 weighting the implications of those different methods
25 of appraisal according to how much credence or

1 accuracy they each seemed to provide.

2 We put most of the weight on the income
3 approach. That's the way this market really works.

4 The last thing we did as part of our
5 analysis was to do a couple of sanity checks, just
6 back-of-the-envelope, "Do our results, do our
7 findings make sense, given what we see in the
8 market?" Just some simple checks.

9 So that's what we looked at and what we
10 did. Our conclusion was and is that the plant has
11 been operated well and maintained well. It looks as
12 though it's in good condition, and if we were
13 retained to sell it, we'd advise the client that we'd
14 expect to obtain about \$308 million for that
15 facility.

16 MS. SCHMID: Thank you.

17 Mr. Bodington is now available to answer
18 questions.

19 CHAIRMAN BOYER: Thank you, Mr. Bodington.

20 Does the Company have cross examination for
21 Mr. Bodington?

22 MR. MONSON: No questions.

23 CHAIRMAN BOYER: Mr. Proctor, have you --

24 MR. PROCTOR: No questions. Thank you.

25 CHAIRMAN BOYER: Mr. Dodge?

1 MR. DODGE: No questions.

2 CHAIRMAN BOYER: Mr. Allen?

3 COMMISSIONER ALLEN: No.

4 CHAIRMAN BOYER: And neither do I.

5 Thank you so much, Mr. Bodington, for
6 participating.

7 THE WITNESS: Thank you.

8 COMMISSIONER BOYER: Okay. I think we're
9 now to the point where we'll hear from the
10 Committee's witnesses, but let's check with our
11 reporter to see how she's doing.

12 THE REPORTER: Fine now.

13 CHAIRMAN BOYER: Okay. You'll give me the
14 signal if you wish a break?

15 THE REPORTER: Yes. Thanks.

16 CHAIRMAN BOYER: Okay.

17 Mr. Proctor, please.

18 MR. PROCTOR: Thank you. The first
19 Committee witness is Michele Beck.

20 DIRECT EXAMINATION

21 BY MR. PROCTOR:

22 Q Ms. Beck, would you state your position
23 with the Committee of Consumer Services, please?

24 A I'm the director of the Committee of
25 Consumer Services.

1 Q Your -- the comments that were prepared by
2 you or under your direction have already been entered
3 into evidence. Do you have a summary of those
4 comments?

5 A Yes, I do.

6 Today I'll be presenting the Committee of
7 Consumer Services' policy recommendations in this
8 proceedings. These recommendations are also
9 contained in the comments submitted, which were
10 prepared either by me or under my direction.

11 Other parties have painted, I believe, an
12 overly complicated picture of our positions, when, in
13 reality, there are three simple policies the
14 Committee is advocating.

15 The first is the legal challenge that we
16 presented that our attorney, Mr. Proctor, has already
17 mentioned. The second, since the Commission has not
18 yet ruled on the Committee's legal argument, the
19 Committee moved forward with its analysis and in
20 formulating recommendations regarding the approval of
21 the resource acquisition itself.

22 Based upon the report of our consultant,
23 Phil Hayet, who is here today to also respond to
24 questions, as well as our internal review, the
25 Committee found the plant to be beneficial to

1 consumers in the long run, but also found that the
2 benefits are not as overwhelming as portrayed and
3 that there are some identifiable risks associated
4 with this plant.

5 Given these conditions, combined with the
6 circumstance of acquiring the resource outside of the
7 more rigorous process of the RFP, ratepayers need
8 certain specific protections to ensure that that
9 acquisition will result in just and reasonable rates;
10 therefore, the Committee is recommending that
11 approval of the acquisition should be accompanied by
12 certain conditions, and it is our consultant,
13 Mr. Hayet, who will discuss those certain conditions
14 that were presented in his report.

15 And then the third issue is the request for
16 an accounting order. The Committee has presented its
17 view that such an accounting order is unnecessary in
18 both the case of the acquisition premium and the
19 exclusivity payment and that deferred accounting, in
20 our view, would be improper in the case of the
21 exclusivity payment in the event that the Company did
22 not follow through on the acquisition and incurred
23 that specific cost.

24 Further, we think it is important to note
25 that the Commission did not specifically address this

1 issue in its scheduling orders or any procedure for
2 addressing these issues, nor did the Company file
3 testimony or evidence in support of these requests;
4 therefore, we think there's no basis for the
5 Commission to grant the request at this time, but we
6 do reiterate our request that the Commission
7 explicitly state its intentions on how it will
8 address the issue of the accounting order.

9 Q In addition to your summary, Ms. Beck, have
10 you had an opportunity now to have reviewed the
11 Company's July 11th rebuttal testimony?

12 A Yes, I have.

13 Q Do you have some comments with respect to
14 that testimony?

15 A Equally brief comments, yes, I do. The
16 first issue on that, in PacifiCorp's rebuttal
17 comments, it suggests that the Committee would like
18 to have it both ways in both enjoying the substantial
19 present value of the reduction in revenue requirement
20 by still wanting to impose conditions that would
21 protect consumers from some of the risks associated
22 with the acquisition of Chehalis.

23 First, the Committee notes that, while none
24 of the parties in this proceeding has recommended
25 against approval, it is also true that, in our view

1 and understanding of their comments and testimony,
2 none confirmed the Company's assertion of substantial
3 benefits. Rather, our understanding of their
4 positions, it appears that the consensus is that
5 benefits were there, but to a lesser extent than
6 characterized by the Company.

