

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of The Application        ) Docket No.  
of Rocky Mountain Power for a        ) 08-035-42  
Certificate of Convenience and        )  
Necessity Authorizing Construction    )  
of the Populus-to-Terminal 345 kV     )  
Transmission Line Project.            )

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TRANSCRIPT OF HEARING PROCEEDINGS

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

DATE:                August 26, 2008

TIME:                9:36 a.m.

REPORTED BY:        Kelly L. Wilburn, CSR, RPR

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4 Ric Campbell  
5 Ron Allen

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(The previous exhibits and related testimony were prefiled and are part of the PSC record and filed at the Commission.)

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1 AUGUST 26, 2008 9:36 A.M.

2 P R O C E E D I N G S

3 CHAIRMAN BOYER: Welcome everyone. This is  
4 the time and the place set for the hearing in Docket  
5 No. 08-035-42. In the Matter of the Application of  
6 Rocky Mountain Power for a Certificate of Convenience  
7 and Necessity Authorizing Construction of the  
8 Populus-to-Terminal 345 kV Transmission Line  
9 product -- Project.

10 And when we noticed this hearing we did sort  
11 of restrict the scope of the testimony we'll hear  
12 today. We're talking about the Certificate of  
13 Convenience and Necessity. Not extraneous issues like  
14 siting, or cost recovery, or prudence, or those sorts  
15 of things. And so we'll proceed on that basis.

16 Let's begin by taking appearances. And let's  
17 start with the company. Mr. Smith?

18 MR. SMITH: My name is Ted Smith with the law  
19 firm of Stoel Rives here in Salt Lake City, Utah,  
20 appearing on behalf of Rocky Mountain Power.

21 MR. RICHARDS: I'm Jeff Richards. I'm  
22 in-house counsel for Rocky Mountain Power.

23 CHAIRMAN BOYER: Welcome Mr. Richards.

24 MR. CUPPARO: I'm John Cupparo, vice  
25 president of transmission.

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1                   CHAIRMAN BOYER: Thank you Mr. Cupparo.  
2 Let's go to the Division, the Committee, and then  
3 Mr. Michel. Just to keep it straight in my mind.

4                   Ms. Schmid?

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

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

10                  CHAIRMAN BOYER: Thank you Mr. Proctor.

11                  MR. MICHEL: Steven Michel appearing on  
12 behalf of Western Resource Advocates.

13                  CHAIRMAN BOYER: And Ms. Kelly wearing a  
14 different hat today?

15                  MS. KELLY: Yes.

16                  CHAIRMAN BOYER: Okay. Welcome back,  
17 Ms. Kelly.

18                  MS. KELLY: Thank you.

19                  CHAIRMAN BOYER: Okay. With that then let's  
20 begin. We have -- as always we have -- the three  
21 commissioners have read the pleadings and the comments  
22 that have been filed today. But we'll entertain brief  
23 summaries and then you may proceed with your, your  
24 evidence, your witness, and submission of the, the  
25 testimony of Ms. Seppi and Mr. Williams.

1           MR. SMITH: So should I proceed then with the  
2 opening statement here then?

3           CHAIRMAN BOYER: Or submit those two pieces  
4 of evidence. Whichever is your pleasure, Mr. Smith.

5           MR. SMITH: Well, perhaps we can do that. We  
6 would offer the direct testimony of Sharon Seppi. And  
7 by that we mean the errata version. There was a  
8 second version filed that changed one number. And I  
9 believe we've handed that to -- that version to the,  
10 the reporter and to Ms. Orchard.

11           So we would offer that into evidence,  
12 subject -- based on the agreement of the parties. And  
13 then Mr. Bruce Williams filed a single piece of direct  
14 short testimony, a very short piece of testimony on  
15 the financial capability of the company to finance the  
16 project at issue. And we would offer that.

17           So if we could maybe perhaps mark Ms. Seppi's  
18 as -- would RMP 1 be okay, Mr. Chairman, or would you?

19           CHAIRMAN BOYER: RMP 1 would be fine.

20           MR. SMITH: Okay, RMP 1 for Ms. Seppi, and  
21 RMP 2 for Mr. Williams. And we'd offer those into  
22 evidence.

23           CHAIRMAN BOYER: Thank you Mr. Smith. Are  
24 there objections to the admissions of the -- admission  
25 of the written direct testimony of Ms. Seppi and

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1 Mr. Williams?

2 MS. SCHMID: No objection.

3 MR. MICHEL: No objection.

4 CHAIRMAN BOYER: Very well. They are both  
5 then admitted into evidence as RMP 1 and RMP 2. Thank  
6 you Mr. Smith. You may proceed.

7 (Exhibit Nos. RMP 1 and RMP 2 were admitted.)

8 MR. SMITH: Yes. Let me -- and I will try to  
9 make this very brief. Rocky Mountain Power is here  
10 today seeking a Certificate of Convenience and  
11 Necessity for the Utah portions of a new transmission  
12 line from what is called the Terminal Substation --  
13 which is out near the Salt Lake City Airport -- that  
14 would go north all the way into Idaho, to a substation  
15 known as the Populus Substation near Downey, Idaho.

16 The Company has sought the certificate  
17 pursuant to Section 54-4-25, Subsection 1, which  
18 states that the utility --

19 "A utility shall not construct a  
20 line or route without first having  
21 obtained from the Commission a  
22 certificate that the present or future  
23 public convenience and necessity does or  
24 will require the construction."

25 Now, the Committee in its comments has raised



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1 some legitimate questions about creative rate of  
2 clarity regarding the, first of all the circumstances  
3 in which a certificate must be sought. And the  
4 showing that would need to be made in such a, a  
5 proceeding.

6 The Company frankly agrees in general with  
7 the comments of the Committee. We support the effort  
8 to create better clarity. We would note, however,  
9 that for purposes of, of that question in this  
10 proceeding, that question is really a broader question  
11 than we can resolve here. Because obviously 54-4-25  
12 would apply to certainly the gas Company. It might  
13 even still apply in some instances to  
14 telecommunications companies.

15 And so while the Company is foursquare in  
16 agreement that that process could be clarified -- or I  
17 guess our only point is we can't really do that here.  
18 But we are more than willing to participate in a  
19 reasonable process to try and see if we can develop a  
20 rule or, I don't know whether -- perhaps even a  
21 statute or an amendment to 54-4-25 that would assist  
22 in that. And so as to the Committee, we, we do not  
23 fundamentally disagree with what their purpose is. We  
24 think that would be a good thing.

25 The only standards that are set forth in the

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1 statute by that 54-4-25 are the one I've already read,  
2 that the present or future convenience and necessity  
3 would require the line that the utility will not  
4 interfere with the plant of another utility. And  
5 certainly no other utility has intervened or otherwise  
6 indicated that this line would cause them any  
7 problems.

8           And finally, that the utility is either  
9 obtained or is in the process of obtaining the  
10 necessary consents, franchises, or permits from public  
11 authorities. And we can update you on that. There is  
12 still some work going on in Northern Utah with two  
13 cities and a county, but that is in process. And we  
14 believe, given that process, that it's appropriate at  
15 this point to issue the certificate.

16           Without really -- and let me go back to the  
17 first one, which the present future convenience. Let  
18 me just give a brief summary of three key areas of  
19 evidence that we believe clearly support the issuance  
20 of the certificate.

21           First, without regard to the question of  
22 bringing any more additional load into Northern Utah,  
23 Path C -- which is the term that's used to describe  
24 the facilities that currently exist from Northern  
25 Utah -- from Southern Idaho into Northern Utah. That

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1 group of facilities are already operating at capacity  
2 and must be supplemented as soon as possible.

3 In other words, there are current reliability  
4 issues with Path C that Mr. Cupparo addresses. I  
5 believe Dr. Zenger does to some degree as well.  
6 They're fur -- these issues are further complicated by  
7 the fact that as load in Northern Utah increases --  
8 and there's ample evidence that that load will  
9 continue to increase -- Path C is subject to possible  
10 further capacity reduction by the Company which may be  
11 required under the NERC reliability standards and WECC  
12 processes.

13 When you add the results of the load and  
14 resource studies that the Company has performed into  
15 the mix, they show that demand in Northern Utah will  
16 continue to grow. So the bottom line on that issue is  
17 that there is no dispute that there is an immediate  
18 and future need for additional transmission capability  
19 just to deal with these reliability issues related to  
20 lack of capacity.

21 Second, there are issues -- other issues  
22 related to the capacity of Path C and the ability of  
23 the Company to use the transmission to meet current  
24 and future demands. Another way of saying this is  
25 that the current limitations to Path C already can

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1 significantly constrain the ability of the Company to  
2 bring in excess power from the Northwest into Utah to  
3 meet demand when that demand is there. Or conversely  
4 to move power from Utah to the Northwest to meet  
5 energy demand in those areas.

6 MR. MICHEL: Mr. Chairman?

7 CHAIRMAN BOYER: Mr. Michel.

8 MR. MICHEL: Excuse me for interrupting. But  
9 this seems to be going well beyond an opening  
10 statement. Mr. Smith is not describing the evidence  
11 that his witness is gonna provide.

12 He is here sort of testifying, without being  
13 under oath, about reliability, constraints, capacity  
14 constraints, load growth. A number of things which  
15 that's why we have witnesses to testify. And, you  
16 know, I, I'm not up here, you know. I'm not gonna go  
17 and read Ms. Kelly's testimony into the record as an  
18 opening statement.

19 And I think if we could just maybe have a  
20 summary of what Rocky Mountain Power's case is gonna  
21 show. I mean that would, that would be fine. That  
22 would be an opening statement. But this seems to be  
23 going beyond that.

24 CHAIRMAN BOYER: Mr. Smith?

25 MR. SMITH: I thought that's what I was

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1 doing. And I do believe that all the points that I've  
2 made are points that were made in either Mr. Cupparo's  
3 or Dr. Zenger's testimony. I'm more than happy to try  
4 and shorten it up some, but --

5 CHAIRMAN BOYER: Why don't you speed it up.  
6 You did you preface your remarks as saying you were  
7 going to provide a summary. And I believe you've been  
8 telling us what the witnesses will testify to.

9 MR. SMITH: Okay.

10 CHAIRMAN BOYER: Or have testified to.

11 MR. SMITH: I -- and I can move it along.

12 CHAIRMAN BOYER: Thank you.

13 MR. SMITH: The point I was making with this  
14 last issue is that in order to maximize efficiency for  
15 the benefit of all customers to move power around on  
16 the PacifiCorp Rocky Mountain Power grid, this Path C  
17 and, and adding to this Path C is a critical factor.

18 Finally, there is both the current and future  
19 need for incrementally new transmission capacity to  
20 bring power from new generation sources to customer  
21 load centers like Salt Lake City. For example, the  
22 Company is currently investing in renewable wind  
23 energy in Wyoming.

24 The means by which that power would be  
25 delivered to Northern Utah is by moving the energy

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1 across Path C. With the current constraints and  
2 limitations Path C will be unable to deliver that  
3 load, -whether it's from wind, or thermal, or hydro,  
4 or any other form of generation -- in the absence of  
5 increased transmission capability.

6 And that's why the Populus-to-Terminal line  
7 is necessary. And I believe there -- those are not  
8 all the reasons, but those are three primary reasons  
9 that are discussed by Mr. Cupparo and also Dr. Zenger.  
10 I would note that the testimony of Mr. Cupparo,  
11 Dr. Zenger, sits essentially un rebutted on these  
12 points.

13 The surrebuttal testimony of the witness for  
14 Western Resource Advocates really ends with the  
15 statement that the WRA is not necessarily opposing the  
16 line, they just believe there needs to be a lot more  
17 information on the record. And we believe that the  
18 record is more than adequate to substantiate the  
19 granting of the certificate.

20 One point that I would like to make with  
21 regard to WRA is that they submit that a lot of  
22 additional information needs to be brought in related  
23 to the integrated resources plan of the Company. We  
24 submit that that information isn't necessary.

25 We agree the IRP is important. And

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1 Populus-to-Terminal is included in the 2007 IRP  
2 update. But as Mr. Cupparo testified in his written  
3 testimony, these factors are in addition to the IRP  
4 that demonstrate current and future need.

5 In other words the, the factors of  
6 reliability and the other items I talked about really  
7 sit separate and apart from the IRP and stand as  
8 independent justifications. Specifically,  
9 Mr. Cupparo's testimony refers to the load forecast in  
10 the 2007 IRP as a factor in the decision, rather than  
11 Populus Terminal standing as a specific outcome from  
12 the IRP.

13 But the most important point is the -- that  
14 supports the Company's position is the serious and  
15 undisputed reliability and limited capacity issues  
16 that have already been documented. It does not take  
17 an additional IRP study to know that these problems  
18 exist, that they're serious, and that the only  
19 solution is to build more transmission capacity as  
20 soon as reasonably possible.

21 Neither addit -- additional IRP analysis nor  
22 any of the other information that WRA wishes placed in  
23 the record will change those facts. WRA's proposal  
24 would accomp -- would accomplish really only further  
25 delay in a situation that is becoming more and more

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1 critical as time goes by.

2 Our view -- and I'm sure WRA disagrees with  
3 this. But our view is if you look closely at their  
4 proposal what they're essentially asking for is an  
5 up-front prudency analysis of Populus-to-Terminal. We  
6 recognize this is not a prudency case. Those issues  
7 will ultimately be addressed in appropriate rate cases  
8 down the road as to whether the investment was  
9 prudent. We believe that we will be able to so  
10 demonstrate.

11 The last thing I would like to do is, is if I  
12 could just use these charts -- which are really a  
13 replication of the map that's in Mr. Cupparo's  
14 testimony -- just to, if I could, make it clear of  
15 what we're talking about here.

16 Maybe standing here?

17 CHAIRMAN BOYER: Either there or perhaps  
18 with --

19 MR. SMITH: Let me take --

20 CHAIRMAN BOYER: At the risk of obscuring  
21 Governor Leavitt. Maybe on that, then everyone in the  
22 hearing room --

23 MR. SMITH: He's moved on to the federal  
24 government, so.

25 CHAIRMAN BOYER: That's true, he has.

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1           MR. SMITH: This is a blowup of the color  
2 photo that was in Mr. Cupparo's testimony, I believe.  
3 There are three major segments of this line we're  
4 talking about. The first is going from south to --  
5 whoops, sorry. I was gonna go south to north.

6           South to north you have the Terminal  
7 Substation out near the airport. And the, the blue  
8 line takes you up to the Ben Lomond substation. That  
9 is in a, an already existing transmission corridor.

10           All of the appropriate permits, et cetera, et  
11 cetera, for the Company to build in that corridor have  
12 been achieved. I don't believe there's any dispute  
13 anywhere in terms of the siting of, of that portion of  
14 the line.

15           The second portion -- go back to the other  
16 one. Is then from Ben Lomond to the state line. For  
17 the most part, the Company has completed all of the  
18 permits that it needs. There are still some issues  
19 with two cities: The City of Elwood, City of Willard,  
20 and Box Elder County. And we are well on our way to  
21 hopefully receiving those permits right away. But the  
22 process is undergoing the public process as well as  
23 the requests for permits.

24           The final segment is from the state line to  
25 Downey, but that is not what we're here to ask you

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1 about. But as the Company indicates, the appropriate  
2 permits have been obtained for those sections. So at  
3 this point, while siting is not an issue, we did want  
4 you to at least see the route that is being taken.  
5 And also to give you a very quick update on the  
6 current status of the, of the permitting process.

7 Bottom line is, the vast majority of this  
8 route is ready to move forward with construction. And  
9 the remainder of that will be obtained in due course  
10 so we can -- and, and one of the points I think that's  
11 critical is we can begin construction on portions of  
12 this right-of-way as we work through the process in,  
13 in the middle segment.

14 Let me just conclude with this. The Company,  
15 under the statute, can't move forward without a  
16 certificate. It would like to begin portions of the  
17 construction of this line in October -- just a few  
18 weeks away -- but needs a certificate before it can  
19 finalize the bids on the project.

20 We believe the evidence is undisputed that  
21 there is both current and future need for this line.  
22 And that the Company, as required by statute, has  
23 obtained or is in the process of obtaining the  
24 necessary permits. Thus, we believe the record  
25 overwhelmingly or will overwhelmingly support the

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1 granting of the certificate. Thank you.

2 CHAIRMAN BOYER: Okay. Thank you, Mr. Smith.

3 Shall we commence with Mr. Cupparo now?

4 MR. SMITH: Certainly.

5 MS. SCHMID: Um --

6 CHAIRMAN BOYER: Ms. Schmid?

7 MS. SCHMID: Pardon me. We have an

8 intervenor who has arrived, Mr. Jay?

