

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of: The) TRANSCRIPT OF
Application of Rocky Mountain) HEARING
Power for Authority to Increase)
its Retail Electric Utility) Docket No.:
Service Rates in Utah and for) 09-035-23
Approval of its Proposed Electric)
Service Schedules and Electric)
Service Regulations)

Monday, December 7, 2009 - 9:00 a.m.

Location: PUBLIC SERVICE COMMISSION
160 East 300 South
Fourth Floor, Room 451
Salt Lake City, Utah

Before: Chairman Ted Boyer
Commissioner Ron Allen
Commissioner Ric Campbell

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1 Monday, December 7, 2009; 9:00 a.m.

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

3 CHAIRMAN BOYER: Let's go on the record.

4 This is the time and place duly noticed for the hearing
5 of this phase of the rate case, Docket No. 09-025-23,
6 captioned In the Matter of the Application of Rocky
7 Mountain Power for Authority to Increase its Retail
8 Electric Utility Service Rates in Utah and for Approval
9 of its Proposed Electric Service Schedules and Electric
10 Service Regulation.

11 We also have a new court reporter today,
12 Angela is with us today, and you may hear some new
13 words. If you hear something you don't understand,
14 give me a high sign or throw something at me and we'll
15 stop and try to clarify that.

16 We'll make every effort to accommodate
17 witnesses' travel schedules, if there are any, probably
18 won't be the first couple of days.

19 We plan to go until about five today or a few
20 minutes before five. We have public witnesses
21 scheduled for five o'clock this afternoon. Probably go
22 an hour and a half, and then give the reporter a break,
23 a short recess, and then recommence.

24 Unless someone has a better idea, we'll do
25 this in the old-fashioned way, we'll go witness by

1 witness, starting with Company witnesses, have an
2 opportunity to cross-examine, Commissioners will have
3 questions, and then redirect. We'll go then to the
4 Division, the Office of Consumer Services, and around
5 the room, UAE, Mr. Dodge, and UIEC, Mr. Reeder. I
6 guess we have no one on the phone this morning, so we
7 need not stress about that.

8 We will assume that the focus of our efforts
9 these next six days will be on the disputed issues. I
10 notice from reading the rebuttal and surrebuttal
11 testimony that some issues have been conceded by
12 different sides and different parties, some of the
13 testimony has been withdrawn, some have been accepted
14 by the Company, so that should help to speed up the
15 process a little bit.

16 Okay. With that, are there any questions?
17 And we'll take appearances.

18 MR. GINSBERG: There is a --

19 CHAIRMAN BOYER: Yes, Mr. Ginsberg.

20 MR. GINSBERG: There is a schedule of
21 witnesses. I don't know if it's been -- that the
22 parties all worked out. Has that actually been
23 provided to the Commission, do you know, or...

24 CHAIRMAN BOYER: I don't see it up here.

25 MR. GINSBERG: It would probably be helpful

1 if we provide that to you.

2 CHAIRMAN BOYER: Thank you, Mr. Ginsberg,
3 that would be very helpful to us.

4 MR. GINSBERG: Okay. We'll get some copies
5 made.

6 CHAIRMAN BOYER: Excellent.

7 MR. GINSBERG: It does generally follow what
8 you suggested, but some witnesses are -- some Division
9 witnesses are interspersed for a Company witness, some
10 have dates certain for a variety of these phases, so it
11 will give you an idea of who's going to be on when.

12 CHAIRMAN BOYER: Very well.

13 MR. HICKEY: Mr. Chairman, I had the same
14 thought that Mr. Ginsberg did about sharing that. May
15 I give you my copy while others are being made?

16 CHAIRMAN BOYER: Sure. Thank you very much,
17 Mr. Hickey. We'll get several copies and share them
18 with my colleagues.

19 MR. GINSBERG: I apologize for not getting it
20 to you, but I guess it just slipped through the cracks.

21 CHAIRMAN BOYER: Okay. With that, then let's
22 take appearances. And let's begin with Mr. Hickey and
23 Ms. Hogle.

24 MR. HICKEY: Thank you. Mr. Chairman,
25 members of the Commission, Paul Hickey of Hickey &

1 Evans from Cheyenne, Wyoming representing the
2 applicant. And with me at counsel table and serving as
3 co-counsel is an individual familiar to all of you,
4 Yvonne Hogle, with the Rocky Mountain Power Law
5 Department.

6 CHAIRMAN BOYER: Thank you. Mr. Ginsberg.

7 MR. GINSBERG: Michael Ginsberg representing
8 the Division of Public Facilities, and Patricia Schmid
9 will also be representing the Division.

10 CHAIRMAN BOYER: Okay. Mr. Proctor.

11 MR. PROCTOR: Paul Proctor, Assistant
12 Attorney General, on behalf of the Utah Office of
13 Consumer Services.

14 CHAIRMAN BOYER: Mr. Dodge.

15 MR. DODGE: Gary Dodge, Hatch, James, &
16 Dodge, on behalf of the UAE Intervention Group.

17 CHAIRMAN BOYER: Thank you. Mr. Reeder.

18 MR. REEDER: Good morning. I'm Bob Reeder of
19 Parsons, Behle & Latimer. Vicki Baldwin and I will
20 from time to time appear on behalf of a group of
21 industrial customers who are identified as UIEC.