7 Second, it is important to remember that
8 this plant is not being acquired through the RFP
9 process. Because consumers do not have the
10 protections that would come from comparing the plant
11 to other specific alternatives, imposing other
12 specific protections would be appropriate.

13 And, finally, the Committee notes that many
14 of the benefits touted by the Company could be shown
15 to be shareholder benefits, and our consultant,
16 Mr. Hayet, will address that specific issue further,
17 but, to the extent that shareholders do receive
18 significant benefit from this resource acquisition,
19 we think ratepayer protections are even more
20 appropriate and warranted.

21 The second issue I'd like to address is in
22 Mr. Bird's rebuttal testimony, Pages 17 to 20, which
23 discusses the acquisition -- certain acquisition
24 costs. Mr. Bird introduces new costs in this late
25 phase of the proceeding. I believe that we share the

1 Division's view on these costs. There was the \$4.7
2 million maintenance prepayment, the \$1.6 million for
3 outside consultants and lawyers, and then the \$1.5
4 million for greenhouse gas mitigation, and an unknown
5 sum for the true-up on working capital.

6 On Page 20, Mr. Bird specifically indicates
7 they are asking for recovery of the 305 million
8 purchase price as well as the 1.6 million, the 1.5
9 million, and the unknown working capital described.
10 In my reading, I do not see that he specifically
11 states that they're seeking recovery now of the 4.7
12 million, but he does indicate that will be included
13 in rate base, so I presume that to also be a specific
14 request for recovery.

15 As the Division stated, the Committee has
16 also not had the opportunity to fully review these
17 new costs and object to the introduction in the
18 rebuttal phase of the case. This is a specific
19 example of the type of concern we have already raised
20 in terms of costs arising that are different from
21 those that were assumed in the Company's analysis
22 showing benefits from the plant.

23 If the Committee -- pardon me. If the
24 Commission chooses to grant preapproval, it must be
25 clear what specific costs have been preapproved. Any

1 additional costs beyond those that are specifically
2 approved should either be disallowed or be required
3 to be presented and fully supported in a subsequent
4 rate case subject to a full prudence review, as would
5 be true for any utility cost or expense.

6 In this case, costs introduced in the final
7 phase of prefiled testimony cannot be seen to have
8 been fully supported and should not be considered for
9 preapproval.

10 And then finally, on Page 15 of Mr. Bird's
11 rebuttal testimony, he quotes the Oregon IE report,
12 both the one dated June 18th, 2008 and a supplemental
13 report dated July 2nd, 2008. His chosen quotes, I
14 believe, gives the impression that the Oregon IE has
15 given unequivocal support for the acquisition of
16 Chehalis, and I'd like to supplement his quotes with
17 one other.

18 On Page 8 of the June 18th report, in the
19 section entitled "Policy Points," it states -- and
20 here's the beginning of the quote -- "first, we agree
21 with PacifiCorp that this waiver request is not and
22 should not be a substitute for a full prudence
23 review. If PacifiCorp was found later, in a prudence
24 review, to have been fundamentally wrong in its
25 assessment of the offsetting costs we discussed

1 above, that would weigh against prudence and cost
2 recovery. Indeed, for purposes of cost recovery, we
3 suggest that PacifiCorp be held within some
4 reasonable bounds to its assumptions made here as if
5 it was offering a pay-for-performance PPA. This
6 would serve to further reduce risks to ratepayers."

7 The Committee acknowledges the very clear
8 differences between the Oregon and the Utah
9 proceedings with respect to preapproval.
10 Nonetheless, we believe it's noteworthy that the
11 Oregon IE's conclusion is similar to the Committee's,
12 incorporates specific conditions to reduce the risk
13 to ratepayers.

14 MR. PROCTOR: Ms. Beck is available for
15 cross examination.

16 CHAIRMAN BOYER: Thank you, Ms. Beck.

17 Does the Company have cross examination for
18 Ms. Beck?

19 MR. MONSON: Just a couple of questions.

20 CROSS EXAMINATION

21 BY MR. MONSON:

22 Q Ms. Beck, you just talked about the
23 benefits, and I think you characterized that other
24 parties didn't agree there were substantial benefits
25 to the acquisition of Chehalis, and I just want to

1 explore that a little bit.

2 Let's assume for a minute that, instead of
3 the 142 to 197 million, that it turned out that the
4 benefit was 70 million to 120 million. Would that be
5 a substantial benefit, in your mind?

6 A Are you referring to that present value
7 over the life of the plant?

8 Q Yes, I am. The net present value in
9 revenue requirement reduction resulting from
10 acquisition of the plant.

11 A I can't speak to whether that would be
12 specifically substantial. One of our biggest
13 concerns about that analysis is that it was presented
14 always in context of the Company's business plan and
15 what the difference is from that plan, so we're not
16 even looking at a fully-developed IRP. If, for
17 example, the Company's IRP had been acknowledged and
18 we had a plan that was seen by the regulatory
19 community, or at least by this Commission, to be
20 reflective of future conditions, then that would, I
21 think, provide a context that would be much easier to
22 demonstrate substantial value.

23 In this case, we're looking at what is
24 somewhat of a stand-alone analysis, and, again, I'm
25 going to be careful how far I go on this, because I

1 want my technical expert to pick it up at a certain
2 point, but that's what some of our concerns are here,
3 is that we can look at this -- and certainly the
4 Division has done a review, the Committee's expert
5 has done a certain review of that, but we don't
6 accept that it's substantial in terms of benefit to
7 the ratepayers because of the nature of the analysis.