9 MR. AGUILAR: Aguilar.

10 MS SCHMID: Aguilar, representing Willard.

11 Could we have him make an appearance and perhaps sit  
12 up there?

13 CHAIRMAN BOYER: Certainly. Mr. Aguilar, are  
14 you an attorney or?

15 MR. AGUILAR: No, I'm not.

16 CHAIRMAN BOYER: And you're here  
17 representing?

18 MR. AGUILAR: Willard City.

19 CHAIRMAN BOYER: Willard City? Okay, very  
20 well. Why don't you take a seat at -- over here by  
21 Ms. Kelly if you would, please. To my left, your  
22 right. And let's have you read and spell your name  
23 into the record, please, and your address.

24 MR. AGUILAR: Jay Aguilar, representing  
25 Willard City. My last name is spelled A-g-u-i-l-a-r.

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1 My address is 50 West and -- 50 West and 80 South in  
2 Willard City, Utah.

3 CHAIRMAN BOYER: And Mr. Aguilar, what -- in  
4 what capacity -- are you employed by?

5 MR. AGUILAR: City planner for Willard City.

6 CHAIRMAN BOYER: Very well. Welcome.

7 MR. AGUILAR: Thank you.

8 CHAIRMAN BOYER: Inasmuch as you just came,  
9 we're going to proceed with the Company's witnesses  
10 first. We'll have an opportunity to cross examine  
11 them. The commissioners may ask questions. There  
12 will be redirect.

13 And then we'll move to the Division, the  
14 Committee, Mr. Michel next to you with Western  
15 Resource Advocates, and then if you have comments  
16 we'll hear from you as well. So now we'll hear from  
17 Mr. Cupparo.

18 MR. SMITH: We will call John Cupparo.

19 (Mr. Cupparo was sworn.)

20 JOHN CUPPARO,  
21 called as a witness, having been duly sworn,  
22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. SMITH:

25 Q. Mr. Cupparo, could you just make sure

20

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1 that's -- press the button, make sure it's on there.

2 A. Looks like it's on.

3 Q. Okay. Would you give your name, business  
4 address, and by whom you're employed?

5 A. My name is John Cupparo. My business address  
6 is 825 Northeast Multnomah, Portland, Oregon. I'm  
7 employed by PacifiCorp as vice president of  
8 transmission.

9 Q. Okay. Could you just give a very, very brief  
10 description of your educational background and your  
11 general work experience?

12 A. I have a Bachelor of Science in Computer  
13 Information Systems from Colorado State University. I  
14 have spent the last 23 years in energy. Primarily  
15 supporting both gas, oil, and electricity entities,  
16 both on the trading and operations side.

17 Q. And how long have you been an employee of  
18 PacifiCorp?

19 A. I've been a PacifiCorp employee since 2000.

20 Q. Okay. Would you give a brief description of  
21 the current position that you hold at PacifiCorp?

22 A. I'm responsible for the six state  
23 trans -- six-state transmission system that supports  
24 both Rocky Mountain Power and Pacific Power. I have  
25 responsibility for tariff administration. That is our

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1 FERC tariff. Making sure that we're in compliance  
2 with Open Access rules.

3 As well as making sure that we're providing  
4 access to the system for interconnections as well as  
5 service. I'm also responsible for the main grid  
6 planning function. We are responsible for reviewing  
7 and proposing system upgrades for voltages 230 and  
8 above.

9 I've also got the delivery mechanisms for  
10 that plan. So those, those, investments that are  
11 proposed by our grade planning organization, I have  
12 the responsibility to deliver those projects. I also  
13 have responsibility for customer interface on major  
14 interconnections with other utilities or major network  
15 customers.

16 Q. So would it be fair to say that the line in  
17 question here, the Populus Terminal line, falls within  
18 your area of responsibility?

19 A. Yes. Yes, it does.

20 Q. Okay. Do you have any corrections that need  
21 to be made to your direct or rebuttal testimony?

22 A. I don't have any corrections. I would  
23 clarify that, that the estimate that we gave in my  
24 testimony is still in play. That we are still working  
25 through the competitive bid process as well as the

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1 right-of-way acquisition. So there is the potential  
2 that that number could have upward (the witness is  
3 talking too softly.)

4 THE COURT REPORTER: I'm sorry sir, you need  
5 to speak up. Could have what?

6 THE WITNESS: Upward pressure on that, that  
7 estimate.

8 THE COURT REPORTER: Thank you.

9 Q. (By Mr. Smith) And you're talking about the  
10 750 million -- \$750 million estimate that was in --

11 A. Correct.

12 Q. -- Ms. Seppi's testimony actually?

13 A. Correct.

14 MR. SMITH: Okay. Perhaps we could at this  
15 point mark Mr. Cupparo's testimony. His direct, if we  
16 could mark it as RMP 3. And then the attachment to  
17 that, which is a single-page map, mark that as RMP  
18 3.1. And then mark his rebuttal testimony as RMP 4.

19 Q. (By Mr. Smith) If I were to ask you the  
20 written questions that are set forth in both your  
21 direct and rebuttal testimony, would your answers be  
22 the same --

23 A. Yes.

24 Q. -- today?

25 MR. SMITH: We would offer at this point

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1 Exhibits RMP 3, and 3.1, and RMP 4, subject to cross  
2 examination.

3 CHAIRMAN BOYER: Are there objections --  
4 pardon me. Are there objections to the admission of  
5 Mr. Cupparo's testimony, RMP 3, and RMP 3.1, the  
6 attachment, and the rebuttal testimony RMP 4?

7 MR. MICHEL: Mr. Chairman?

8 CHAIRMAN BOYER: Mr. Michel?

9 MR. MICHEL: We don't, we don't have any  
10 objection. I'd just like clarification. There  
11 were -- as I understood, there were a number of  
12 attachments to Mr. Cupparo's testimony, and several  
13 maps.

14 And could you specify perhaps which map is  
15 being marked separately, or? Oh, I'm sorry. I'm  
16 sorry, I'm confusing that with Ms. Zenger's testimony.

17 MR. SMITH: Okay.

18 MR. MICHEL: Never mind. Excuse me.

19 MR. SMITH: I'll try to get my heart beating  
20 again here.

21 MR. MICHEL: Okay.

22 MS. SCHMID: No objection from the Division.

23 CHAIRMAN BOYER: Very well. They're admitted  
24 into evidence. Thank you, Mr. Smith.

25 (Exhibit Nos. RMP 3, RMP 3.1, and RMP 4 were

24



1 admitted.)

2 Q. (By Mr. Smith) Mr. Cupparo, have you  
3 prepared a brief summary of the key points of your  
4 testimony?

5 A. Yes, I have.

6 Q. Go ahead and give that at this point.

7 A. Consistent with the opening statement in my  
8 testimony, there are several factors --

9 CHAIRMAN BOYER: Mr. Cupparo, would you move  
10 that microphone up a little bit? I --

11 THE WITNESS: Sure.

12 CHAIRMAN BOYER: Thank you. I think we're  
13 having a little trouble hearing.

14 THE WITNESS: Is that better?

15 CHAIRMAN BOYER: Yes, that is.

16 THE WITNESS: Sorry about that. There are  
17 several factors deriving the need for this line.  
18 Again, as pointed out in my testimony and your opening  
19 statement, reliability is probably the number one  
20 driver as we look at the existing system and look at  
21 the load forecast, which comes to us in multiple  
22 forms, that the Path C system or segment of this  
23 particular system will need to be upgraded.

24 That capacity, or LATC, which is over and  
25 above let's say what we would call for reliability,

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1 allows us to move power out of our system or across  
2 our system, is also constrained and continuing to be  
3 constrained.

4 And then finally we recognize that the IRP is  
5 an ongoing process. A long-term planning tool. It  
6 has lots of elements to it. That we need to be able  
7 to support multiple-generation scenarios. In each of  
8 the scenarios that we can anticipate, Path C and a  
9 Path C upgrade is key to each of those scenarios.

10 So across each of those dimensions we would  
11 suggest that the need for this line is immediate and  
12 pressing.

13 Q. (By Mr. Smith) Does that conclude your  
14 summary?

15 A. It does.

16 MR. SMITH: Mr. Cupparo is available for  
17 cross examination.

18 CHAIRMAN BOYER: Thank you. Let's begin with  
19 Ms. Schmid, please. Or the Division.

20 MS. SCHMID: Thank you.

21 CROSS EXAMINATION

22 BY MS. SCHMID:

23 Q. I have just a few questions. Mr. -- and do I  
24 pronounce your name Cupporo or Cupparo?

25 A. Cupparo.

26

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1 Q. Cupparo. Mr. Cupparo, thank you. So is it  
2 correct that the bid for construction has not yet been  
3 awarded?

4 A. That's correct.

5 Q. Do you have a time frame when you anticipate  
6 that bid will be awarded?

7 A. We're targeting September 30th of this year.

8 Q. Thank you. I now have a few questions  
9 relating to permits, and status concerning those  
10 permits. Could you tell us which permits have been  
11 applied for, which have been granted, which denied,  
12 and which are still pending?

13 A. If I -- I'll start with which are still  
14 pending.

15 Q. Okay.

16 A. Because that will be the easiest. We are  
17 still pending permits at Box Elder County, the City of  
18 Willard, the City of Elwood. Permits for Brigham  
19 City, a conditional use permit has been granted. On  
20 the Ben Lomond Terminal piece, I can't enumerate every  
21 single one of the permits, but they have all been  
22 granted.

23 And in the state of Idaho the only permit was  
24 for the Populus Substation. It's also been granted.  
25 There are no conditional use permits for the

27

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1 municipalities in that segment of the line.

2 Q. Thank you. So the permit from the Army Corps  
3 of Engineers, referenced in I believe Ms. Seppi's  
4 testimony who I believe works with you, has been  
5 granted?

6 A. That's my understanding, yes.

7 Q. Thank you. In your testimony you mentioned  
8 the Gateway project. Could you please let us know  
9 when the Company plans on filing requests for  
10 certificates related to the broader project?

11 A. I think the, the timing of that's still under  
12 review. We do plan to file CPCNs for the Gateway  
13 project. I think we would want to do the -- I don't  
14 have an exact date, but it would be far in advance of  
15 the competitive bid process or the construction  
16 starting on the lines.

17 MS. SCHMID: Thank you very much, those are  
18 all my questions.

19 CHAIRMAN BOYER: Thank you Ms. Schmid.

20 Mr. Proctor, have you questions?

21 MR. PROCTOR: I have nothing, no.

22 CHAIRMAN BOYER: Okay. Let's turn to  
23 Mr. Michel.

24 MR. MICHEL: Thank you Mr. Chairman. May I  
25 question from here, is that?

1                   CHAIRMAN BOYER:  Certainly.

2                                    CROSS EXAMINATION

3  BY MR. MICHEL:

4           Q.    Good morning Mr. Cupparo.

5           A.    Good morning.

6           Q.    Could you turn to page 2 in your testimony?

7           A.    Mr. Michel, I missed that one.

8           Q.    Page 2.  Oh, the direct testimony.

9           A.    Okay.

10          Q.    And I'll be in your direct testimony till I  
11 tell you I'm not.

12          A.    Okay.  Okay.

13          Q.    And on lines 24 and 25 you say that:

14                   "...overall reliability of the  
15                   transmission system will be enhanced by  
16                   adding incremental new capacity...."

17                   Specific -- and I believe you're referring to  
18 this transmission line; is that right?

19          A.    I am.

20          Q.    Has the Company provided in this case any  
21 kind of quantification of that reliability or  
22 description of that reliability enhancement?

23          A.    I believe we provided the WECC Phase I rating  
24 process documentation relating to that one item.

25          Q.    I mean in the record in this case.

1 A. I don't believe so.

2 Q. There's no loss of load probability  
3 assessment provided in this docket?

4 A. Again, not directly in the testimony. But in  
5 the data request we responded with disturbance reports  
6 that we have experienced on the system. That --

7 Q. My question was in this docket. Not -- or in  
8 the record in this docket. At line 28 you say:

9 "...the Project will also improve  
10 our ability to recover from certain  
11 system and plant outage conditions."

12 In the record in this case has the Company  
13 explained what those certain system and plant outage  
14 conditions are?

15 A. Again, through the data requests we did.  
16 But --

17 Q. Well, my question is, in the record in this  
18 case before the Commission has that been provided?

19 A. I don't believe so.

20 Q. Okay. And on line 30 you say that these --  
21 or 29 through 31:

22 "These conditions typically occur  
23 during summer/winter peaks and when  
24 generation or transmission forced outage  
25 events occur in various sections of the

1 Company's eastern control area."

2 Did the Company provide in the record of this  
3 case what sections of the eastern control area would  
4 be affected by forced outages?

5 A. We did not.

6 Q. Did the Company in the record in this case  
7 describe the forced outages and their severity?

8 A. We did not.

9 Q. Would you turn to page 4, please? On lines  
10 90 and 91 you discuss one of the two alternatives the  
11 Company considered. One of the alternatives was to  
12 not build the line. The other alternative was to  
13 rebuild some of the existing 138 kV lines. Do you see  
14 that?

15 A. I do.

16 Q. In the record in this case did the Company  
17 discuss at all what that rebuild would entail? Would  
18 it be to 345 kV lines, 230 kV lines, new 138 kV lines?  
19 Did the Company describe that at all in this filing?

20 A. We did not.

21 Q. Did the Company discuss the corridor width  
22 that's available for these lines, and why the Company  
23 has taken the position that it cannot build additional  
24 lines without taking lines out of service?

25 A. I don't believe we did.

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1 Q. Turn to page 5, please. On lines 95 and 96  
2 you talk about the constructability issues that  
3 required key segments of the path to be removed from  
4 service for extended periods. Did the Company provide  
5 what segments of that path needed to -- would need to  
6 be removed from service?

7 A. We did not.

8 Q. And did the Company describe the periods of  
9 time which those ser -- which that service would need  
10 to be curtailed during construction?

11 A. Nope. No, sir.

12 Q. Going on to lines -- the, the points you make  
13 at lines 108 through 111?

14 A. Uh-huh (affirmative.)

15 Q. You discuss the import of up to  
16 1,400 megawatts of forecast renewable resources? Did  
17 the Company provide what specifically those resources  
18 were and where they were located, other than these  
19 states?

20 A. No.

21 Q. And you indicate that this new capacity would  
22 be required based on long-term planning horizons of  
23 ten years or more. Were those planning studies  
24 provided as part of the record in this case?

25 A. No.



1 Q. Would you turn to page 6, please? At lines  
2 135 through 137:

3 "Without the increased transmission  
4 capacity provided by the Project,  
5 PacifiCorp would be faced with an  
6 increased and unacceptable risk of not  
7 being able to meet its load service  
8 obligations during all periods."

9 Did the Company indicate when that  
10 transmission -- when this transmission would need to  
11 be online to avoid these, these unacceptable  
12 service -- risk of service curtailments?

13 A. Other than a date of 2010 in my testimony.

14 Q. No more specificity than that?

15 A. (Moves head from side to side.)

16 Q. And no indication of what the loads and  
17 resources would be in that time frame?

18 A. Not in my testimony.

19 Q. Turn to Page 7, please. At line 139 you talk  
20 about the need for this transmission line to provide  
21 low cost energy. Do you see that?

22 A. Uh-huh (affirmative.)

23 Q. Did the Company provide any kind of  
24 cost/benefit analysis of this transmission line?

25 A. No.

1 Q. This transmission line is gonna cost  
2 \$750 million, or that's your best estimate today; is  
3 that right?

4 A. That's our best estimate.

5 Q. Moving down the page to lines 144 through  
6 147. You discuss the stronger interconnection with  
7 Idaho -- Idaho Power and the existing Idaho-to-Wyoming  
8 transmission system. Did the Company provide any  
9 power flow studies in the record in this case to  
10 demonstrate that stronger interconnection?

11 A. No.

12 Q. On line 154 you say that:

13 "...based on our customers long-term  
14 growth projections, and the  
15 contingencies and restrictions we are  
16 beginning to see on the network during  
17 outage conditions."

18 Do you describe those condi -- contingencies  
19 and restrictions anywhere in this testimony?

20 A. No.

21 Q. You discussed the RMAT Study. Was that  
22 provided as part of the record in this case?

23 A. No.

24 Q. That study was completed four years ago?

25 A. Correct.

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1 Q. Any discussion of how the conditions in that  
2 study are still applicable today in the record in this  
3 case?

4 A. Not in my testimony.

5 Q. Okay. Turning to the last page of your  
6 testimony. You describe at lines 192 and 193 other  
7 future transmission investments currently proposed by  
8 PacifiCorp and other utilities in the region?