8 Q I guess maybe I can approach it a little
9 bit differently. Let's assume for a minute that the
10 evidence shows that there was a benefit, a net
11 present value revenue reduction of \$70 million, just
12 assuming for the sake of a hypothetical for a minute.
13 Would the Committee say that if that's all the
14 benefit there is, \$70 million, that that's not
15 substantial enough to proceed with the acquisition?
16 That's what I'm trying to get at.

17 A I can't answer that question on a
18 stand-alone hypothetical basis. I'd need to see it.
19 \$70 million out of a total of how many billion
20 dollars of revenue requirement? It's not just the
21 actual amount, but a percentage that would be at
22 stake there, so I really -- I don't mean to be
23 nonresponsive, but I don't see how I can possibly
24 answer that on a stand-alone basis.

25 Q Okay. And then just -- I just want to

1 clarify one other point, and I think you clarified it
2 today, but I want to make sure I understand it. The
3 Committee is not recommending that the Commission
4 disapprove the acquisition of Chehalis; is that
5 correct?

6 A That's correct.

7 MR. MONSON: Thank you. That's all.

8 CHAIRMAN BOYER: Thank you, Mr. Monson.

9 Mr. Proctor, have you cross examination?

10 MR. PROCTOR: No. No redirect.

11 CHAIRMAN BOYER: Well, let's see. We
12 haven't gone to Mr. Dodge yet. No questions there.

13 Commissioner Allen? Commissioner
14 Campbell has a question. Ms. Schmid has questions.

15 MS. SCHMID: No questions from the
16 Division.

17 CHAIRMAN BOYER: I lost track of where I
18 was. Where are we today? What day is this? I beg
19 your pardon, Ms. Schmid. Thank you.

20 Okay. Now we'll go to Commissioner Allen,
21 who says no. Commissioner Campbell does have
22 questions.

23 COMMISSIONER CAMPBELL: I do have one, and
24 it has to do with -- well, one of the reasons that
25 you stated that you want a condition -- have

1 conditions on this acquisition is that this didn't go
2 through the regular RFP process, and so I guess what
3 I'd like to ask you is, do you discount the
4 analysis -- you know, set aside all the net present
5 value calculations. Do you discount in any way the
6 analysis of how this acquisition stacks up against
7 the results or the final negotiations that are taking
8 place in the 2012 RFP process, or why do you discount
9 that, or do you?

10 THE WITNESS: It's not so much that I
11 discount it as it is that the Committee views the
12 entirety of the process of the RFP to be a more
13 rigorous process with more points of input.

14 For example, you typically would hear from
15 other offerors -- other bidders if they felt like the
16 process didn't go fairly, and here we didn't have
17 that sort of double-check from the market, and so I
18 think that's why we feel like it's not following the
19 stated preferred policy of the state of Utah. It's
20 not as rigorous.

21 We did our best to do a very good analysis,
22 but it was a very compressed timeline, and so, given
23 sort of the sum total of all of that, we think that,
24 in this case, protections are warranted.

25 COMMISSIONER CAMPBELL: So you don't find

1 value that you have a concurrent RFP process in place
2 with numbers coming out that give you a market number
3 and then be able to compare that, that somehow that
4 this plant has to go through its own process? I
5 don't --

6 THE WITNESS: I think there's value in
7 that, but I'm also not going to suggest that we would
8 never suggest specific ratepayer protections from
9 something coming out of an RFP, either. I think
10 that's our specifically-identified statutory duty, is
11 to review these things from that small ratepayer
12 perspective, and so, in this limited case, I'm not --
13 I wouldn't suggest that maybe there would be another
14 one with a waiver where we didn't feel the same way,
15 maybe where it was clear that we could support it
16 without specific protections.

17 It might be that an outcome of an RFP we
18 might think that there's a certain kind of
19 protection, and it's just the sum total of how this
20 process has unfolded results in these specific
21 recommendations.

22 COMMISSIONER CAMPBELL: Thank you.

23 CHAIRMAN BOYER: Ms. Beck, you've asked
24 that, in the event this acquisition is approved, that
25 we impose conditions to protect ratepayers against

1 certain risks that you've identified. In your
2 opinion, are there some other benefits of this
3 acquisition in terms of lower -- actually, an
4 avoidance of construction kinds of risk and, to some
5 extent, operational risk, inasmuch as there's some
6 data on -- even though it's been operated as a
7 merchant plant, there's still data available on its
8 characteristics. Are those -- are those -- are there
9 benefits, I guess, first, and then, secondly, did you
10 consider those in your analysis?

11 THE WITNESS: Yes, I think there are
12 benefits, and yes, we considered it.

13 CHAIRMAN BOYER: Okay. Thank you.

14 Redirect, Mr. Proctor?

15 MR. PROCTOR: No. Thank you.

16 CHAIRMAN BOYER: Okay. Thank you,
17 Ms. Beck.

18 Mr. --

19 MR. PROCTOR: Hayet.

20 CHAIRMAN BOYER: Mr. Hayet? Okay.

21 PHIL HAYET

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

24 //

25 //

1 DIRECT EXAMINATION

2 BY MR. PROCTOR:

3 Q Mr. Hayet, if you could state your name and
4 by whom you're employed.

5 A My name is Phil Hayet. My Company is Hayet
6 Power Systems Consulting.

7 Q Mr. Hayet, you were retained in this matter
8 and have filed with the Commission -- or the
9 Committee, and which is now filed with the
10 Commission, a report pertaining to your analysis of
11 the Chehalis purchase; is that correct?

12 A Yes, that's correct.

13 Q Do you have a summary of your findings and
14 analysis that you'd like to present?

15 A I do.

16 On June 20th, 2008, comments that I wrote
17 concerning my review of Rocky Mountain Power's
18 request to acquire SUEZ Energy Generation's Chehalis
19 plant were filed by the Committee of Consumer
20 Services in this proceeding.

21 My evaluation primarily focused on the
22 reasonableness of PacifiCorp's economic evaluation
23 and assessed the condition of the plant based on a
24 review of documents through discovery.

25 The purpose of my review was to determine

1 whether I believe that PacifiCorp's evaluation was
2 reasonable and would provide benefits to Utah
3 ratepayers.

4 My ultimate conclusion was that, while the
5 acquisition of the Chehalis plant appears to be a
6 reasonable investment, given that the plant can be
7 required -- can be acquired at a substantial discount
8 to the cost to construct a new combined-cycle unit, I
9 found many issues that raised red flags and caused me
10 to be concerned that the value of the plant is not
11 quite the bargain that PacifiCorp purports it to be.

12 I believe that the benefits of the plant
13 will be virtually assured from the perspective of the
14 utility shareholders, as they will almost immediately
15 begin to earn a return on and return of their
16 invested capital as soon as the next rate case is
17 complete.

18 However, the benefits of the Company's
19 ratepayers are more speculative. While I believe
20 Chehalis almost certainly will be valuable to the
21 Company's shareholders right from the start, I also
22 believe that it will offer value to PacifiCorp's
23 customers, but over a longer term. Based on the
24 company's economic evaluation, customers will incur
25 higher costs with Chehalis for the first seven years

1 and then will realize positive benefits after that.

2 Customer benefits are more speculative than
3 shareholder benefits and it may take even longer for
4 customers to realize benefits if the Company
5 encounters additional costs associated with acquiring
6 and operating the Chehalis plant that were not
7 incorporated in the Company's economic analysis.

8 Because the Chehalis acquisition is taking
9 place without the usual solicitation process, which
10 is a more ideal approach to ascertain market value,
11 and because I have identified numerous concerns about
12 the Chehalis plant, I believe that the Commission
13 should establish conditions that share the risk of
14 the acquisition in a reasonable manner between the
15 Company and the ratepayer.

16 Concern regarding Chehalis. Not all costs
17 have been incorporated in the economic evaluation,
18 and additional costs may arise that have not been
19 accounted for. Costs not accounted for in the
20 economic evaluation include purchase of the spare
21 transformer from SUEZ at a cost of .6 million,
22 partial payment for the GE services agreement in the
23 amount of 4.7 million, payment of 1.6 million for
24 outside consultants and lawyers associated with the
25 acquisition, integration capital costs of 1.2

1 million, other capital costs of 2 million, greenhouse
2 gas mitigation fees in Washington of 1.5 million.

3 The Company pointed out that the location
4 of Chehalis is not optimal to the east side due to
5 transmission limits. Acquiring or building a
6 physical resource on the west side of the system when
7 resources are needed on the east side increases
8 physical delivery risk in Utah.

9 When the new Path C transmission upgrade is
10 completed in 2010, a significant amount of Jim
11 Bridger capacity will be accessible by the east side.
12 The risk that arises would occur in the event that
13 there is an outage of the Jim Bridger capacity or of
14 the transmission line itself.

15 PacifiCorp points out that one potential
16 solution to mitigate this identified risk will be
17 PacifiCorp's Gateway transmission project which will
18 add an additional amount of capacity from Nevada to
19 Utah. However, to date, it's my understanding that
20 there's no commitment regarding owning this
21 transmission line.

22 Due diligence concerns. I've done a
23 complete evaluation of the due diligence results and
24 identify some concerns as follows: First, I point
25 out the Company's generation team found and stated

1 the following: Although there are several risk
2 concerns, an additional investment in the plant will
3 be necessary. No fatal flaws were uncovered that
4 would indicate the Company should not pursue purchase
5 of the facility. We have heard today Mr. Bird
6 reiterate this statement.

7 At the same time that the Company makes the
8 statement, the Company's own evaluation states other
9 issues that they do point out through the due
10 diligence assessment. For example, potential
11 compressor blade failures. A partial solution may
12 involve derating the capacity of the unit during the
13 summer period.

14 If this potential compressor blade failure
15 occurs, it could result in costs of 16 to 20 million
16 dollars, not accounting for the replacement power
17 costs that might be incurred.

18 Chehalis has been designed for an emergent
19 owner. The due diligence reports stated that there
20 were a number of original design issues that have
21 impacted or continue to impact the plant's
22 operational flexibility, reliability and performance.
23 These issues are not deal killers, as the Company
24 states, but do have an operational impact and create
25 some additional risk.

1 In general, the original plant design
2 included very little equipment to support routine
3 cycling, and these are the Company's own comments.
4 This included no auxiliary boiler, no startup vacuum
5 pump, limited consideration for cycling duty, and no
6 dew point heater. There are no building structures
7 to cover equipment or provide for adequate storage.
8 Single hundred percent boiler feed pump, no emergency
9 diesel generator, additional integration costs, and
10 there will be requirements for additional capital
11 costs.