9 A. Uh-huh (affirmative.)

10 Q. Do you identify what those transmission  
11 investments are for PacifiCorp and all the other  
12 utilities you are referring to?

13 A. No.

14 Q. Would you turn to your rebuttal, please?  
15 Let's say -- I'd like you to assume for me that your  
16 testimony was not what you filed, but instead you were  
17 asked three questions. One was, Describe the project.  
18 And you responded to that.

19 The second question was, Has the Company  
20 studied the need for this particular transmission  
21 line. And you answered that question yes. And the  
22 third and final question of your testimony is, Does  
23 the Company believe that this line is required by the  
24 public convenience and necessity. And you answered  
25 that question yes as well.

35

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1           Would it be the Company's position that that  
2 is enough evidence for the Commission to grant a CCN  
3 in this case?

4           MR. SMITH: I object. That clearly calls for  
5 a legal conclusion.

6           CHAIRMAN BOYER: Sustained.

7   (Pause.)

8           Q. (By Mr. Michel) Mr. Cupparo, I seem to  
9 recall you discussing the Mulcahy case in your  
10 testimony, but I may be confusing you with Ms. Zenger  
11 again. Is that --

12          A. I don't remember.

13          Q. You did not discuss that anywhere in your  
14 testimony?

15          A. I don't believe I did.

16          Q. Okay, thank you. Would you agree that --  
17 well, let me turn you to page 6 of your rebuttal  
18 testimony. And you indicate there that while certain  
19 information may be important, it has nothing to do  
20 with the need associated with reliability.

21                                   Is it your opinion that that is the extent of  
22 the analysis that should be before this Commission,  
23 the need of this line associated with reliability?

24          MR. SMITH: I ob -- I object. I, I believe  
25 that again calls for a legal conclusion as to what the

1 quantum of proof necessary to establish the case is.  
2 And it is therefore a -- calls for a legal conclusion.

3 MR. MICHEL: Mr. Chairman?

4 CHAIRMAN BOYER: Mr. Michel, why don't you  
5 just try rewording that question.

6 MR. MICHEL: Yes.

7 Q. (By Mr. Michel) You say --

8 A. Could you refer me to the section in my  
9 rebuttal?

10 Q. Yes. I'm sorry, it's lines 131 to 133. And  
11 you're describing some of the information Ms. Kelly  
12 has indicated she believes should have been provided  
13 in the record, or should be provided in the record in  
14 this case.

15 And you say that that information may be  
16 important but has nothing to do with the need  
17 associated with reliability. Do you see that?

18 A. I do.

19 Q. And what I'm drawing from that statement is  
20 your opinion -- and I'm not necessarily suggesting a  
21 legal opinion. But your opinion that that is the  
22 extent of what is -- needs to be explored in this  
23 proceeding?

24 A. I, I think it's stated. The primary drive  
25 for us is a reliability need for the line. So I think

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1 in this particular case with this segment, reliability  
2 would be the critical factor.

3 Q. And by that -- now, you have provided a cost  
4 estimate in this project, so presumably you think  
5 there's some importance to how much this project may  
6 cost. Is that a fair statement?

7 A. I, I believe that we were providing  
8 information based on not knowing what the standard  
9 was. And so I think we thought it was a relevant  
10 piece of information to understand the size and scope  
11 of the project.

12 Q. Okay. And would you agree that at some cost  
13 level this project would not be a preferred project  
14 for the Company to move forward on?

15 A. I, I believe that at some point there's,  
16 there's an economic threshold.

17 Q. And is that something that the Commission  
18 should explore in this case?

19 MR. SMITH: I object. Calls for a legal  
20 conclusion.

21 MR. MICHEL: I'm not asking for a legal  
22 conclusion, Mr. Chairman.

23 MR. SMITH: Well, he's asking -- you're  
24 asking if --

25 CHAIRMAN BOYER: Well, you're --

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1 MR. SMITH: -- that's something the  
2 Commission should explore. And the Commission is here  
3 to make a legal determination, and so it -- I would  
4 submit it calls for a legal conclusion.

5 CHAIRMAN BOYER: Sustained.

6 Q. (By Mr. Michel) Now, you've indicated, I  
7 believe, that you believe a lot of the inquiry that  
8 Ms. Kelly recommends should be part of a prudence  
9 inquiry following construction of the project; is that  
10 right?

11 A. That's what I've indicated.

12 Q. Would you agree that if the Company  
13 experienced a significant cost disallowance associated  
14 with this project that that would have implications  
15 beyond just a financial impact to shareholders? Or  
16 could have finan -- implications beyond just a  
17 financial impact to shareholders?

18 A. Could you give me some examples?

19 Q. Higher cost of capital. Difficulty  
20 borrowing. Difficulty funding maintenance for, for  
21 the sys -- for the Company's operations. A variety of  
22 cost-cutting measures that the Company might have to  
23 undertake if it was financially strained.

24 A. Not being a financial expert, I would expect  
25 there, there could be some implications.

1 (Pause.)

2 Q. (By Mr. Michel) How long has the Company  
3 been aware that this project would be needed in its  
4 opinion?

5 A. I can only date back to my own time with the  
6 Company. But I believe Path C upgrade was identified  
7 in 2000. I'm aware of it back to the year 2000.

8 Q. Okay. And -- eight years ago?

9 A. Yes.

10 Q. And you are filing the CPCN now?

11 A. (Moves head up and down.)

12 Q. And expressing a sense of urgency in moving  
13 this project forward; is that right?

14 A. That's correct.

15 Q. Is it true that the Company has undertaken  
16 studies of this project which could be described as  
17 volumes of information?

18 A. Yes.

19 Q. You said yes?

20 A. I did.

21 Q. Okay.

22 A. Could you be specific -- indicate  
23 specifically what that refers to?

24 Q. Oh. Well, I, I was -- what triggered it was  
25 your, was your response on page 8, at lines 178 to



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1 180, describing that hundreds of pages of testimony to  
2 demonstrate an obvious fact would not be needed. Do  
3 you see that?

4 A. Uh-huh (affirmative.)

5 Q. Now, the Company believed that it needed to  
6 undertake studies which encompassed volumes of  
7 information to assure itself that the project should  
8 go forward; is that right?

9 A. Correct.

10 Q. Okay. And legitimately so. We're talking  
11 about an expenditure of, you know, three-quarters of a  
12 billion dollars, right?

13 A. Uh-huh (affirmative.) (Moves head up and  
14 down.)

15 Q. Could you turn to page 9 of your testimony?

16 A. Sure.

17 Q. And at lines 194 to 196 you describe WRA's  
18 stated mission to facilitate the growth of renewable  
19 energy resources -- renewable energy sources?

20 A. Yes.

21 Q. Do you see that?

22 A. I do.

23 Q. Have you reviewed WRA's motion to intervene  
24 in this case?

25 A. Yes. The testimony, yes.

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1 Q. I'm -- I asked about the motion to intervene  
2 that describes our interest.

3 A. I don't recall it exactly.

4 Q. Would you accept, subject to check, that that  
5 motion to intervene included interests beyond simply  
6 the growth of renewable energy resources and also  
7 included environmental -- environmental issues that  
8 would be developed or -- in an economically and  
9 environmentally responsible manner?

10 A. Yes.

11 Q. Okay. So you'd accept that our mission is  
12 more than just if it's environmentally helpful, we're  
13 for it?

14 A. Yes.

15 Q. Do you agree with that? Okay. Turning to  
16 page 11? At lines 240 to 243?

17 A. Uh-huh (affirmative.)

18 Q. You describe the alternatives of either  
19 building -- looks like load side or local generation  
20 versus building transmission facilities. Do you see  
21 that?

22 A. I do.

23 Q. And the, and the Company did not provide an  
24 analysis of those two alternatives in this, in this  
25 case, did it?

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1 A. That's correct.

2 Q. Okay. And would you agree that when you  
3 build transmission it doesn't eliminate the need to  
4 build trans -- generation?

5 A. Not totally.

6 Q. Okay. You still need some power developed.  
7 The transmission is a -- is -- relates to the issue of  
8 where the generation is not how much the generation  
9 is, right?

10 A. Would you restate that?

11 Q. Yes. On the one hand of the ledger, if  
12 you're building load side generation you've got  
13 generation without necessarily a need for lot of  
14 transmission, right?

15 A. Depends on the situation, but it's possible.

16 Q. And if, and if you're building remote  
17 generation then you need fairly lengthy bulk  
18 transmission in addition to the cost of the  
19 generation?

20 A. Correct. You could also need transmission  
21 not directly tied to generation.

22 Q. Okay. And the transmission, if it is tied to  
23 the generation, you also need to have generation to  
24 support line losses associated with the transmission  
25 of that power?

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1 A. Loss of the line itself?

2 Q. No, I'm talking about line losses.

3 A. There's a variety of reasons you would need  
4 additional generation.

5 Q. Okay. And those are things that would need  
6 to be explored in assessing the issue of whether to  
7 build generation or transmission and remote  
8 generation?

9 A. Those are some of the elements, yes.

10 Q. As well as the type of generation that you're  
11 trying to bring in, right?

12 A. (Moves head up and down.)

13 CHAIRMAN BOYER: Mr. Cupparo, you're gonna  
14 have to answer audibly for the reporter. You nodded,  
15 but you didn't say --

16 THE WITNESS: Oh. So yes, there can be some  
17 of these situations. I apologize.

18 MR. MICHEL: Thank you Mr. Cupparo. That's  
19 all the questions I have.

20 CHAIRMAN BOYER: Thank you Mr. Michel.

21 Mr. Aguilar, have you questions of?

22 MR. AGUILAR: No. We concur with those  
23 questions.

24 CHAIRMAN BOYER: Very well. Let's see if  
25 Commissioner Allen has questions? Commissioner

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1 Campbell?

2 I just have one question, Mr. Cupparo. And I  
3 apologize for mispronouncing your name earlier. I  
4 recognized why I was doing it. I was recently in  
5 Guatemala. They have a chicken franchise called  
6 Campero and so I was pronouncing your name like the  
7 chicken franchise.

8 My question relates to the City of Tremonton.  
9 You were going through the permitting area. Is it  
10 your testimony today then that you have secured either  
11 a conditional use permit or whatever other permitting  
12 is required by the city -- from the City of Tremonton?

13 THE WITNESS: Tremonton does not have a  
14 conditional use permit requirement.

15 CHAIRMAN BOYER: I see.

16 THE WITNESS: Most of our interactions in  
17 Tremonton are basically trying to find the right  
18 siting for that.

19 CHAIRMAN BOYER: Siting issues?

20 THE WITNESS: Uh-huh (affirmative.)

21 CHAIRMAN BOYER: Okay, thank you.

22 Okay. Mr. Smith, have you any redirect?

23 MR. SMITH: Yeah, just a couple of brief  
24 questions.

25

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1 REDIRECT EXAMINATION

2 BY MR. SMITH:

3 Q. Mr. Michel took you through a number of  
4 pages in your testimony. And if I recall it  
5 correctly, the -- kind of the underlying theme was  
6 you've made a factual statement in the record, did you  
7 provide the underlying study. Do you recall that line  
8 of questioning?

9 A. Right.

10 Q. And I believe your answer to many of the  
11 questions was it was your understanding that specific  
12 information supporting those statements were included  
13 in discovery responses?

14 A. Correct.

15 Q. Is it your understanding that WRA had access  
16 to the discovery responses that the Company provided  
17 to, I think primarily to the Committee and the  
18 Division, and perhaps some to even them?

19 A. That's my understanding.

20 Q. Have you also reviewed the testimony of, of  
21 Ms. Holt -- or Ms. Kelly, I'm sorry?

22 A. I have.

23 Q. Do you recall in that testimony that  
24 Ms. Kelly, on the basis of discovery that would have  
25 been available to her, has directly challenged any of

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1 the factual statements that were the subject of the  
2 discussion between you and Mr. Michel?

3 A. No.

4 Q. Is it your understanding that her testimony  
5 primarily was the Company should have provided more,  
6 but that she did not challenge any specific factual  
7 claims that you made in your testimony?

8 MR. MICHEL: Objection. Mr. Chairman, this  
9 is beyond the scope of the questions that I was asking  
10 the witness. I didn't refer in any manner to  
11 Ms. Kelly's testimony. I simply asked him about what  
12 was provided in the record in this case.

13 CHAIRMAN BOYER: I think Mr. Michel is  
14 correct. Plus that was a multiple compound question  
15 by Mr. Smith.

16 MR. SMITH: Yeah. Well, let me -- it was a  
17 compound question, and I could -- the point I was  
18 trying to make there is that the, the witness was  
19 asked, Did you provide additional information to  
20 support your factual assertion.

21 And the question was whether those factual  
22 assertions were ever challenged. I think the point's  
23 been made, so. We'll stop there.

24 CHAIRMAN BOYER: Very well. Thank you  
25 Mr. Smith.

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1                   And thank you, Mr. Cupparo. You may step  
2 down.

3                   THE WITNESS: Thank you.

4                   CHAIRMAN BOYER: It would be our intention to  
5 go until about quarter to the hour -- quarter to 11,  
6 and we'll take a short break for the benefit of our  
7 reporter. But let's proceed now with the Division's  
8 case. Ms. Schmid?

9                   MS. SCHMID: Thank you. The Division would  
10 like to call Dr. Joni Zenger to the stand, please.

11                   (Dr. Zenger was sworn.)

12   JONI ZENGER,  
13 called as a witness, having been duly sworn,  
14 was examined and testified as follows:

15   DIRECT EXAMINATION

16 BY MS. SCHMID:

17                   Q. Good morning Dr. Zenger.

18                   A. Good morning.

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

21                   A. Joni S. Zenger. Heber Wells Building,  
22 160 East Third South, Fourth Floor, Salt Lake City,  
23 Utah 84114.

24                   Q. Thank you. By whom are you employed, and in  
25 what capacity?

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1           A.    The Division of Public Utilities, as a  
2   technical consultant in the energy section.

3           Q.    As part of your responsibilities in that  
4   position have you participated in this docket?

5           A.    Yes.

6           Q.    Could you briefly describe some of the  
7   documents that you reviewed in formulating your  
8   testimony and recommendations?

9           A.    Um, yes.  To keep it brief it would be hard.  
10   But I, I asked approximately 60 data requests to the  
11   Company.  And I looked to the current rate case filing  
12   and the '08 rate case filings.  And looked to the FERC  
13   incentive rate filing that PacifiCorp made in the same  
14   case.

15                    I went to GOPP data to get the latest  
16   population estimates.  So I, I pretty much looked  
17   everywhere I could to get the most current data.

18           Q.    Thank you.  Did you use that data and did you  
19   file testimony marked as DPU Exhibit 1, which is your  
20   direct testimony, which also contains DPU Exhibit 1.1,  
21   a list of testimony that you filed in Utah, DPU  
22   Exhibit 1.2, entitled Figure 8 Model  
23   Transit -- Modeled Transmission System Topology (2007  
24   IRP Update), DPU Exhibit 1.3, entitled Path C, DPU  
25   Exhibit 1.4, entitled Energy Gateway Transmission

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1 Expansion Project, and also did you file testimony  
2 marked for identification as DPU Exhibit No. 1.0R,  
3 which is your rebuttal testimony?

4 A. Yes, I did.

5 Q. Do you have any corrections to that prefiled  
6 testimony?

7 A. No.

8 Q. If you were asked the same questions today as  
9 set forth in your prefiled testimony would your  
10 answers today be the same as those written in that  
11 prefiled testimony?

12 A. Yes, they would.

13 MS. SCHMID: The Division would like to offer  
14 DPU Exhibit 1.0, with related Exhibits 1.1, 1.2, 1.3,  
15 and 1.4, that being the direct testimony of  
16 Dr. Zenger, and DPU Exhibit No. 1.0R, the rebuttal  
17 testimony of Dr. Zenger.

18 CHAIRMAN BOYER: Thank you Ms. Schmid.

19 Are there objections to the admission of  
20 Dr. Zenger's testimony, DPU 1 -- Exhibit DPU 1,  
21 together with Exhibits 1.1 through 1.4, and the  
22 rebuttal testimony, DPU Exhibit 1.0R?

23 MR. SMITH: No objection.

24 CHAIRMAN BOYER: So seeing none --

25 MR. MICHEL: No objection.

50

1                   CHAIRMAN BOYER: Seeing none, they are  
2 admitted into evidence.

3                   (Exhibit Nos. DPU 1, DPU 1.1 through DPU 1.4,  
4                   and DPU 1.OR were admitted.)