12 Mr. Bird's rebuttal testimony seems to
13 imply that these issues do not pose significant risks
14 compared to risks faced by other PacifiCorp resources
15 such as Currant Creek or Lakeside; however, I have
16 never heard PacifiCorp explain that there are a
17 number of design issues associated with those units
18 and that can impact their operational flexibility,
19 reliability, and performance.

20 Concerning the environmental assessment,
21 the Company's environmental assessment report
22 expressed concern that Chehalis' environment program
23 appeared to be very weak prior to December of 2006,
24 that documentation of records for this period were
25 not readily available for review at the site, and

1 that a review of external audit reports indicates a
2 general inattention to detail by the operations and
3 maintenance groups.

4 I now turn attention to the review of the
5 economic evaluation. The value Chehalis brings is as
6 follows: The Company will incur higher capital costs
7 in the 2008 to 2012 period due to adding a new
8 resource prior to the need for new capacity in 2012,
9 but during this period, these higher capital costs
10 will be partially offset because Chehalis' fuel costs
11 will be a bargain compared to the cost to purchase
12 energy that it will avoid, which will lead to fuel
13 cost savings. This is per the analysis that the
14 Company has performed.

15 Overall, customers will incur a higher cost
16 of \$31 million with Chehalis between 2008 and 2012;
17 however, beginning in 2013 and continuing through
18 2026, there will be large savings in capital costs
19 due to the acquisition of Chehalis since its capital
20 cost is much lower than the capital cost of the 2012
21 east side CCGT unit that can be eliminated due to the
22 Chehalis acquisition.

23 Overall, net benefits are 173 million
24 during that later period. The sum of the 31 million
25 in higher costs during the early period with the 173

1 million in lower costs during the latter period
2 results in the total Chehalis benefit of 142 million
3 on an MPV basis.

4 That was one of the analyses that Mr.
5 Duvall presented. He also presented another case in
6 which the assumption of the displaced CCGT unit was
7 an even higher cost, and that led to, as I recall, a
8 \$192 million benefit.

9 Having described the concerns that I have,
10 the -- there is one other concern that I would point
11 out that I analyzed, and that had to do with the
12 Bodington analysis. Mr. Bodington conducted a fair
13 analysis of the Chehalis plant in a way that seems
14 reasonable, which is conducted by many parties in
15 this type of situation.

16 The issue that I raise with Mr. Bodington's
17 analysis had to do with the assumption of an 80
18 percent capacity factor running the Chehalis plant.
19 I -- in all the analyses that the Company conducted,
20 80 percent was significantly higher than the capacity
21 factor that Chehalis has ever showed. It showed more
22 on the order of about a 43 percent capacity factor.

23 Therefore, I believe that, while
24 Mr. Bodington's analysis may be fairly equivalent to
25 the value that the Company has decided that it will

1 pay for the plant, I think it's possible that the
2 Bodington analysis slightly overstates the value that
3 Mr. Bodington determined.

4 In terms of conditions, given our concerns
5 that we have with things such as the environmental,
6 the additional potential capital costs, concerns
7 about the operation of -- the potential operational
8 issues of Chehalis, we recommend that -- Chehalis may
9 well be a sound purchase; however, I've identified
10 enough issues concerning Chehalis that caused me to
11 recommend placing conditions on the acquisition.

12 These include the 8.7 million exclusivity
13 payment. Customers should not be made to bear the
14 cost of paying for the exclusivity payment in the
15 event that PacifiCorp decides to back away from the
16 deal with SUEZ. For any capital costs above the
17 requested 305 million that may arise between now and
18 closing, PacifiCorp should be responsible to pay that
19 amount, especially given that this is the amount the
20 economic evaluation was based on.

21 But in the alternative that disallowing
22 these costs if the Commission shall choose, another
23 option is that any additional costs should be
24 presented and fully supported in a subsequent rate
25 case subject to a full prudence review.

1 Capital improvement costs. The Company may
2 need to spend 3 million for capital improvements. I
3 recommend that PacifiCorp should be limited to
4 recover no more for capital improvement costs than
5 the amount that has been included in PacifiCorp's
6 economic valuation or in its due diligence analyses.

7 I'm willing to accept that this condition
8 be limited to the first three years of operation of
9 the plant, but, again, in the alternative, at the
10 Commission's choosing, they -- I feel it may be
11 appropriate to allow the Commission to consider
12 disallowing these costs, and any additional costs
13 should be presented and fully supported in a
14 subsequent rate case subject to a full prudence
15 review.

16 The Committee has concerns regarding the
17 maintenance prepayment costs of 4.7 million, outside
18 consultant lawyer fees, 1.6 million, and greenhouse
19 gas mitigation fees, 1.5 million, which are all costs
20 that were either not included in the Company's
21 economic evaluation or were only identified at the
22 time the Company filed its rebuttal testimony on July
23 11th.

24 The Committee believes that there is
25 justification to disallow these costs because they

1 have not been all carefully evaluated; however, in
2 the alternative, these additional costs should be
3 presented and fully supported in a subsequent rate
4 case subject to a full prudence review, again, if the
5 Commission prefers that option.

6 The serious compressor blade failure issue.
7 A risk of a serious compressor blade failure exists
8 at Chehalis, and if it does, it could cost as much as
9 16 to 20 million to repair the unit. The cost would
10 be higher after accounting for any replacement costs
11 that PacifiCorp would bear -- would incur.