5                   MS. SCHMID: Thank you.

6                   Q. (By Ms. Schmid) Dr. Zenger, do you have a  
7 brief summary of your testimony that you would like to  
8 give today?

9                   A. I do. I have a very brief one. Less than  
10 three minutes. My analysis and investigation of this  
11 case is governed by Utah Statute Section 54-4-25, and  
12 by the Commission's May 20th order limiting this  
13 proceeding to an analysis whether the present or  
14 future public convenience and necessity does or will  
15 require the construction of the transmission line.

16                   The Division applied -- studied, reviewed,  
17 and applied the statutory requirements applicable to  
18 this case. We then applied them to a variety of  
19 factors demonstrating the public interest requirement  
20 and the convenience and necessity requirement for both  
21 the future and current time period.

22                   The paramount consideration is the benefit  
23 and welfare of the public as a whole. Based on this,  
24 the Division makes the following findings in this  
25 case:

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1           The Company will be able to finance the  
2 transmission line, either from its own funds or  
3 through external capital sources. The ex -- estimated  
4 project costs are in the range of seven to eight  
5 hundred million dollars.

6           The Company has secured or is in the process  
7 of securing all permits, franchise agreements, or  
8 conditional use permits that are required prior to  
9 construction of this line. To date, the Division is  
10 aware of two outstanding permits that the Company is  
11 in the process of working to obtain: Elwood City and  
12 Willard City.

13           The transmission line will not conflict with  
14 or adversely affect operations of any existing  
15 certificated fixed public utility providing electric  
16 service to the public.

17           The transmission line does not constitute an  
18 extension into the certificated service terri --  
19 territory of any existing public utilities.

20           The Division finds this line is needed and  
21 complies with the convenience and necessity  
22 requirement based on the following reasons:

23           The public welfare as a whole will be  
24 inconvenienced if no action is taken, as this line  
25 serves a public need without which the public would be

1 inconvenienced or handicapped in the pursuit of  
2 business or wholesome pleasure.

3           The Company must meet its network load  
4 obligation. And forecasts show that both load and  
5 peak demand will continue to grow, especially along  
6 the Wasatch Front and in the commercial developments  
7 in Box Elder County. Utah's population continues to  
8 increase, and this line is needed to serve the  
9 incremental capacity of transmission.

10           Utah needs this line in order to bring clean  
11 energy sources from Wyoming and Utah, both projected  
12 and confirmed, and to support the Governor's clean air  
13 initiatives.

14           Utah ratepayers will benefit by having  
15 reliable service due to the increased transfer  
16 capability and flexibility provided by the line.

17           Therefore, the Division recommends issuance  
18 of the certificate contingent upon the Company  
19 acquiring all necessary permits.

20           If the Commission grants this certificate the  
21 Division further recommends that the Company file,  
22 within 10 days of the Commission's order, a report  
23 detailing all necessary permits, indicating which ones  
24 are yet to be obtained, and a timeline of the expected  
25 acquisition of each outstanding permit.

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1           The Division also recommends that the Company  
2 be required to file a quarterly report to the  
3 Commission on project status updates, and a report  
4 that demonstrates the consistency between transmission  
5 line and the Company's IRP analysis.

6           Finally, the Division concurs with the  
7 Committee that in future CPCN applications evidence  
8 that demonstrates the direct link between the proposed  
9 facility and the convenience and necessity it will  
10 provide should be included as documentation in the  
11 originally-filed application.

12           The Division therefore asks the Commission to  
13 make this a formal filing requirement for a CPCN.

14           MS. SCHMID: Thank you. Dr. Zenger is now  
15 available for questions.

16           CHAIRMAN BOYER: Thank you. Let's begin  
17 cross examination with the Company. Would that be  
18 you, Mr. Smith?

19           MR. SMITH: Yes. And I think I just have  
20 two.

21   CROSS EXAMINATION

22           BY MR. SMITH:

23           Q. I want to make sure I understand your  
24 proposal with regard to the granting of the  
25 certificate. If I, if I understood, your proposal is

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1 that the certificate be granted for the entire Utah  
2 length of it, but that it still be subject to  
3 obtaining permits in those areas where permits are not  
4 yet obtained. Is that?

5 A. Yes. The Commission has authority to, to do  
6 that and has done so on several occasions. The Payson  
7 project didn't have all their applications completed,  
8 but they did submit them at a later date.

9 Q. And then I had one rather obscure question.  
10 If you'll turn to page 20 of your direct. And I'm  
11 talking lines 369 through 372. In there you indicate  
12 that you've concluded that the Company would have  
13 access to capital markets in order to borrow funds  
14 necessary to finance the construction of the project.

15 And I think I indicated to you off the record  
16 there was some concern in the Company that that could  
17 be read to be saying the Division was suggesting that  
18 the Company could only do this project if it funded it  
19 fully through borrowed funds.

20 Am I correct in saying that was not your  
21 intention?

22 A. No, that was not what I meant. What I meant  
23 is besides the operating cash flows that the Company  
24 has access to they also have this additional backstop,  
25 as you like to call it, being MidAmerican/Warren

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1 Buffett, who has, you know, infused money into the  
2 Company.

3 And so there are operating cash flows. And  
4 the Company may choose to do a combination of floating  
5 equity and cash flows or debt. So I, I didn't mean it  
6 to be solely in that regard, thank you.

7 MR. SMITH: Okay. That's all we have.

8 CHAIRMAN BOYER: Thank you Mr. Smith.

9 Mr. Proctor, have you any questions?

10 MR. PROCTOR: No questions.

11 CHAIRMAN BOYER: Mr. Michel, do you have  
12 extensive cross examination?

13 MR. MICHEL: No, I don't.

14 CHAIRMAN BOYER: Okay. Well, let's commence  
15 and then we'll take a recess after we hear from  
16 Mr. Michel.

17 CROSS EXAMINATION

18 BY MR. MICHEL:

19 Q. Good morning Dr. Zenger. As I said, I don't  
20 have a lot of questions for you. In your direct  
21 testimony on page -- well, on page 2 you describe your  
22 education and work experience. You are not an  
23 attorney, right?

24 A. No. Although I have taught law and economics  
25 for several years.



1 Q. Okay.

2 A. In my second life I think I should be an  
3 attorney.

4 Q. I wouldn't advise that.

5 MR. SMITH: Well, we'll stipulate.

6 Q. (By Mr. Michel) You, you nevertheless  
7 discuss in some detail what -- your understanding of  
8 the legal requirements in this docket; is that right?

9 A. That is right.

10 Q. Okay.

11 A. In fact, as I mentioned, there hadn't been a  
12 transmission CPCN for quite a few years. So I went  
13 directly to the source. Researched all the cases.  
14 And tried to find the precedent cases. So yeah.

15 Q. Okay.

16 A. Yes.

17 Q. But you're not offering a legal opinion to  
18 this Commission, are you?

19 A. No.

20 Q. Okay.

21 A. This is my interpretation of what the statute  
22 was meant to imply.

23 Q. Okay. And at Page 7 you refer to the Mulcahy  
24 case. Do you see that?

25 A. Yes.

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1 Q. Okay. And that was a 1941 case?

2 A. Yes. Yes.

3 Q. Okay. And that case involved a certificate  
4 for a trucking company; is that right? Not a, not a,  
5 an electric utility?

6 A. I can't remember if it was trucking, but I  
7 will take that at your word. I knew it wasn't --

8 Q. Will you accept that subject --

9 A. I knew it wasn't an electric utility.  
10 However, it's still the, the precedent case that legal  
11 pundits rely on.

12 Q. Okay. Is there anything in that case that  
13 you are aware of that would prevent this Commission  
14 from a more detailed analysis than simply a cursory  
15 analysis of whether need is required -- or, or need  
16 and convenience is, is established in this case?

17 MS. SCHMID: Objection. I believe that calls  
18 for more of a legal conclusion. And is beyond the  
19 scope of the testimony of Dr. Zenger in this case.

20 MR. MICHEL: That's fine. I'll withdraw that  
21 question.

22 Q. (By Mr. Michel) Dr. Zenger, did you review  
23 the, the CPCN docket before the Commission relating to  
24 a UAMPS project, a UAMPS transmission line that was  
25 denied by this Commission?

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1 A. Yes, I did. I briefly reviewed that.

2 Q. Okay. And is it fair to say that in that  
3 case the Commission denied that project based on a  
4 high cost, many uncertainties, and questions about the  
5 need for the proposed project in the near term?

6 A. Yes. I, I think the, the foundational  
7 circumstances were different, in that UAMPS wanted to  
8 provide power in a certificated authorities area. So  
9 I think, I think the premise of that was different.  
10 But I did, I did review that.

11 Q. Okay. And did you also review the  
12 Commission's decision in the Lake Side CCN case and  
13 the, the explanation of the issues that the Commission  
14 would look at and explore in that case?

15 A. I, I did not review the Lake Side case.

16 Q. Okay. Could you turn to page 15, please?

17 MR. SMITH: Before we go on, the Lake Side  
18 CCN case, is that a court case or a Commission order?

19 MR. MICHEL: I think it's a Commission order.

20 MR. SMITH: Could you just --

21 MR. MICHEL: Sure.

22 MR. SMITH: -- give me the case number?

23 MR. MICHEL: It's Docket No. 04-035-30.

24 Decided in November of 2004 by the Utah Commission.

25 MR. SMITH: 04-035-30?

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1 MR. MICHEL: Yes.

2 MR. SMITH: Thank you.

3 Q. (By Mr. Michel) And you quote on page 15 a  
4 statement from the Western Governors' Policy. Do you  
5 see that?

6 A. Yes.

7 Q. And one of -- part of that statement says:

8 "Grid expansion must also be  
9 undertaken in an environmentally  
10 responsible manner."

11 Do you see that?

12 A. Yes.

13 Q. Do you agree with that?

14 A. I do.

15 Q. And do you -- would you agree in -- whether  
16 or not it's applicable in this case or not -- but in  
17 general the Commission should not ignore environmental  
18 impacts of transmission?

19 MS. SCHMID: I object. That is beyond the  
20 stated scope of this hearing.

21 MR. MICHEL: Well, Mr. Chairman, she does  
22 quote this policy statement. And I'm asking for how  
23 she believes that interacts with this Commission  
24 process.

25 CHAIRMAN BOYER: I'm gonna let you answer

1 that, Dr. Zenger.

2 THE WITNESS: I would respond yes. All of,  
3 all of these factors I think should be taken into  
4 consideration.

5 Q. (By Mr. Michel) Going on to page 32. At  
6 lines 549 to 54 you, you discuss the Company's  
7 alternative and the Company's position that segments  
8 of, of line would need to be removed from service in  
9 order to effectuate an upgrade of existing lines. Do  
10 you see that?

11 A. Did you mean line -- or page 31?

12 Q. No, I'm -- well, I'm on page 32.

13 A. Thirty-two?

14 Q. Yes.

15 A. And what line?

16 Q. It's, well, it's the paragraph beginning on  
17 line 547.

18 MR. SMITH: I think we've got a formatting  
19 issue here.

20 THE WITNESS: Yeah, my numbering is  
21 different.

22 Q. (By Mr. Michel) All right.

23 A. But I think I know where you're referring to.

24 Q. It's the line that begins: "An individual  
25 transmission line can affect the entire grid?"

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1 A. Yes. I see that in my copy.

2 Q. Okay. Where should it be in my copy?

3 A. Well, on mine it's line -- it's page 31,  
4 line 547.

5 CHAIRMAN BOYER: And also on the Commission's  
6 copy it's page 31, line 547.

7 MR. SMITH: On mine it's line 548, but.

8 MR. MICHEL: Okay.

9 MR. SMITH: Close enough.

10 THE WITNESS: We need to get uniform  
11 printers.

12 Q. (By Mr. Michel) I can do this without,  
13 without being specific as to where exactly in your  
14 testimony it is, I think.

15 Did you independently verify the Company's  
16 claims that lines would have to be taken out of  
17 service to effectuate that upgrade? I know you did a  
18 lot of work in your testimony, and we appreciate it.  
19 But was that one part of your work, or did you accept  
20 the Company's claims?

21 A. No, I actually have a pending data request on  
22 this. And I haven't receive -- received a response.  
23 So I have looked into this.

24 Q. Okay.

25 (Pause.)

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1 Q. (By Mr. Michel) Would you -- looking towards  
2 the end of your testimony, at some page. Let me just  
3 ask it, let me just ask it this way without a specific  
4 reference. Would you agree that this line -- this  
5 proposed line may not be the one and only alternative  
6 that the Company could deploy to meet its RPS?

7 A. Yes.

8 Q. Okay. And just quickly going to your  
9 rebuttal testimony. This is my last question -- or my  
10 last issue anyway. You talk about the need of a  
11 formal rule making, do you see that? And I believe  
12 it's on the middle of page 3.

13 A. Three?

14 Q. Of your rebuttal.

15 A. Oh, excuse me.

16 Q. Sorry.

17 MS. SCHMID: If I may clarify. Would that be  
18 approximately, depending on the printer, lines --  
19 beginning on line 41 of her rebuttal testimony?

20 MR. MICHEL: Yes.

21 Q. (By Mr. Michel) And you say that:

22 "This could take the form of a  
23 rulemaking proceeding that defines the  
24 Commission's authority."

25 Do you see that --

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1 A. I do.

2 Q. -- testimony?

3 A. I do.

4 Q. And you are referring to the, the idea of, of  
5 what is the nature and scope of what the Commission  
6 should be examining in CCN proceedings?

7 A. Yes.

8 Q. Okay.

9 A. Yes.

10 Q. And would you -- is there -- in your mind  
11 would you be opposed to the Commission laying out  
12 those types of criteria as part of the order in this  
13 case if it decided that that was a better use of  
14 resources to -- or a more effective way to, to  
15 establish those criteria?

16 A. I think -- I don't think that this particular  
17 docket is most effective way to address the formal  
18 rulemaking proceeding, because there's a lot of other  
19 parties and stakeholders that would want to be  
20 involved.

21 Q. Uh-huh (affirmative.)

22 A. I do agree that, you know, a rulemaking would  
23 be helpful. But I don't think this is the appropriate  
24 venue for it.

25 Q. Okay. Are you aware of any other states that



1 have rules relating to what needs to be filed in a  
2 C -- CPCN proceeding?

3 A. Just somewhat. I know that some require  
4 actual siting permits. But very limited.

5 MR. MICHEL: Okay. That's all I have,  
6 Dr. Zenger. Thank you very much.

7 CHAIRMAN BOYER: Thank you Mr. Michel.

8 Mr. Aguilar, have you any questions of  
9 Dr. Zenger?

10 MR. AGUILAR: Sure, I have a few questions.

11 CHAIRMAN BOYER: Okay. We'll go ahead on  
12 that.

13 CROSS EXAMINATION

14 BY MR. AGUILAR:

15 Q. Based on today's testimony I was just curious  
16 whether you believe that the burden of proof for these  
17 types of requests is upon the applicant, or what role  
18 the Division plays with regard to the approval?

19 MS. SCHMID: Objection. I believe that calls  
20 for a legal analysis and conclusion.

21 CHAIRMAN BOYER: I'm gonna sustain that  
22 objection. You're asking a non-lawyer for a legal  
23 opinion.

24 MR. AGUILAR: Okay.

25 Q. (By Mr. Aguilar) And you stated that you

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1 weren't -- or you omitted Box Elder's conditional use  
2 permit in your summary of the applications that are  
3 outstanding; is that true?

4 A. I didn't mention specifically, because at the  
5 time of the data request I received there were just  
6 the two, Elwood and Brigham City, that had not  
7 provided their permits. I learned a little bit later  
8 at the Public Utility Interim Technology Legislative  
9 Meeting that there may be others that have not  
10 being -- been attained.

11 Q. Okay. Is it fair to say that you, you  
12 researched quite a bit of additional information, as  
13 opposed to what is part of the docket, to make the  
14 determinations that you represented today?

15 A. Yes. I mean, I, I couldn't take the  
16 Company's filing at its word. I went to every source  
17 I could to verify or dispute the filing. That's the  
18 Division's job. We're the investigative arm for the  
19 Commission.

20 Q. Thank you. And how, how did you make the  
21 determination that ratepayers would benefit -- and  
22 since you mentioned it in your summary -- without the  
23 benefit of a cost/benefit analysis from the applicant?

24 A. Generally speaking, they would benefit  
25 because -- and I can reference some of the data

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1 requests that I did receive. Because of the  
2 reliability on the Path C. It's congested. I have  
3 disturbance reports and outage reports that I've  
4 reviewed.

5 Remedial action schemes that the Company has  
6 tried to incorporate to, to continue to serve power  
7 to, you know, the need of load. So the reliability  
8 would be one thing. I think the Utah citizens would  
9 benefit by having some clean energy sources.

10 And I think the western interconnect as a  
11 whole would benefit particularly by this line and the  
12 proposed energy Gateway project, inasmuch as they're  
13 using new technology -- I won't get into the real  
14 technical parts of it.

15 But they're doing it right. They're doing  
16 every possible thing they can do in designing the, the  
17 hub and spoke design. The technology they're using.  
18 And I think this would only benefit the whole western  
19 interconnect Rocky Mountain Power users.

20 I also think it would benefit Utah ratepayers  
21 in the fact that if they're -- if this line were built  
22 then the Company would have more choices when, when  
23 there is a single or double line outage. They  
24 wouldn't have to step down a generator or, you know,  
25 be at risk of outages.

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1           And by having sufficient capacity on the  
2 market, PacifiCorp would be in a position where they  
3 wouldn't have to buy wholesale transmission at the  
4 very last minute, which is very expensive. And  
5 instead would perhaps maybe be able to sell it. And  
6 this is in turn a benefit to Utah ratepayers.

7           Q.    Thanks. And finally, how many other data  
8 requests do you have that are pending?

9           A.    I, I think I have one large one that's  
10 pending.

11          Q.    In addition to the one you mentioned before,  
12 or is that --

13          A.    Yeah. I, I've sent out five that -- let's  
14 see. Five that I know of. Approximately 50  
15 questions. And there was a sixth one.

16               MR. AGUILAR: Thanks.

17               CHAIRMAN BOYER: That all Mr. Aguilar?

18               MR. AGUILAR: (Moves head up and down.)

19               CHAIRMAN BOYER: Thank you. Commissioner  
20 Allen? Commissioner Campbell?

21               COMMISSIONER CAMPBELL: I'd like to just  
22 explore briefly how cost/benefit plays into this,  
23 particularly if -- well, let me give you a scenario.  
24 The -- as a Commission I guess we've received several  
25 IRPs that talk about 2000 megawatts of renewable

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1 generation being included, not necessarily because  
2 they were the least cost, but they're included in the  
3 concept of a diversified portfolio.

4           And so I guess the Commission has already  
5 accepted the premise that we're not looking at  
6 absolutely least cost, but that we're looking at a  
7 diversified portfolio. So in the context of, of  
8 transmission being required to bring those resources  
9 down to the Wasatch Front, what role would a  
10 cost/benefit play in that?

11           THE WITNESS: Well, first of all I think it  
12 wouldn't be a part of the CPCN proceeding. But I know  
13 NTTG is looking at cost/benefit. They have four, four  
14 different teams looking at the planning, the  
15 cost/benefit, cost allocation issues.

16           I also think that the IRP would be a venue to  
17 bring up the cost/benefit ratio. Like for instance in  
18 this particular IRP, which was not acknowledged, the  
19 Company -- there was just 300 megawatts of capacity  
20 that was just, just inputted in as a given. And that  
21 was due to the MEHC merger.

22           And so in order for transmission and  
23 generation, distribution to be weighted equally and to  
24 meet the, the standards and guidelines of the  
25 Commission's order in 1990, there would need to be

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1 some changes in the way the IRP is modeled.

2 COMMISSIONER CAMPBELL: Let me ask you it  
3 this way. Do you see this transmission line being  
4 necessary or needful to bring some of those resources  
5 identified in the IRP, those renewable resources, to  
6 bring those to the Wasatch Front?

7 THE WITNESS: I do. And it's not just to, to  
8 bring them to the Wasatch Front. It's the overall,  
9 you know, goal of our governor, the Western, the  
10 Western Climate Initiative, the entire country trying  
11 to get away from, you know, oil dependency.

12 I think that, yes. The answer is yes, I do  
13 think we need the transmission. I, I recalling  
14 sitting at an IRP meeting like two years ago. And the  
15 problem was they'd go on and on and on that the  
16 transmission wasn't built, but the transmission piece  
17 took longer to build. To permit, to site, and build.

18 And so I've noticed the Company's had a  
19 change of heart, in that they're actively pursuing  
20 really what, what policy -- policy makers have asked  
21 them to do and build the transmission and then, and  
22 then the load.

23 You know, I don't know if that answered your  
24 question.

25 CHAIRMAN BOYER: Thank you. I have just one

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1 question, Dr. Zenger. Did you look at the potential  
2 construction of this transmission line in terms of  
3 enhancing the Company's ability to move power about  
4 its system? Talking about the entire system, east and  
5 west side. And if so, what was your conclusion there  
6 with regard to the necessity of this line?

7 THE WITNESS: Yes. There, there was  
8 testimony I believe by Mr. Cupparo, and also in a data  
9 request that I sent. I think it was part of the FERC  
10 initiative. But that was one of the benefits, in that  
11 it would fully -- it would make the east and west  
12 control center more -- an integratable system.

13 And I think it's because of the new design,  
14 the hub and spoke. The Populus Station -- which  
15 hasn't been built yet -- that will be one of the hubs.  
16 And I think the Mona down in Utah will be. And, and I  
17 do -- I did see that and re -- I read that and I  
18 thought that, that would be great if we could  
19 integrate the two systems.

20 CHAIRMAN BOYER: Okay. Thank you Dr. Zenger.  
21 Ms. Schmid, any redirect?

22 MS. SCHMID: Just one or two, please.

23 REDIRECT EXAMINATION

24 BY MS. SCHMID:

25 Q. Dr. Zenger, pending data requests have been

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1 mentioned. Notwithstanding that there are a few data  
2 requests pending, is it your recommendation and the  
3 recommendation of the Division that the certificate be  
4 granted with the conditions contained in your  
5 testimony?

6 A. Yes, it is.

7 MS. SCHMID: Thank you.

8 CHAIRMAN BOYER: Okay. Thank you Dr. Zenger.  
9 You may step down.

10 Let's take a ten minute recess and refresh  
11 ourselves and be back here in about ten minutes.

12 (A recess was taken from 11:06 to 11:18 a.m.)

13 CHAIRMAN BOYER: Let's go back on the record.  
14 Mr. Proctor, have you any evidence to put on or --

15 MR. PROCTOR: No.

16 CHAIRMAN BOYER: -- statements to make?

17 MR. PROCTOR: Well, we should be on the  
18 record.

19 No, the Committee's filed it's evaluation and  
20 position statement and we have nothing more to add.  
21 If the Commission has questions we would certainly be  
22 pleased to respond. But we have no intention of  
23 putting on anything additional at this hearing.

24 CHAIRMAN BOYER: Okay. Thank you  
25 Mr. Proctor.

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1 Let's turn now to Mr. Michel.

2 MR. MICHEL: Thank you Mr. Chairman. WRA  
3 calls Nancy Kelly.

4 (Ms. Kelly was sworn.)

5 CHAIRMAN BOYER: Mr. Michel?

6 NANCY L. KELLY,  
7 called as a witness, having been duly sworn,  
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. MICHEL:

11 Q. Good morning Ms. Kelly.

12 A. Good morning.

13 Q. Could you state your full name for the  
14 record?

15 A. Nancy L. Kelly.

16 THE COURT REPORTER: You need to speak up,  
17 ma'am.

18 THE WITNESS: Oh, sorry. Is that better?

19 THE COURT REPORTER: Yes.

20 THE WITNESS: Nancy L. Kelly.

21 Q. (By Mr. Michel) And by whom are you  
22 employed?

23 A. Western Resource Advocates.

24 Q. And what's your position with Western  
25 Resource Advocates?

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1 A. Senior policy adviser.

2 Q. Okay. And did you prefile testimony in this  
3 case?

4 A. I did.

5 Q. And did you prefile both direct and  
6 surrebuttal testimony?

7 A. I did.

8 Q. Okay. Do you have before you what will be  
9 marked WRA Exhibits 1, which is your direct testimony,  
10 and WRA Exhibit 2, which is your surrebuttal  
11 testimony?

12 A. I do.

13 Q. And is that the prefiled testimony that you  
14 submitted in this docket?

15 A. It is.

16 Q. Do you have any changes or corrections to  
17 make to either of those exhibits?

18 A. Yes. To both.

19 CHAIRMAN BOYER: Excuse me for interrupting,  
20 Ms. Kelly. I'm not sure that your mic is on. Is the  
21 green light illuminated? There we go.

22 THE WITNESS: I thought I saw a green light  
23 and --

24 CHAIRMAN BOYER: Now we're in business.

25 THE WITNESS: I was wondering myself. Okay,

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1 thank you.

2 Q. (By Mr. Michel) Could you identify those  
3 changes or corrections to your testimony?

4 A. Yes. On page 5 of my direct, beginning with  
5 the paragraph on line 17 at the bottom, there's a  
6 garbled sentence that needs to be corrected. And on  
7 line 19 -- so here, here's how I would have it read,  
8 and then we'll fix it:

9 "From what I can tell, not only has  
10 the Populus-to-Terminal project not been  
11 evaluated in the context of the IRP, but  
12 the Gateway Energy Product -- Project,  
13 of which this line is a part, has also  
14 not been evaluated."

15 And I'd put a period. So on line 19 after  
16 the comma, after part strike been, insert was. Also  
17 not, insert been before evaluated. And strike the  
18 rest of the sentence.

19 Q. Now Ms. Kelly, you said insert the word was.  
20 Did you mean has?

21 A. Huh. Yeah, I couldn't read the writing,  
22 thank you. Another garbled sentence.

23 Q. Okay. So it would read "has also not been  
24 evaluated"?

25 A. Yes, that's exactly how it would read.

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1 Q. Okay. Do you have any other corrections?

2 A. Yes. On page 6, line 5, there were a couple  
3 of question marks that should be removed.

4 MR. SMITH: Page what?

5 THE WITNESS: Page 6, line 5. The analysis.

6 MR. SMITH: Oh, okay.

7 THE WITNESS: Remove question marks. Turning  
8 to my surrebuttal testimony. On Page 7, on lines 3  
9 and 4, the word Utah should be replaced by native  
10 load. So that in -- instead of referring to Utah  
11 customers it's referring to native load customers.

12 Q. (By Mr. Michel) Are those all the changes  
13 and corrections?

14 A. Yes.

15 Q. If I were to ask you the same questions that  
16 are reflected in the testimony, with the changes  
17 you've just identified, would your answers be the  
18 same?

19 A. They would.

20 Q. And do you have a summary statement that you  
21 would like to provide the Commission?

22 CHAIRMAN BOYER: Mr. Michel, do you want to  
23 move their admission?

24 MR. MICHEL: Sure, I can. I'll move the  
25 admission of WRA Exhibits 1 and 2.

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1           CHAIRMAN BOYER: Are there objections to the  
2 admission of WRA Exhibits 1 and 2, Ms. Kelly's  
3 testimony?

4           MR. SMITH: No objection.

5           MS. SCHMID: No objection.

6           CHAIRMAN BOYER: Very well, they're admitted.  
7 Thank you Mr. Michel.

8           MR. MICHEL: Thank you.

9           (Exhibit Nos. WRA 1 and 2 were admitted.)

10          Q. (By Mr. Michel) Could you provide a brief  
11 summary statement of your, of your testimony for the  
12 Commission?

13          A. Sure. I think I'll just rely on what I have  
14 in my, my direct and my surrebuttal testimony. That  
15 PacifiCorp has not demonstrated in its application the  
16 public convenience and necessity of its proposed line.

17                 The filing simply does not provide the  
18 evidence required to make such a determination. It  
19 doesn't include the cost/benefit. It doesn't, in  
20 establishing need, address the link to the IRP and  
21 provide the cost/benefit analysis.

22                 Therefore, the Company should be required to  
23 supplement its application with the necessary  
24 information and analysis. And provide parties an  
25 opportunity to review and respond to the supplemental

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1 information before the Commission makes a  
2 determination.

3 And in my surrebuttal also add on -- or, you  
4 know, from my surrebuttal testimony that we really  
5 support the idea of clarification from the Commission  
6 in terms of what is required for a CCN filing. That  
7 that would be very helpful.

8 And our recommendation is that you should  
9 require that any transmission additions be evaluated  
10 in the context of the IRP and not just assumed in the  
11 IRP.

12 And that the -- what -- whatever your  
13 determination is for what needs to be with the CCN  
14 would -- when the Company came in with an application  
15 it would provide all of that evidence from the get-go,  
16 so that people would have access to it in a timely  
17 way. And wouldn't require the rounds of data requests  
18 that it can at times to nail down particular pieces.

19 MR. MICHEL: Thank you Ms. Kelly. I'll pass  
20 the witness.

21 CHAIRMAN BOYER: Thank you, Ms. Kelly. Let's  
22 begin with cross examination. We'll begin with the  
23 Company and then move to the Division, the Committee,  
24 and around the room.

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1 CROSS EXAMINATION

2 BY MR. SMITH:

3 Q. Okay. I just have I think four or five  
4 questions. The first is -- you peaked my interest.  
5 What's the difference between a Utah customer and a  
6 native load? I'm not sure I understand what you mean  
7 by native load customer.

8 A. Well, PacifiCorp is an inter-jurisdictional  
9 utility that serves customers in six states. And all  
10 of its resources are for the benefit of all of its  
11 system customers. You can't really specify a  
12 particular transmission generation to go with  
13 particular customers. They, they serve them  
14 simultaneously.

15 And that's why we have inter-jurisdictional  
16 cost allocation methods to figure out how to share the  
17 cost of these joint resources. So I was, I was  
18 clarifying that this, this is for Utah customers, yes.  
19 But it's for system customers.

20 Q. Okay. Ms. Kelly, did WRA request and receive  
21 the responses to the data requests not only that you  
22 may have asked, but also the questions that were asked  
23 by the Committee and the Division?

24 A. Yes, we did.

25 Q. And did you have access to those?

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1           A.    Yes, and I reviewed them carefully.

2           Q.    Now, if I understand the -- towards the very  
3 end of your surrebuttal you -- what you're saying is  
4 that you're not necessarily opposing the application.  
5 You just think there should be a greater burden --  
6 burden of providing specific information up front.  Is  
7 that a good summary?

8           A.    Um, it's not com -- a -- it's a good partial  
9 summary.  It's, it's not complete.  Yes, I do believe  
10 that it's the, the Company's burden to come in with  
11 full evidence at the beginning.  Because that allows  
12 people to examine it in a timely way.

13                     That doesn't happen when you have rounds of  
14 data requests and you have to know -- you know, you  
15 have to figure out how to phrase the questions.  Then  
16 you have to respond to the, the data response answers.  
17 So if, if the Company provides the full package, that  
18 allows interveners to, to do their job.  And it  
19 provides the Commission with the evidence that it  
20 needs, being an evidentiary body.

21                     And, and I guess I would also say that I  
22 don't believe that it's the intervener's job to do the  
23 work for the Company.  There's also another part, in  
24 that I don't feel that the -- despite all the, the  
25 responses to data requests, that what is missing in

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1 this is the link to the IRP.

2 In terms of cost evaluation of this line, the  
3 only time that it was actually evaluated in the IRP  
4 context was as a 300 megawatt upgrade. And that  
5 occurred in the IRP 2004 update, where it was looked  
6 at with the line in and the line out.

7 And it was looked at with what was the  
8 portfolio mix at the time. And that has changed  
9 substantially. So this line has gone from 300  
10 megawatts to 1,400 megawatts when the rest of the  
11 energy Gateway is, is completed. And there hasn't  
12 been analysis done in the IRP or linking it back to  
13 the IRP.

14 And I guess I'd also like to address the idea  
15 of integrating the system. From what I understood  
16 from reviewing DPU Data Request 1.14, is that in order  
17 to get that integration of the system -- which is one  
18 of the system's benefits I think that, I think that  
19 Dr. Zenger explained -- is you have to actually have  
20 the other components of the Gateway Energy Project  
21 completed as well.

22 And so I -- that, that was in the -- that  
23 was -- and it might be the section from Bridger. But  
24 it's not specified, so I can't, I can't tell you that.  
25 So all I'm saying is that it's important to have the

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1 full analysis to establish need. The need for the  
2 line instead of some other alternative.

3 And, you know, three-quarters of a billion  
4 dollars is a lot for that segment, and then we have  
5 the whole Gateway project. And I want to say also  
6 that I have been an advocate for transmission in the  
7 west.

8 So I am not saying that -- you know, it  
9 sounds like I'm being real negative. I'm not saying  
10 that it, that it's not the right thing. I'm saying we  
11 don't have the, the full evidence to make that  
12 determination.