12 I recommend that for a period of at least
13 three years, PacifiCorp should bear the cost of any
14 serious compressor blade failure; however, the
15 Commission may want to consider devising some cost
16 sharing that could be implemented between
17 shareholders and customers.

18 Foggers. Operation of the foggers will
19 lower the value of Chehalis, potentially eliminating
20 as much as 34 megawatts of capacity during the summer
21 period. For purposes of ratemaking, I recommend that
22 PacifiCorp should be required to use the full
23 seasonal capacity ratings of the unit without
24 accounting for the fogger deration.

25 Environmental concerns. I believe that

1 customers should be held harmless for any
2 environmental issues that may arise in the future for
3 the period prior to when PacifiCorp acquired the
4 plant. I am willing to accept that this condition
5 could expire after three years. In fact, I heard
6 today from Mr. Bird that it's possible that there is
7 an indemnity clause already that would protect
8 customers, so that may not be an issue whatsoever.

9 Finally, uneconomic generation. Given the
10 Committee's position regarding uneconomic generation
11 that has arisen in most recent rate cases, I
12 recommend that in all future rate cases the Company
13 must be required to test to make sure that Chehalis
14 is dispatched in the Company's ratemaking models such
15 that no uneconomic generation occurs.

16 And that completes my comments.

17 MR. PROCTOR: Mr. Hayet is available for
18 cross.

19 CHAIRMAN BOYER: Thank you, Mr. Hayet.

20 Does the Company have cross examination for
21 Mr. Hayet?

22 MR. MONSON: No questions.

23 CHAIRMAN BOYER: Thank you.

24 Ms. Schmid?

25 MS. SCHMID: No questions.

1 CHAIRMAN BOYER: Mr. Dodge?

2 MR. DODGE: No questions.

3 CHAIRMAN BOYER: Commissioner Allen?

4 COMMISSIONER ALLEN: I have one question,
5 and maybe it just shows that I haven't been through
6 this process before as far as how these plants
7 operate, but you mentioned, Mr. Hayet, that you were
8 worried -- or concerned about the capacity factor.
9 Mr. Bodington, I think it was, said it was about 80
10 percent. You said 43. But isn't the nature of a
11 merchant plant that they're run differently than the
12 Company might run it as an online resource, or am I
13 misunderstanding how that works?

14 THE WITNESS: Effectively, the Company
15 dispatches its resources right now to the market.
16 The merchant also effectively dispatches its
17 resources to the market, unless, of course, it has
18 firm contracts and a schedule of energy that it has
19 to sell.

20 Assuming that it's all dispatched to the
21 market, then, effectively, the capacity factor would
22 fairly well be the same, and, therefore, I don't
23 think that we're going to expect that the operation
24 of the plant is going to be too much different as a
25 merchant plant or as if PacifiCorp running it. It

1 will most likely range -- be in that 40 percent range
2 through the future, as the modeling has suggested.

3 COMMISSIONER ALLEN: Thank you.

4 CHAIRMAN BOYER: Just one or two questions,
5 Mr. Hayet. You've identified a number of risks
6 against which you think ratepayers should be
7 protected, including the compressor life failure
8 problem or potential problem, the derating because of
9 fogging and so on and so forth, environmental risks.
10 Aren't -- are those risks risks that would typically
11 present themselves in any kind of an acquisition,
12 whether it be new construction or not?

13 THE WITNESS: Yes, I think that they would.

14 CHAIRMAN BOYER: And how would they
15 normally -- how would that risk be apportioned
16 normally in a --

17 THE WITNESS: It's a risk that I think that
18 would be considered in the development of what the
19 cost is that the Company might pay for that resource.

20 CHAIRMAN BOYER: Okay. Thank you,
21 Mr. Hayet.

22 Any redirect, Mr. --

23 MR. PROCTOR: No. Thank you.

24 CHAIRMAN BOYER: -- Proctor? Thank you
25 very much.

1 Thank you for participating, Mr. Hayet.

2 THE WITNESS: Thank you.

3 CHAIRMAN BOYER: Reporter, how are you
4 doing?

5 THE REPORTER: Fine.

6 CHAIRMAN BOYER: Very well? Okay.

7 Well, I think this might be an appropriate
8 time to hear from Mr. Oliver, our independent
9 evaluator.

10 Ms. Schmid, were you going to assist Mr.
11 Oliver?

12 MS. SCHMID: Yes.

13 MR. PROCTOR: Mr. Chairman?

14 CHAIRMAN BOYER: Yes, Mr. Proctor?

15 MR. PROCTOR: May I have five minutes?

16 CHAIRMAN BOYER: You may. Let's take a
17 five-minute --

18 MR. PROCTOR: Yeah. Before he testifies.

19 CHAIRMAN BOYER: We'll take a five-minute
20 recess --

21 MR. PROCTOR: Thank you.

22 CHAIRMAN BOYER: -- to regroup. Thank you.

23 (Recess, 11:28 a.m.)

24 (Reconvened, 11:35 a.m.)

25 CHAIRMAN BOYER: Let's go back on the

1 record, and why don't you restate your concern,
2 Ms. Schmid, and then we'll hear from Mr. Proctor.

3 MS. SCHMID: Thank you.

4 Committee witness Mr. Hayet characterized
5 the Bodington report and things therein inaccurately,
6 and I believe it would be to the Commission's
7 advantage to allow Mr. Bodington to be re-called to
8 explain precisely what he did with regard to the
9 capacity factor. His recall testimony -- his
10 testimony that I propose -- the purpose of his being
11 re-called would be limited to the 80 percent capacity
12 factor and would not go into other matters, and,
13 again, I believe it would assist the Commission in
14 having a full and fair record upon which to make its
15 decision.