13 And that it would be very useful to have the  
14 evaluation coming out of the IRP context demonstrating  
15 the, the dollars -- the dollar benefits from that  
16 line.

17 Q. If I understand it, you are not an attorney;  
18 is that correct?

19 A. I am not an attorney. I am an economist.

20 Q. And you are not rendering a legal opinion as  
21 to the burden of proof required by Section 54-4-25 of  
22 the Utah Code, are you?

23 A. Certainly not. I'm asking the Commission to  
24 require this in this case and in future CCNs going  
25 forward.

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1 Q. Do you have any basis to deny that there are  
2 reliability issues related to Path C?

3 A. I am so glad you asked me that.

4 Q. Well, it is a yes or no question.

5 A. Well, right -- there is congestion on Path C.  
6 Now -- and, and given the, the -- there, there is some  
7 congestion on Path C. And there have been times when,  
8 when schedules have had to be cut on Path C in order  
9 to bring in power from the Northwest Reserve Sharing  
10 Group, across that path.

11 I, I was at a meeting last week with  
12 Mr. Cupparo and also Commissioner Campbell when Jerry  
13 Rust from the Northwest Power Pool went through in  
14 detail the, the February -- I don't remember the date.  
15 February 2008 outage.

16 MR. SMITH: Could, could I interrupt? Your  
17 Honor, I think I asked a fairly simple,  
18 straightforward question, which is: Do you have a  
19 reason to doubt that there are reliability issues on  
20 Path C.

21 And I'm not quite sure where the answer is  
22 going, but it seems to have gone --

23 THE WITNESS: I'll get there.

24 MR. SMITH: -- well beyond the question that  
25 was propounded.

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1 THE WITNESS: I'll get there.

2 CHAIRMAN BOYER: He's correct. Well, he's  
3 asking a yes/no question. And if he doesn't ask for,  
4 you know, follow-up details your counsel will have an  
5 opportunity on redirect to flush that out a little  
6 bit. So if you would just answer the question asked,  
7 Ms. Kelly, please.

8 THE WITNESS: There is congestion on Path C.

9 Q. (By Mr. Smith) Okay. Are you aware of some  
10 of the investments that PacifiCorp is making in  
11 Wyoming to develop wind generation resources?

12 A. Not, not directly. It would be very helpful  
13 to have it in your application, where I could examine  
14 it.

15 Q. Well, that wasn't the question. Are you  
16 aware of whether Wyoming -- PacifiCorp has -- is in  
17 the process of developing some wind resources in  
18 Wyoming?

19 A. I am aware that there are good wind resources  
20 in Wyoming.

21 Q. But you are not aware of whether PacifiCorp  
22 is developing?

23 A. From reading Dr. Zenger's direct testimony, I  
24 am.

25 Q. Okay. Now, and I, I think this is a fairly

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1 simple, straightforward question. To the extent wind  
2 resources -- wind generation resources are developed  
3 in Wyoming by PacifiCorp -- but take that as an  
4 assumption -- it's true, isn't it, that those -- the  
5 power generated from those resources is not really  
6 useful unless it can be delivered to customers?

7 A. That would be correct.

8 MR. SMITH: Thank you. That's all I have.

9 CHAIRMAN BOYER: Thank you Mr. Smith.

10 Ms. Schmid, have you cross examination of  
11 this witness?

12 MS. SCHMID: No, no questions.

13 CHAIRMAN BOYER: Mr. Proctor?

14 MR. PROCTOR: No, thank you.

15 CHAIRMAN BOYER: Mr. Aguilar, do you wish to  
16 ask any questions? Commissioner Allen, Commissioner  
17 Campbell?

18 I just have a couple of questions. And they  
19 may sound legalistic, but they're really not. I just  
20 want your personal opinion. Assuming for argument's  
21 sake that the Commission were to issue a Certificate  
22 of Convenience and Necessity, would the Company still  
23 bear some, some risk of prudence, cost recovery, in  
24 the future.

25 THE WITNESS: I believe it, it would. It

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1 would need to come in in a prudency review and make,  
2 and make a particular case. The question I think is  
3 when the timing of this type of need analysis that I'm  
4 requesting should be examined, and what the  
5 implications are if there was a prudency disallowance.

6 CHAIRMAN BOYER: Thank you Ms. Kelly.  
7 Mr. Michel, redirect?

8 MR. MICHEL: Thank you Mr. Chairman.

9 REDIRECT EXAMINATION

10 BY MR. MICHEL:

11 Q. Just, just following up on, on Chairman  
12 Boyer's question. In your opinion is a after-the-fact  
13 prudence review a sufficient remedy for a  
14 poorly-planned project?

15 A. For a poorly -- for a, for a poorly-planned  
16 and unneeded project, no, it's not. Because somebody  
17 has to bear the cost of that project, whether it's  
18 shareholders or ratepayers. And there are impacts to  
19 landowners, to the, the environment, and to, to  
20 Utahans generally from adding a line if it were not  
21 needed.

22 Q. Mr. Smith asked you about whether you were  
23 aware that there were constraints or reliability  
24 issues on Path C. What's the basis for your  
25 understanding of, of reliability issues associated

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1 with Path C?

2 A. Path, Path C is congested. And so the  
3 question is, what happens in the eastern control area  
4 if there is a contingency. Is there the ability to  
5 bring power in from other areas to meet those  
6 contingencies?

7 And, and that again is tied to the resource  
8 plan and where new generation will be. If you put  
9 generation on one side of the congested path it gets  
10 rid of it in the same way that building transmission  
11 to an alternative area plus the generation gets rid of  
12 it.

13 The, the question I believe is -- where,  
14 where I was going with what I had been talking about,  
15 you -- all transmission projects have a reliability  
16 component and they have an economic component. So  
17 that if you, if you enhance the transmission system  
18 for economic reasons, you're gonna enhance  
19 reliability.

20 If you're concerned about reliability and you  
21 enhance the transmission system, you're also gonna  
22 change the way your -- your ability to move power.  
23 And that's gonna be enhanced. And so there isn't a  
24 fine line.

25 And with respect to this particular project,

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1 it doesn't seem that, that playing the reliability  
2 card alone is enough. Because there are potential  
3 alternatives that, that may need to be explored that,  
4 that haven't.

5 And Mr. Rust, Jerry Rust, was asked by a  
6 board member who's part of EPA --

7 Q. Who, who is Jerry Rust?

8 A. Jerry Rust is the president, I think, of the  
9 Northwest Power Pool. Not -- let me say Jerry Rust is  
10 associated with the Northwest Power Pool.

11 MR. SMITH: Before we go on, I would like to  
12 interpose an objection. We're being given testimony.  
13 And I understand hearsay is admissible. Here we've  
14 now gone into double hearsay, I think, in that the  
15 question is what did a person who has nothing to do  
16 with any of the parties here say recently.

17 We have no means of rebutting that --

18 THE WITNESS: He has a lot to do with  
19 reliability.

20 CHAIRMAN BOYER: Well I, you know, I was  
21 thinking that it goes beyond the scope of the cross  
22 examination.

23 THE WITNESS: Okay.

24 CHAIRMAN BOYER: So.

25 MR. SMITH: And that too.

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1                   CHAIRMAN BOYER:  We're gonna rein her in at  
2  that --

3                   THE WITNESS:  Okay.

4                   CHAIRMAN BOYER:  Rein it in at that point if  
5  you wouldn't mind, Ms. Kelly.

6                   THE WITNESS:  That's fine.

7           Q.  (By Mr. Michel)  Let me, let me ask it this  
8  way, Ms. Kelly.  Do you have any reason to -- when you  
9  indicated that there is congestion on Path C, what did  
10 you mean by that?

11           A.  I mean that --

12           Q.  What --

13           A.  That --

14           Q.  What --

15           A.  Not everyone who wants to schedule power  
16 across that line can.  On a firm basis.  And that when  
17 there are contingencies in the East Control Area at  
18 times, the firm schedules have to -- the schedules  
19 have to be curtailed in order to bring in power for  
20 the -- from the Northwest Power Pool in order to  
21 maintain service in the East Control Area.

22           Q.  And why don't those issues dictate that this  
23 proposed Populus-to-Terminal line should be built?

24           A.  Because there are alternatives.  And the  
25 question is, at what cost, and how is it associated

1 with the resource plan. And that hasn't yet been  
2 answered.

3 Q. And then just, just finally, you were asked  
4 about wind generation being developed in Wyoming.  
5 Does WRA support the aggressive development of  
6 renewable resources in the west?

7 A. Absolutely.

8 Q. And nevertheless we are asking for further  
9 examination of this project; is that right?

10 A. That's correct.

11 Q. And, and could you explain how those are  
12 consistent, in your mind? How those positions are  
13 consistent in your mind?

14 A. Yes. Part of, part of our interest is not  
15 only doing what's right environmentally, but done in  
16 an economically responsible manner. And it's, it is  
17 those reasons that have us requesting that the link to  
18 the IRP and the link to cost/benefit analysis be a  
19 part of the establishment of need. Because there,  
20 there are very good renewable resources in Wyoming.

21 The question is whether the combination of  
22 transmission and those renewables are, are the right  
23 mix. Or with the, the change regarding coal  
24 resources, if that remains cost effective. And if you  
25 might want to use a lower quality of renewables that

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1 was closer to load, didn't require transmission.

2 Those are issues that have not yet been  
3 explored. So, so those are questions of need. And,  
4 and that's why I -- that's why WRA is requesting  
5 economic analysis in establishing need, in addition to  
6 just pushing for all the renewables anywhere.

7 MR. MICHEL: Okay. That's all I have, thank  
8 you.

9 CHAIRMAN BOYER: Commissioner Campbell has a  
10 question or two.

11 COMMISSIONER CAMPBELL: Let me follow up on  
12 some of your answers to the redirect. And I want to  
13 make sure I understand whether you're advocating a  
14 change of Commission precedent here based on what the  
15 Commission has done in the past.

16 And I, as I've seen your work before this  
17 Commission over the last decade I would probably  
18 categorize you as an IRP enthusiast and expert. And  
19 my, my question is -- I don't believe the Commission  
20 has required IRP evidence in every CPCN hearing.

21 And my question is, are you, are you  
22 advocating that the IRP has to be part of this  
23 evidence when this Commission looks at a certificate,  
24 and I guess the compound question, are you aware of  
25 other states that require the IRP to be part of this

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1 sort of proceeding?

2 THE WITNESS: The -- I'll answer the last  
3 part first. I don't have any familiarity with other  
4 states, so I can't answer one way or another. With  
5 regards to the first, I, I'm not sure because I  
6 am -- I wasn't part -- I wasn't a participant in some  
7 of the earlier CPCN proceedings that have taken place  
8 in the last eight years.

9 But my understanding looking back is that  
10 they were resources that -- well, not Currant Creek.  
11 That's why I was in trouble. That, that had been --  
12 that were consistent with the IRP. And when there  
13 wasn't consistency with their IRP there was a lot of  
14 questions about whether it was the right resource.

15 So my -- I am an IRP enthusiast, absolutely.  
16 And what I'm feeling is missing in this application is  
17 any tie to an analysis coming out of the IRP. Because  
18 the, the Standards and Guidelines Order of 1992  
19 requires that all resources be evaluated in a  
20 consistent and comparable basis. And that includes  
21 transmission.

22 And, and there's a 2003 IRP order that orders  
23 the, the Company to consider transmission on, on an  
24 equal basis. And so I think that in, in establishing  
25 need -- in my, in my -- the -- I think in establishing

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1 need -- I'll finish my sentence -- you, you have to  
2 look -- you have to use IRP.

3           And in my surrebuttal testimony I, I  
4 illustrate the point. And the point is you -- let's  
5 say you have a very rapidly-growing utility. And  
6 based on one set of assumptions it determines that  
7 building generation next to load and using the market  
8 sparingly is the preferred way to go.

9           In that case there is no need for additional  
10 transmission, and whatever congestion there is fine.  
11 Now, if you have the same utility, same load growth,  
12 and the, the plan includes -- I, I just pull this out  
13 of the air to kind of not be associated with anything  
14 that PacifiCorp is fully doing -- to, to rely fully on  
15 some deep liquid market. And you want -- and the plan  
16 was to build transmission to that deep liquid market,  
17 well then you would need a lot of transmission.

18           So the, the point is that the need for a line  
19 cannot be separated from the overall plan. And so I'm  
20 not sure what was done in past cases, but I definitely  
21 believe that in establishing need one should look to  
22 the IRP and, and not just that it was in there, but  
23 that it was evaluated in there. Because that's what  
24 the Company is required to do. It's required to  
25 evaluate its resource alternatives.

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1                   COMMISSIONER CAMPBELL: So let, let me  
2 summarize and see if I understand your point. I mean,  
3 historically I think the Commission has looked at  
4 acknowledged IRPs as evidence that the Company could  
5 bring forward to support what it's trying to do. But  
6 it was not a requirement.

7                   And you're suggesting that this Commission  
8 cannot make this sort of decision without requiring  
9 the IRP be part of that process. Is that your  
10 position?

11                   THE WITNESS: I'm, I'm saying it's very hard  
12 to establish need separate from IRP analysis.

13                   CHAIRMAN BOYER: Okay. Do you have another  
14 question?

15                   MR. SMITH: One question.

16                   CHAIRMAN BOYER: And I'm -- in fairness I'm  
17 gonna have to give Mr. Michel an opportunity to do  
18 re-redirect, I guess. Go ahead Mr. Smith.

19                   RE CROSS EXAMINATION

20 BY MR. SMITH:

21                   Q. You indicated I think just now that you  
22 thought that in most cases you would need to include  
23 IRP. Can you see situations in which a current need  
24 is sufficiently pressing that a decision to grant a  
25 CCN that -- a Certificate of Convenience and Necessity

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1 could and should be done outside of the IRP process?

2 A. My answer is no. And therefore I would like  
3 to explain it to you, because I'm sure you want to  
4 know what I'm thinking. I, I think it depends on the  
5 size of the line. Which gets to the, the questions  
6 that the Committee raised in their comment in their  
7 position and evaluation statement.

8 I can, I can think of transmission lines that  
9 might need to be rapidly increased. I would think  
10 that they would be small lines. That they would be  
11 based strictly on load growth and not on the location  
12 of generation.

13 But when you're building a line that also  
14 includes location of generation to justify it, then I  
15 think it absolutely requires an evaluation of -- an  
16 economic evaluation in addition to a reliability  
17 analysis.

18 Q. But that conclusion is a policy conclusion  
19 and, if I understand, is not based on your "legal"  
20 analysis of Section 54-4-25?

21 A. Definitely not. It's policy.

22 MR. SMITH: Thank you.

23 CHAIRMAN BOYER: Mr. Michel, anything  
24 further?

25 MR. MICHEL: Just, just a clarification-type

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1 question.

2 FURTHER REDIRECT EXAMINATION

3 BY MR. MICHEL:

4 Q. Ms. Kelly, you've described IRP, the  
5 Company's IRP, which is a specific plan and document.  
6 And then you've talked about IRP analysis, which I  
7 think you're referring to in a somewhat different  
8 context.

9 Is, is it -- and maybe following up on  
10 Mr. Smith's question. Is it possible that the Company  
11 could provide an analysis that's integrated, that  
12 looks at all its resources, in a CPCN case, CPCN case  
13 that may be different or updated from its  
14 then-existing IRP?

15 A. Yes.

16 Q. Okay. So what you're suggesting is that  
17 there be integrated resource-type analysis of need,  
18 is, is the gist of your recommendation?

19 A. Yes, exactly.

20 MR. MICHEL: Okay, thank you.

21 CHAIRMAN BOYER: Thank you Ms. Kelly. You  
22 may step down.

23 And unless I've overlooked something I think  
24 that will conclude this portion of the hearing on this  
25 line. However, we will be reconvening at 4:30 today



1 to hear from public witnesses. And with that, we  
2 thank everyone's participation.

3 Mr. Michel?

4 MR. MICHEL: Mr. Chairman, you had talked --  
5 or we had talked a little bit initially about the  
6 opportunity for closing statements, briefs, things  
7 like that.

8 I would -- if, if there's nothing further  
9 than public comment it would be helpful to me to be  
10 able to deal with those before the 4:30 reconvening of  
11 the hearing if we are gonna have public -- if we are  
12 gonna have closing arguments, or closing statements,  
13 or something of that sort. I, I don't know what your  
14 intentions were in that regard.

15 CHAIRMAN BOYER: Well, inasmuch as we have  
16 read the testimony, and heard the arguments, and read  
17 comments in the form of pleadings, I don't think we  
18 need summaries from counsel in this particular case.  
19 So we were not planning on that, unless somebody  
20 insists upon it.

21 MR. MICHEL: I -- Mr. Chairman, I would like  
22 an opportunity to briefly respond to some of the legal  
23 positions that have been put forth in this proceeding.  
24 There were, as we mentioned, there were comments  
25 filed.

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1 I understand that there may not be a need for  
2 formal briefs, but, but it would be helpful if I could  
3 at some point have a few minutes to simply address  
4 some of those legal issues before the record is  
5 closed.

6 CHAIRMAN BOYER: Let me caucus with my  
7 colleagues for a moment.

8 (Pause.)

9 CHAIRMAN BOYER: Out of the kindness of our  
10 hearts, Mr. Michel, and in view of the fact that  
11 Mr. Smith gave a rather lengthy opening statement,  
12 we'll give you a few minutes to do that. But we'll  
13 let other counsel also make a statement.

14 So we'll begin with you, inasmuch as you  
15 asked for it, and then we'll go to the other lawyers  
16 in the room.

17 MR. MICHEL: You want to do that now?

18 CHAIRMAN BOYER: I'd like to do that now at  
19 this point, and then the -- our reporter can go about  
20 her business and return later in the afternoon.

21 MR. MICHEL: Okay. When you said out of the  
22 kindness of your heart I wasn't sure which way you  
23 were gonna rule on it.

24 CHAIRMAN BOYER: I've been told I have got a  
25 pretty good poker face.

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1           MR. MICHEL: Thank you Mr. Chairman. And,  
2 and I really don't have a whole lot to say. I think  
3 it's important to understand that WRA is not, not  
4 necessarily opposing this project. We simply don't  
5 feel like there is adequate information in the case  
6 that the Company put on for the Commission to evaluate  
7 the need for this project.

8           And I guess, you know, as Ms. Kelly said, an  
9 after-the-fact prudence analysis, which is what the  
10 Company seems to advocate, in our mind is not a  
11 sufficient remedy to a project. Particularly a  
12 project of this magnitude, which has significant  
13 financial and operational implications. As well as,  
14 as well as siting implications, environmental  
15 implications, and so on.

16           We're not sure what those are, but. But  
17 there are impacts associated with construction and  
18 large projects that cannot be mitigated by a simple  
19 disallowance of cost in a prudency review. Assuming  
20 that a prudency review can even fully explore all of  
21 the issues it needs to explore.

22           So we're not comfortable that the need -- the  
23 certificate of need issues should be punted, if you  
24 will, to, to a prudence proceeding. Which is how  
25 we're interpreting the Company's position in this.

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1 Utah has had certificate statute employed for, for  
2 decades.

3           There was a number of citations to the  
4 Mulcahy case, which was mentioned was a trucking case.  
5 We think there are a couple other more recent cases  
6 that are -- that would be instructive to the  
7 Commission. And I would refer your -- refer the  
8 Commission to both of those.

9           And let me preface by saying there's nothing  
10 in the Mulcahy case that prevents the Commission from  
11 doing whatever level of exploration of need issues it  
12 believes is appropriate. And I think there's  
13 well-established law in, you know, I would expect  
14 throughout the country, I know in a number of  
15 jurisdictions, that commissions are often given a  
16 great deal of discretion in interpreting the statutes  
17 that apply to them.

18           And I think that particularly holds with a  
19 CPCN statute, where the Commission is charged with  
20 effectuating the public interest. The, the two cases  
21 that I had ask the Commission to refer to I already  
22 mentioned very briefly. The first case is the Utah  
23 Associated Municipal Power Systems case that was  
24 decided March 20, 1990.

25           That case did go up to the Utah Supreme Court

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1 and is a reported case. But the issue, as I think  
2 Dr. Zenger indicated, in front of the Court was not  
3 the scope of the Commission's inquiry. It was rather  
4 having to do with the jurisdiction of the Commission  
5 over that project.

6           Nevertheless, in that case the Court did  
7 discuss what the Commission looked at in the  
8 underlying proceeding. And the Court said the  
9 Commission -- and I'll, and I'll just read briefly:

10           "The Commission cited the high cost  
11 of the transmission lines and the many  
12 uncertainties about the need for the  
13 proposed transmission capacity in the  
14 near term.

15           "The PSC was particularly --  
16 particularly noted that the UAMPS  
17 proposal was very expensive. And seemed  
18 largely motivated by UAMPS' desire to  
19 have its own transmission facilities so  
20 that it would not have to use those  
21 UP&L -- those of UP&L rather than a  
22 search for the alternative least costly  
23 to its customers."

24           So in that case the Court here is indicating  
25 that there was a fairly robust analysis of the cost

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1 and benefits by the Commission in this particular  
2 project when it denied that CPCN.

3 The other case I -- I'll refer to is the Lake  
4 Side certificate case. Which I, I believe I gave the  
5 cite earlier to, to Mr. Smith. That was a PacifiCorp  
6 case in front of the Utah Public Service Commission.

7 And I'd just like to read -- Commissioner  
8 Campbell, I believe, asked some questions about are  
9 we -- you know, of Ms. Kelly in that are we departing,  
10 or are you suggesting that we depart from prior  
11 Commission precedent in how we, how we look at these  
12 cases.

13 And I think this case may shed some light on,  
14 on the types of things the Commission historically  
15 looks at. And it's a 2004 case. And I'll just read  
16 about a paragraph and-a-half out of that order. It  
17 says -- and this is on page 6 of the document that I  
18 have. It says:

19 "Additionally, in past cases where  
20 we have issued a Certificate of  
21 Convenience and Necessity for electrical  
22 facilities we have relied upon  
23 particular points of evidence, including  
24 the following:

25 "Inadequate generated and purchased

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1 power capability to meet expected peak  
2 demand, including sales for resale  
3 obligations and planning reserve, and  
4 therefore to provide reliable service.

5 "Demand growth is likely to  
6 continue. Adequate financial conditions  
7 exist to fund the investment. Review of  
8 alternative actions shows no better  
9 alternative at the present time. And  
10 the location of facilities is compatible  
11 with environmental regulations.

12 "Further, pursuant to statutory  
13 mandates, in its order dated June 18,  
14 1992, in Docket 90-35 -- 2035-01, the  
15 Commission requires that PacifiCorp  
16 engage in a public resource planning  
17 process to identify the least-cost  
18 alternative for the provision of energy  
19 services, services to its present and  
20 future ratepayers that is consistent  
21 with safe and reliable service, the  
22 fiscal requirements of a  
23 financially-healthy utility, and the  
24 long run public interest.

25 "The purpose of this planning

1 process is to select the optimal set of  
2 resources given the expected combination  
3 of costs, risks, and uncertainties over  
4 the long run.

5 "These statutory mandates and case  
6 precedents guide us in our review of the  
7 evidence provided in this manner. And  
8 construction of the Lake Side Power  
9 project is required for present and  
10 public -- present and future public  
11 means and necessity."

12 So just to boil all this down, the Company  
13 has paid lip service to a lot of these issues in its  
14 filing. It's not developed these issues by any  
15 stretch of the imagination.

16 We think it's consistent with past Commission  
17 policy, and we think it's good public policy, for the  
18 Commission to require that a full exploration of this  
19 project -- its costs, benefits, how it relates to the  
20 rest of PacifiCorp's system and some of these other  
21 issues -- be provided to the Commission in evidence  
22 before the Commission grants its Certificate of Public  
23 Convenience and Necessity. Thank you.

24 CHAIRMAN BOYER: Thank you Mr. Michel.

25 Mr. Smith?



1           MR. SMITH: Yes, I'll try to, try to be  
2 brief, three or four issues, and I'll try to respond  
3 at least to some degree to some of the legal  
4 arguments.

5           First of all, there was an inference in the  
6 cross examination of Mr. Cupparo that the fact that  
7 he, on several occasions, would make a factual  
8 assertion as to the truthfulness of a fact. That he  
9 did not then attach to his testimony each and every  
10 piece of paper that could have supported that  
11 statement.

12           To the extent that is asserted by U -- by WRA  
13 as the legal standard in the state, that's certainly  
14 not been the standard in any case I have ever seen.  
15 We placed witnesses on the stand. They prefiled  
16 testimony. During that process discovery takes place  
17 that gives the other parties the opportunity to  
18 challenge the veracity of the factual statements.

19           That was done in this case. Ms. Zenger, as  
20 she indicated -- or Dr. Zenger, as she indicated,  
21 didn't take the Company's word for these things. She  
22 investigated not only internal Company documents  
23 obtained through discovery, but also did independent  
24 analysis to determine the factual veracity of  
25 Mr. Cupparo's statement.

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1           So to suggest that just because his statement  
2 didn't have two feet of attachments to it that it is  
3 somehow inadequate, I believe stands the whole history  
4 of proof in this state on its head. The process is  
5 different than that.

6           And the fact of the matter is, is that, as  
7 Ms. Kelly agreed, they had access to the discovery  
8 responses that Dr. Zenger did. For reasons that I'm  
9 not clear on, they chose not to analyze and respond  
10 substantively to the alleg -- to the assertions made  
11 by Mr. Cupparo.

12           So to the extent there's some argument that  
13 the Company has failed to meet its burden of proof, I  
14 would submit that is completely wrong. Once a party  
15 makes a legitimate factual assertion, other parties  
16 have a duty as well, if they do not agree with it, to  
17 come forward with evidence to challenge it. And they  
18 did not do so.

19           As to the Mulcahy case, Mr. Michel suggests  
20 that, well, that was only a trucking case. I would  
21 just recommend it to your -- to have you read it.  
22 The -- in discussing the standards, that are actually  
23 quoted in Ms. Zenger's testimony, it's very clear that  
24 they were announcing -- the Supreme Court was  
25 announcing standards for public convenience and

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1 necessity that applied not just to trucking companies  
2 but to any utility. The cases they cite I think run  
3 the gamut of different kinds of utilities.

4           And, and when it comes down to it the  
5 standard is, necessity means reasonably necessary and  
6 not absolutely imperative. I would submit to you that  
7 the testimony, the unrebutted testimony in this case  
8 presented by Mr. Cupparo and Dr. Zenger, is that there  
9 is unrebutted testimony not only that it's reasonably  
10 necessary that this transmission line be built, but in  
11 fact it's imperative. And it's imperative that we  
12 move forward quickly.

13           Ms. Kelly suggests that we engage in further  
14 rounds of analysis and further analysis. In the  
15 meantime, Path C has serious problems. And those  
16 problems will only get worse. There was a suggestion  
17 that the Company is advocating an after-the-fact  
18 prudence analysis. In fact, the Company would love to  
19 know in advance that, that the investment is going to  
20 be deemed prudent.

21           But, at least as I understand it, that's not  
22 the way it works in this state. Prudence will be  
23 analyzed at a certain point in time when -- in the  
24 appropriate rate case. The Company is entirely  
25 comfortable going forward and demonstrating at that

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1 time that this was a prudent way of dealing with this  
2 very clear need. But the question now is not  
3 prudence.

4 And if you listen carefully to what WRA  
5 witnesses and counsel have said, what they really,  
6 really want is an up-front prudence analysis as the  
7 standard under Section 54-4-25. That is not what  
8 Section 54-4-25 says.

9 There was a reference to environmental  
10 concerns. Ms. Kelly raised that issue in her direct  
11 testimony. Mr. Cupparo responded and said, you know,  
12 what environmental concerns? Tell us what they are.  
13 You can't just say there may be some environmental  
14 concerns, and then not come forward with any evidence.

15 WRA, at least as I read their testimony,  
16 never presented a single bit of evidence that the  
17 Company's building of this line will in any way  
18 contravene any environmental law of either the State  
19 of Utah or the federal government.

20 Bottom line is, Section 54-4-25 is very clear  
21 that the standard is, is there a reasonable necessity,  
22 or even further -- well, that is it reasonably  
23 necessary that the line be built. The evidence is  
24 un rebutted that that is the case in this docket, and  
25 therefore the Company strongly recommends that the

1 certificate be granted.

2 I'm not -- I don't have the Lake Side case in  
3 front of me at this point so I'm unable to respond  
4 definitively, but I would just mention that that was  
5 a, as I understand it, a generation case as opposed to  
6 a transmission line case. And that fact alone may  
7 very well have significant implications on the factors  
8 that may or may not have been considered by the  
9 Commission.

10 The UAMPS decision, as I understand it, was  
11 really a battle between two utilities both wanting to  
12 build a transmission line to the same area. The legal  
13 and factual context of that case was very, very  
14 different than what we're dealing with here.

15 We're -- the Company is not in a battle to  
16 see who builds this line. The question is, is whether  
17 it will build the line. And, and the facts that are  
18 relevant to that are, what are the current needs and  
19 the future needs of the ratepayers of the State of  
20 Utah.

21 So we, we appreciate your listening to our  
22 position on this. And strongly recommend that a  
23 certificate as, as outlined by Dr. Zenger, be granted  
24 as soon as reasonably possible.

25 CHAIRMAN BOYER: Thank you, Mr. Smith.

1 Ms. Schmid?

2 MS. SCHMID: Thank you. The Commission is  
3 charged with regulating public utilities within the  
4 state. As part of that responsibility, the Commission  
5 is charged with making decisions as to whether or not  
6 certificates of public convenience and necessity  
7 should be issued.

8 Under Utah Code Annotated 54-4-25, standards  
9 for issuing certificates are set out. It is the  
10 Division's position that there has been sufficient  
11 competent evidence developed and submitted on this  
12 record to support a finding that a certificate of  
13 public convenience and necessity should be granted for  
14 the requested facility.

15 It is the Division's position that this is  
16 not the proper place for a prudence review, nor an  
17 analysis of cost/benefits. That would be conducted  
18 under Utah Code Annotated 54-4-4, which addresses  
19 classification and fixing of rates after hearing.

20 Section 4A of that statute delineates the  
21 criteria that should be examined when making a  
22 prudence analysis. The two are different. The  
23 commit -- the Division submits that this certificate  
24 should be granted, and that the prudence review and  
25 cost recovery decided in a later rate case.

1           The Division does note, however, that  
2 Dr. Zenger's extensive analysis could have been made  
3 much easier had the application been more robust and  
4 contained more supporting evidence. Dr. Zenger was  
5 able to find such supporting evidence, but it required  
6 quite a search and analysis on her part.

7           Therefore, the Division recommends that the  
8 Commission entertain a rulemaking to discuss and  
9 provide guidance on what should be included in a  
10 certificate application. Thank you.

11           CHAIRMAN BOYER: Thank you Ms. Schmid.

12           Mr. Proctor, do you wish to add anything to  
13 the discussion?

14           MR. PROCTOR: I do. And I want you all to  
15 notice I've been silent for this whole two hours.  
16 When the Commission -- or the Committee was trying to  
17 determine what it is that they wanted to say about  
18 this matter -- because it does have significant  
19 ratepayer impact. Our constituents will end up paying  
20 this -- much of the three-quarter of a billion  
21 dollars.

22           We struggled with how to approach it both  
23 balancing the, the needs to provide reliable service  
24 to ratepayers, but also the elements of is it  
25 necessary to spend that kind of money in this

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1 particular case. And so in reviewing the application  
2 we came to some conclusions initially.

3 And we compared it, first of all, in  
4 relationship to the statute. The statute doesn't set  
5 forth standards by which you are to make these  
6 decisions. It merely says what your conclusions must  
7 be.

8 They have to be -- you have to find that it's  
9 in the public interest. It serves, reasonably serves  
10 the necessity for the consumer in the future, not  
11 necessarily in the past. And it's not an absolute  
12 necessity, it's is it going to be good for us.

13 How you reach that conclusion, though, can  
14 take into account any number of quantity and quality  
15 of evidence. In any event, as we've stated in our  
16 comments, it has to be probative, it has to be  
17 relevant, it has to be admissible. And that would be  
18 in the application.

19 The other thing that the Committee did is we,  
20 we searched through other dockets that we're familiar  
21 with and -- to determine whether or not there was  
22 sufficient evidence that would meet a very modest,  
23 minimal standard as the Court, in 1941, determined was  
24 applicable to 54-4-25. Is it 25? Yeah. And what we  
25 found is that if you look at that as a minimal

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1 standard, then yes, this application applies. And  
2 that's how we balanced the need for the particular  
3 line.

4 But it is not the case that the Company  
5 simply makes a minimal filing and then it's up to the  
6 interveners, and the Commission, and the other  
7 regulatory agencies to ask questions. And that  
8 somehow the burden shifts for us to ask the right  
9 questions, and then for our cases to include the  
10 answers they provided.

11 The Supreme Court very clearly stated in the  
12 Committee versus the Commission, the second CO2  
13 Questar opinion, that if the evidence isn't there in  
14 the Company's application, the utility's application,  
15 they don't meet their burden.