16 CHAIRMAN BOYER: Thank you, Ms. Schmid.

17 Mr. Proctor?

18 MR. PROCTOR: The way you develop that full
19 and fair record is let's re-call Mr. Hayet and
20 counsel can re-examine him, because that's the way it
21 would have been done in the first place.

22 MS. SCHMID: Counsel could do that;
23 however, we have the expert who prepared the report
24 here, the Bodington report, and he is the best source
25 of what he did, not counsel's redirect -- or not

1 counsel's cross examination questioning.

2 MR. PROCTOR: The Division's counsel is
3 asking you to determine that, indeed, Mr. Hayet did
4 misstate the testimony, without benefit of having
5 been tested by cross examination. You're just
6 assuming that he did, and now you're going to let the
7 Division's witness come in and essentially contradict
8 or challenge what Mr. Hayet said, and that's just not
9 an appropriate process.

10 The appropriate process -- that's what
11 cross examination is for. That's the way it should
12 be done. And Mr. Hayet -- we've gone to get him.
13 He'll be back. We can re-call him if you'd like.

14 CHAIRMAN BOYER: Okay. Give us a moment,
15 if you would, please.

16 (Time lapse.)

17 CHAIRMAN BOYER: Ms. Schmid, while we
18 appreciate your concern, Mr. Hayet was simply
19 offering his opinion of what he thought
20 Mr. Bodington's testimony said, but we have
21 Mr. Bodington's testimony and we have read it, and
22 we've heard his summary as well, so I don't -- I
23 think we'll deny your request.

24 MS. SCHMID: Thank you.

25 CHAIRMAN BOYER: Thank you.

1 Okay. Now, that brings us, again, once
2 again, to Mr. Oliver, the independent evaluator in
3 this case. Ms. Schmid?

4 MS. SCHMID: Thank you.

5 WAYNE OLIVER
6 called as a witness and sworn, was examined and
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MS. SCHMID:

10 Q Mr. Oliver, have you been sworn in this
11 docket?

12 A Yes, I have.

13 Q By whom are you employed?

14 A I'm employed by Merrimack Energy. I'm
15 employed by Merrimack Energy as principal of the
16 Company.

17 Q And what is your connection to and
18 association with this docket? By whom have you been
19 retained?

20 A I was retained by the Utah Public Service
21 Commission to serve as the independent evaluator for
22 this proceeding.

23 Q And you have prepared what has been
24 admitted as PSC-IE Exhibit Number A with Exhibit
25 Number WO-1.0, Exhibit Number WO-1.1, in both

1 confidential and nonconfidential forms, and PSC-IE
2 Exhibit Number B and PSC-IE Exhibit Number WO-1.0
3 Supp; is that correct?

4 A That's correct.

5 Q And these have been admitted?

6 A Yes, they have.

7 Q Do you have any changes or corrections to
8 these?

9 A No, I do not.

10 Q And if you were asked the same questions as
11 is in this prefiled testimony, would your answers be
12 the same?

13 A Yes, they would.

14 Q Do you have a summary you would like to
15 give?

16 A Yes.

17 Thank you very much for the opportunity to
18 testify before you. I have filed both direct
19 testimony on June 20th, 2008 and supplemental
20 testimony on July 10th, 2008.

21 It is my view that the Chehalis plant
22 should be subject to the same economic analysis as
23 the 2012 RFP bids, since the RFP resources and the
24 Chehalis plant were being considered and evaluated
25 during the same general time frame.

1 This would include the step one, step two,
2 and step three analysis conducted by PacifiCorp for
3 the bids from the 2012 RFP as the basis for
4 evaluation of the bids and the Chehalis plant.
5 PacifiCorp's initial filing and testimony did not go
6 far enough, in my view, in meeting this requirement.

7 I submitted two sets of data requests to
8 the Company to provide this information. In
9 addition, the Division also submitted data requests
10 requesting similar information. The Company
11 eventually provided the information requested;
12 however, there was an error in the step three
13 stochastic analysis related to the amount of pipeline
14 demand charges included for each of the RFP bids, the
15 gas-fired RFP bids. That analysis was ultimately
16 corrected by PacifiCorp.

17 The Company provided the revised
18 information and analysis shortly before the due date
19 for the direct testimony in this case. I basically
20 reserve my assessment and recommendations based on
21 review of the corrected information due to the impact
22 of the adjustment on the rankings of the bids.

23 I was able to document and verify the
24 corrected pipeline demand charge information
25 eventually provided by PacifiCorp.

1 Based on this correction, the portfolio
2 with Chehalis was the lowest-cost portfolio on a
3 stochastic average basis, indicating that the project
4 would have been selected had it competed in the 2012
5 RFP. I then concluded, based on the record and based
6 on my review of the analysis, that the acquisition of
7 the Chehalis plant is in the public interest and
8 should provide economic benefits to customers, while
9 minimizing the construction cost risks associated
10 with construction of new generating resource options.
11 Thank you.

12 MS. SCHMID: Mr. Oliver is now available
13 for questioning.

14 CHAIRMAN BOYER: Thank you, Mr. Oliver.

15 Does the Company have questions of
16 Mr. Oliver?

17 MR. MONSON: No questions. Thank you.

18 CHAIRMAN BOYER: Mr. Proctor, cross
19 examination?

20 MR. PROCTOR: Yes, I do.

21 CHAIRMAN BOYER: Please proceed.

22 MR. PROCTOR: Thank you, Mr. Chairman.

23 CROSS EXAMINATION

24 BY MR. PROCTOR:

25 Q Mr. Oliver, on Page 3 to your supplemental

1 testimony filed July 10th, I have some questions that
2 begin with Line 36 and 39 -- through 39, and that
3 was, in fact, your concluding statement of your
4 summary, correct?

5 A That's correct.

6 Q That the Chehalis plant would have been
7 selected into the 2012 RFP. Now, is not one of the
8 qualifications for bidders in the 2012 RFP that the
9 energy is to be delivered at an east side connection?

10 A I believe the conditions -- the
11 requirements in the RFP for competing in the RFP was
12 that the power had to be delivered to connections on
13 the east side, yes.

14 Q All right. At the present time, today, as
15 we sit here, does the Chehalis plant qualify with
16 that requirement?

17 A No, it does not.

18 Q All right. Now, there was -- my
19 understanding, and correct me if I am wrong, but that
20 the intent is that, upon construction of Path C, that
21 then the energy from Chehalis would be deliverable to
22 the east side. Is that your understanding?

23 A I can't testify to that. I'm not certain.

24 Q Do you know enough about the particular
25 use -- or, excuse me, plans for Path C and Chehalis

1 to say whether or not the Path C is a condition
2 precedent to the Chehalis plant being a benefit to
3 the east side of the system?

4 A The only familiarity I have with the Path C
5 project and the impacts it will have is based on the
6 testimony of Mr. Bird, and my recollection was that
7 with regard to Path C, that Path C would allow -- the
8 development of Path C would allow power from the
9 Bridger plant to serve the east side of the system.

10 Q Now, earlier today, Mr. Duvall was asked
11 the question whether or not the plant, the Chehalis
12 plant, had value in the event that Path C was not
13 constructed, and Mr. Duvall said yes. In your
14 judgment, if the Path C was not constructed, so
15 essentially the Chehalis plant would be in its
16 present configuration regarding transmission access,
17 would your conclusions about the public interest of
18 the Chehalis acquisition change?

19 A No. It's my understanding that Chehalis --
20 that the transaction to purchase Chehalis also
21 involves transmission access as well and that the
22 Company plans its system on a system-wide basis.
23 That includes both east and west side resources.

24 Q But insofar as a comparison with Chehalis
25 without Path C and the 2012 RFP, that, in fact, would

1 not be a favorable comparison because, indeed,
2 Chehalis, in its present configuration, does not even
3 qualify for the 2012 RFP, correct?

4 A Well, Chehalis may not have qualified based
5 on the requirement -- the delivery point requirement,
6 but, as I mentioned, in looking at the system-wide
7 impacts, you know, from the perspective that that
8 resource was available at a time when other resources
9 were being evaluated for the system through the 2012
10 RFP, that's the way I approached the analysis.

11 MR. PROCTOR: Okay. Thank you very much,
12 Mr. Oliver. I have nothing further.

13 CHAIRMAN BOYER: Thank you, Mr. Proctor.

14 Mr. Dodge, do you have questions?

15 MR. DODGE: I have no questions.

16 CHAIRMAN BOYER: Commissioner Allen? No?
17 And neither do I.

18 Thank you, Mr. Oliver --

19 THE WITNESS: Thank you.

20 CHAIRMAN BOYER: Thank you for
21 participating.

22 I think that completes the testimony
23 portion of this hearing. I know there's some
24 dangling participles and a few issues out there still
25 around.

1 Is there anything that you wish to add,
2 Mr. Dodge, at this point?

3 MR. DODGE: I don't believe so, unless
4 you're asking for views on any particular issues.

5 CHAIRMAN BOYER: What I would like to do
6 now is take a 15-minute recess, and we'll come back
7 and give you further guidance, if you're all okay
8 with that.

9 (Recess, 11:47 a.m.)

10 (Reconvened, 11:55 a.m.)

11 CHAIRMAN BOYER: Let's go back on the
12 record. Counsel is all here.

13 We have determined that we will not require
14 additional argument on the legal issues. The issues
15 are fully and expertly briefed for us for our
16 consideration.

17 We will work with all dispatch to get the
18 order out as soon as possible, and to further that
19 end, we're going to ask the Company if they would be
20 so kind as to present us with a draft of the
21 procedural portion of the order within four or five
22 days -- I don't know where that falls, but early next
23 week -- and we'll draft the rest of the order, and we
24 thank you all for your participation, and unless
25 there's nothing further, that will terminate this

1 hearing. Thank you very much.

2 (Whereupon the taking of the hearing was
3 concluded at 11:56 a.m.)

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

I, RENEE L. STACY, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public for the State of Utah, certify:

That the foregoing transcript, consisting of Pages 1 to 117, was stenographically reported by me at the time and place hereinbefore set forth; that the same was thereafter reduced to typewritten form, and that the foregoing is a true and correct transcript of those proceedings.

I further certify that I am neither counsel for nor related to any party to said action nor in anywise interested in the outcome thereof.

IN WITNESS WHEREOF, I have subscribed my name and affixed my seal this 18th day of June, 2008.

RENEE L. STACY, CSR, RPR
Notary Public in and for the
County of Salt Lake, State of Utah

My Commission Expires:

November 9, 2011