16 And this Commission's recent order in  
17 connection with the general rate case filed by  
18 PacifiCorp equally says the same thing. If the  
19 Company has not provided the evidence, then they don't  
20 meet that burden of proof.

21 The danger with taking that position in this  
22 particular case was, we did see a need for the line in  
23 the other dockets and the other information of which  
24 the Committee was familiar. So the question then to  
25 us became, well, how do we solve both problems? One,

1 going forward, and two, resolving this particular  
2 matter.

3 That's why our, our finding, our ultimate  
4 conclusion was we don't see any reason why you  
5 shouldn't grant it. Which is a far cry from, yes,  
6 please do. We also made the recommendation that the  
7 Commission should, in fact, provide greater guidance.  
8 The greater clarity as to what is required in this  
9 particular environment.

10 This is not a 1941 instance of two competing  
11 trucking companies seeking to serve the same  
12 territory. The analysis is much more sophisticated.  
13 The consequences are much more, much more severe.  
14 Particularly in cases like this, where what struck me  
15 initially as a pretty small project, is three-quarters  
16 of a billion dollars. And then in discussion of the  
17 place that that particular project has a much greater  
18 one.

19 And now the Company is stating clearly, we  
20 are going to come in here with more requests for  
21 certificates as the transmission system throughout the  
22 six states that is -- are served by PacifiCorp become  
23 more frequent and more needed.

24 So our conclusion is, yes, you can grant them  
25 this certificate. And by no means is it a prudency

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1 determination. But there should be one, definitely --  
2 and there will be one -- that will consider all of the  
3 questions that have been asked here.

4 But in order to prevent the circumstance next  
5 time where the Company's witness goes through a long  
6 list of information not provided -- which is what I  
7 heard the cross examination reveal -- we believe that  
8 the Commission should and can, in this particular  
9 case, create sufficient guidelines and directives so  
10 that the next certificate won't -- will, will have the  
11 admissions -- omissions, pardon me, that were in this  
12 particular docket.

13 And that the regulatory agencies, the  
14 interveners, the public, can get right to the heart of  
15 the matter. Is it truly needed? Can I see the  
16 ap -- within the application the evidence that I need  
17 to come to that conclusion? Can the Commission see it  
18 within the application?

19 You ought not to have to rely upon whether or  
20 not a party does or does not respond to a data  
21 response in testimony. That, that's not something  
22 that, that you should have to do. So we believe that  
23 the authority of this Commission extends to stating in  
24 this particular case, and creating a stare decisis  
25 that would be applicable to the next certificate case

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1 by this utility certainly -- you could go beyond that,  
2 but I think you would want to stick with just this  
3 particular utility -- to state, this is what we expect  
4 to see.

5           You don't have to reject their application in  
6 this case in order to do that. I think the next  
7 one -- even this one -- will, to a large extent, be  
8 enhanced if you were to issue such an order. That's  
9 the position that the Committee took.

10           It came because we looked for reasons why we  
11 should or should not say any particular thing. The  
12 comments in the evaluation -- my name is on it, I'll  
13 take responsibility for it. But it's certainly the  
14 product of the Committee staff as a whole considering  
15 how do we manage and balance this particular problem  
16 that we, that we have before us. We appreciate your  
17 time very much.

18           CHAIRMAN BOYER: Thank you, Mr. Proctor.  
19 Thanks to all counsel for those arguments. We'll be  
20 in recess until 4:30. The witnesses are excused, but  
21 welcome to come back if you wish to hear from the  
22 public. But you need not be here if you don't wish to  
23 be. Thank you all. See you at 4:30.

24           (A recess was taken from 12:19 to 4:32 p.m.)

25           CHAIRMAN BOYER: I guess I'm basically

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1 speaking to a population of one, Mr. Aguilar, who was  
2 here earlier this morning. This is the -- we're back  
3 on the record in Docket No. 08035-42, which is  
4 captioned In the Matter of the Application of Rocky  
5 Mountain Power for a Certificate of Public Convenience  
6 and Necessity Authorizing Construction of the  
7 Populus-to-Terminal 345 kV Transmission Line Project.

8           And this is the time and place duly noticed  
9 for the hearing of testimony from members of the  
10 public. And the rules are slightly different in this  
11 portion of the hearing, Mr. Aguilar. As you heard  
12 earlier, the only question before us is whether or not  
13 the public convenience and necessity does or will  
14 require construction of a new transmission line  
15 between the points indicated in the application, which  
16 basically courses through Wyoming, Idaho, and Utah.

17           And we're only concerned with the portions of  
18 the line that fall within the state boundaries. So we  
19 won't be hearing any testimony on the, on the possible  
20 siting of the transmission line, or the prudence of  
21 whether the Company should build it, or whether or not  
22 they're gonna get cost recovery if they do build it.

23           And you -- we're happy to hear from you. And  
24 you may either give sworn testimony or unsworn  
25 testimony. And I'll just explain that for us to

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1 consider your testimony at least to base our decision  
2 upon your testimony, the, the testimony would have to  
3 be sworn. And when you are sworn, then you subject  
4 yourself to possible cross examination by the  
5 attorneys in this room.

6 So with that, Mr. Aguilar, if you would like  
7 to approach. We didn't swear you this morning, so  
8 I'll -- do you wish to be sworn?

9 MR. AGUILAR: Sure, I'd like to be sworn.  
10 That would be fine.

11 (Mr. Aguilar was sworn.)

12 CHAIRMAN BOYER: Very well, thank you. You  
13 may be seated here. And I don't, I don't imagine you  
14 need any help. You've seen the process this morning.

15 MR. AGUILAR: I have.

16 CHAIRMAN BOYER: Just tell us what's on your  
17 mind.

18 MR. AGUILAR: Okay. Well, I guess you'll  
19 stop me if I --

20 CHAIRMAN BOYER: Yes.

21 MR. AGUILAR: -- go into areas you don't want  
22 to talk about. But I have a little written statement  
23 here. I guess I'd like to preface it by saying that  
24 I'm a city planner with Willard City. And that we are  
25 not on the face of it against this project, as was

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1 mentioned by some other people that spoke today. But  
2 we do have concerns and I guess problems with the  
3 process that has taken place.

4           It was noted today that the transmission  
5 project -- or that a transmission project of this  
6 scale has not been undertaken in almost two decades.  
7 The only state oversight which takes place uses  
8 criteria based largely on case law and/or historical  
9 certificate of convenience and need approvals from the  
10 first half of the last century.

11           The network of states, stakeholders,  
12 technologies, and legal issues involved cries out for  
13 more complex review, not less. The applicant knew of  
14 the need for this Path C project as early as 2000.  
15 The initial contact with impacted communities -- in  
16 Box Elder County specifically -- took form in the --  
17 or took place in the form of a fact finding inventory  
18 by the utility and its consultants in August of 2007.

19           The first public information process, which  
20 was an open house, began in December 2007 and went  
21 through roughly January of 2008. The applicant went  
22 out to bid in January and February of 2008. Before  
23 any of the required local community or county  
24 conditional use permit applications had been applied  
25 for, and before the application for which today's

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1 public hearing is required.

2 We are faced with perilous times now, as we  
3 have identified serious questions about the  
4 reliability of our utility grids. And I have some  
5 questions. Why did deficiencies not get remedied  
6 before? And I understand that there are complex  
7 reasons for some of this, but.

8 We have now undertaken an effort to remedy  
9 these deficiencies, but at what cost? The loss of  
10 local, state, or even federal input? And I guess I  
11 would question -- or the City of Willard would  
12 question the wise -- whether this is a wise policy at  
13 this time.

14 Reliability appears to be the single most  
15 convincing reason that justifies this certificate.  
16 That reliability is purchased at the cost of impacts  
17 to communities like Willard City and its residents so  
18 that a redundant transmission line can be installed in  
19 a community with numerous transmission lines and other  
20 infrastructure congesting it's landscape permanently.

21 Interestingly enough, down the road in  
22 Phase II of this project line separation, security,  
23 and reliability are less of an issue, apparently,  
24 where the Ben Lomond to terminal line is proposed to  
25 run in an existing corridor purchased 20 years ago.



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1           The Utah Public Service Commission,  
2 respectfully, needs to establish a planning process  
3 for electricity infrastructure projects and possible  
4 ways to reduce costs to ratepayers while ensuring  
5 minimum impact standards to communities impacted by  
6 utility infrastructure projects.

7           Currently there is little or no way to  
8 protect the interest of the communities impacted by  
9 projects which have state or regional benefit. And I  
10 guess I would add that the city also wonders, without  
11 any kind of cost/benefit analysis or at least of any  
12 detail, how these determinations can be made in a way  
13 that can address some of these issues.

14           There is little or no oversight of utility  
15 company projects by state or federal officials, even  
16 in cases where multiple states are involved. Any  
17 mitigation that might be suggested by local  
18 governments is easily ignored by the utility, since it  
19 would be seen as a cost increase to be passed on to  
20 the ratepayer.

21           The utility is able to use the narrow  
22 ratepayer protection language found in Utah State laws  
23 to charge the local government for anything that might  
24 request a -- they might request as an appropriate  
25 mitigation to the impacts imposed by the utility

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1 company project. If the community cannot pay for the  
2 mitigation, it can be ignored by the utility company.

3 The other irony is that in  
4 fiscally-conservative Utah, utility companies enjoy  
5 greater powers and protection than local governments  
6 or any other private companies. They can determine  
7 their own project schedule, which becomes a rationale  
8 for project approval.

9 They have the power of eminent domain and may  
10 take immediate control over private property, versus  
11 attempting to site projects in federal lands. They  
12 are advanced rate increases based on future  
13 investments, yet they're allowed to rear load various  
14 aspects of the project approval review.

15 Their boards are not representative of the  
16 people they serve, and therefore they're not  
17 accountable to the general public. Their stockholders  
18 are guaranteed a return on their investments. This is  
19 a bit redundant, but they're able to pass on the vast  
20 majority of their cost to Utah ratepayers for future  
21 investments up to 18 months in advance of the actual  
22 investment.

23 They can avoid environmental impact review by  
24 state or federal law for large or small scale Company  
25 projects. They are exempted from state agency reviews

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1 of anything other than ratepayer protection issues.  
2 The utility gets automatic approval of local  
3 regulatory processes if their application is not  
4 approved within 120 days.

5           Currently, national electrical -- electricity  
6 infrastructure planning is a mix of national,  
7 regional, and local initiative. Utah has many  
8 entities, such as generation and distribution  
9 utilities and alternative resource providers, whose  
10 focus is on Utah's energy infrastructure.

11           With rising energy costs, however, the UPSC  
12 needs to ensure that there is adequate coordination  
13 among different entities to thoroughly examine the  
14 costs and impacts that affect Utah communities,  
15 ratepayers, and businesses.

16           This requires a comprehensive infrastructure  
17 planning process to make sure that Utah's electric  
18 utility needs are met in ways that consider all of the  
19 alternatives and result in the most reasonable cost  
20 solutions.

21           The UPSC needs to require that utility  
22 companies work within involved stakeholders, including  
23 but not limited to representatives from regional  
24 transportation -- or transmission organizations,  
25 transmission owners, generators, distribution

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1 companies, independent power producers, and  
2 alternative energy suppliers.

3 This consortium could have a four-fold  
4 process in its work to complement, not duplicate,  
5 ongoing state and regional processes as they develop.  
6 Ensuring adequate sharing of the information  
7 throughout the planning process on a local and  
8 detailed level.

9 Evaluating energy infrastructure  
10 alternatives, including proposed transmission  
11 projects. Develop a long-range planning process for  
12 statewide and interstate transmission line  
13 corridors/projects or substation expansions which will  
14 include local government agencies in advance of  
15 capital project approvals.

16 And then examine the cost of -- cost effects  
17 of various alternatives on Utah customers and  
18 ratepayers. Recommending the most effective ways for  
19 Utah stakeholders to participate in regional planning  
20 processes, and related state, federal -- Federal  
21 Energy Regulatory Commission proceedings, including  
22 the UPSC certification proceedings.

23 This kind of a consortium that I'm proposing  
24 would be a policy and implementation-oriented  
25 consortium. Policy issues could be addressed by

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1 creating and maintaining a forum to identify and make  
2 recommendations to the UPSC for improving the planning  
3 process for electricity infrastructure.

4 And I guess I'd close by saying that, you  
5 know, the City of Willard has supported this project  
6 in that we know that there is a need for it. But we  
7 think that the long-range planning and the application  
8 itself are deficient. Thank you.

9 CHAIRMAN BOYER: Thank you Mr. Aguilar.  
10 Since you have given, you have given sworn testimony,  
11 we'll ask the attorneys if they wish to cross examine.  
12 Beginning with the Company.

13 MR. SMITH: No cross.

14 CHAIRMAN BOYER: Ms. Schmid, have you  
15 questions?

16 MS. SCHMID: No questions.

17 CHAIRMAN BOYER: Mr. Proctor?

18 MR. PROCTOR: No, thank you.

19 CHAIRMAN BOYER: Commissioner Allen?  
20 Commissioner Campbell?

21 COMMISSIONER CAMPBELL: I'm familiar with the  
22 regional groups that work on trans -- on  
23 transportation planning. I mean, would you envision  
24 something along those lines, or --

25 MR. AGUILAR: For transportation? I meant

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1 transmission, not transportation.

2 COMMISSIONER CAMPBELL: Well, I know that.

3 But like there's --

4 MR. AGUILAR: Similar?

5 COMMISSIONER CAMPBELL: Yeah, but that was my  
6 question. You're in local government. I know local  
7 governments have organizations where they work with  
8 the county and even the state in some regional  
9 planning. I mean, is that a fair model?

10 MR. AGUILAR: Yeah, I think that's a pretty  
11 good model. We actually volunteered at one point.  
12 The Council of Governments and the Mayors Association  
13 got together because of the concern over this and  
14 suggested, you know, that we do just that kind of  
15 planning.

16 COMMISSIONER CAMPBELL: And then if --

17 MR. AGUILAR: It's kind of late in the game,  
18 obviously.

19 COMMISSIONER CAMPBELL: Right, for this  
20 project. The authority that's derived for that, do  
21 you -- where, where is that?

22 MR. AGUILAR: I believe it's at the state.

23 COMMISSIONER CAMPBELL: At the state levels?  
24 It's through state statute?

25 MR. AGUILAR: There are federal programs, but

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1 it's approved by the governor's office. They're  
2 created by the governor's office.

3 COMMISSIONER CAMPBELL: Are you aware if your  
4 proposal would require a change in our statute to  
5 effectuate that?

6 MR. AGUILAR: Well, yes, I believe it would.  
7 Because you -- to take into consideration whatever  
8 input that group would give you, you'd probably have  
9 to.

10 CHAIRMAN BOYER: Okay, thank you. I don't  
11 have a question, but I want to compliment you on your  
12 participation here and the statement that you've made.  
13 While we don't have -- I don't believe we have  
14 jurisdiction over siting, per se, we have and continue  
15 to encourage the Company to work with local planning  
16 and zoning in an effort to get the best result and the  
17 best siting and planning. But thank you for your  
18 suggestions.

19 MR. AGUILAR: Thank you.

20 CHAIRMAN BOYER: Are there other members of  
21 the public who would like to testify this afternoon?  
22 Ms. Murray says no. In that event -- inasmuch as we  
23 announced that we will hear testimony from the public  
24 until 5:30, we'll, we'll just take a recess until the  
25 earlier of 5:30 or another person comes.

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1           So we'll, we'll make ourselves available.  
2   And we'll ask the reporter to stay with us. So thank  
3   you for your patience. Talk among yourselves.

4           (A recess was taken from 4:44 to 5:30 p.m.)

5           CHAIRMAN BOYER: Okay. Well, the -- no one  
6   else has appeared, no other members of the public have  
7   appeared today, so that will conclude this hearing.

8           We'll take the matter under advisement and  
9   we'll get our order out as soon as humanly possible.  
10   And we thank you all for your participation. And that  
11   will complete this hearing. Thank you all.

12          (The hearing was concluded at 5:30 p.m.)

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C E R T I F I C A T E

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

This is to certify that the foregoing proceedings in Docket No. 08-035-42 were taken before me, KELLY L. WILBURN, a Registered Professional Reporter and Notary Public in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting. And that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered 1 through 128, inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND AND OFFICIAL SEAL AT KEARNS, UTAH THIS 6th DAY OF September, 2008.

\_\_\_\_\_  
Kelly L. Wilburn, CSR, RPR  
My Commission Expires:  
May 16, 2009