22 CHAIRMAN BOYER: Thank you, Mr. Reeder, and
23 welcome. Mr. Hickey, do you need your list back?

24 MR. HICKEY: I have a copy, thank you.

25 CHAIRMAN BOYER: Okay. We have a surfeit of

1 copies now. Okay. With that, let's proceed, then,
2 with Company's first witness, Mr. Hickey.

3 MR. HICKEY: Thank you, Mr. Chairman. Rocky
4 Mountain Power would call its president, Rich Walje, as
5 our first witness this morning.

6 CHAIRMAN BOYER: Mr. Walje, I don't think
7 you've been sworn yet in this proceeding.

8 THE WITNESS: I have not.

9 (Arlo Richard Walje is duly sworn.)

10 CHAIRMAN BOYER: Thank you. Please be
11 seated. Welcome.

12 THE WITNESS: Thank you.

13 ARLO RICHARD WALJE,
14 called as a witness at the instance of the
15 Applicant, having been first duly sworn,
16 was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. HICKEY:

19 Q. Good morning, Mr. Walje.

20 A. Good morning, Mr. Hickey.

21 Q. For the record, would you please state your
22 name, your business occupation, your business address,
23 and your current position with Rocky Mountain Power.

24 A. My name is Arlo Richard Walje. I am the
25 President of Rocky Mountain Power. And our business

1 address is 201 South Main Street, Salt Lake City, Utah
2 zip code 84111.

3 Q. Have you had the opportunity to prepare and
4 file both direct and rebuttal testimony in this case,
5 Mr. Walje?

6 A. I have.

7 Q. And does your testimony have an exhibit
8 attached to it marked as ARW-1?

9 A. It does.

10 Q. Are there any additions or corrections, Mr.
11 Walje, that you wish to make to either your direct
12 testimony or your rebuttal testimony?

13 A. Yes, Mr. Hickey, I would like to make one
14 change to my rebuttal testimony as filed. On page 3,
15 line 56, we accepted the testimony of Mr. George Evans,
16 not Mr. Michael J. McGarry, so that was a misprint, a
17 mistake, in my rebuttal testimony.

18 Q. Any other additions or corrections?

19 A. I have no other changes.

20 Q. If I were to ask you all of the questions as
21 they're set forth in both your direct and rebuttal,
22 would your answers be the same as are published in
23 those testimonies?

24 A. They would be.

25 MR. HICKEY: Mr. Chairman, I'd move for the

1 receipt into evidence of Mr. Walje's direct and
2 rebuttal testimony and the one attached exhibit that I
3 mentioned.

4 CHAIRMAN BOYER: Thank you. Are there any
5 objections to the admission of Mr. Walje's testimony,
6 direct, rebuttal, together with the exhibit?

7 MR. REEDER: We have no objection.

8 MR. DODGE: No objection.

9 CHAIRMAN BOYER: Seeing none, they are
10 admitted into evidence.

11 MR. HICKEY: Thank you.

12 Q. (By Mr. Hickey) Mr. Walje, have you prepared
13 a summary of your testimony?

14 A. Yes, Mr. Hickey, I have prepared a brief
15 summary of my testimony that I'd like to provide to the
16 Commissioners.

17 Good morning, Chairman Boyer, Commissioners
18 Campbell and Allen. Thank you for the opportunity to
19 appear before you this morning and to summarize my
20 prefiled direct, rebuttal, and surrebuttal testimony.

21 The purpose of my direct prefiled testimony
22 is to introduce our general rate case. We're
23 requesting a revenue increase of \$53.2 million. That
24 was adjusted from the original filing of 66.9. As you
25 described, Chairman Boyer, there have been some agreed

1 to changes to the original filing.

2 We believe this requested increase is
3 necessary to provide the Company with the revenues
4 required to allow it to provide safe, reliable, and
5 secure electric service to its customers and to fund
6 the significant capital investments required to meet
7 our past and future load growth.

8 A decision to ask our customers for a price
9 increase is never easy, particularly in the light of
10 the difficulty the country's going through and the
11 state dealing with the economic recession that we're
12 all facing.

13 However, even though there has been a
14 reduction in electricity usage in the past year, we
15 fully expect load growth to return to historical levels
16 within the next year or two. And because of the long
17 lead time associated with identifying new investment
18 needs, designing, siting, acquiring property,
19 permitting and constructing these assets, the companies
20 electric -- and the company's electric infrastructure,
21 most of the capital investment plan has continued per
22 our prerecession plan. So we think it is prudent to
23 continue with that plan just because of the lead time
24 associated with most of our capital investments.

25 Just a little bit in the way of background.

1 We're approaching the fourth year of ownership by
2 MidAmerica Energy Holdings Company. I have nearly 37
3 years experience in the electric utility industry and
4 I've been a manager or an executive under the previous
5 four ownerships, either Utah Power & Light, Pacific
6 Power, Scottish Power, and now MidAmerican Energy
7 Holdings Company. And I can clearly state that
8 MidAmerican's commitment to customers, cost control,
9 and capital efficiency is by far the most effective of
10 these four ownership groups.

11 As part of the acquisition of MEHC, the
12 company made over a hundred commitments to the Company
13 stakeholders. Each of these commitments has been met I
14 think not only to the letter of the commitment but also
15 beyond what was envisioned in many cases.

16 To a company that was in desperate need of
17 focused maintenance programs, more concern for
18 employees and customer safety, improved customer
19 service, and substantial capital investments, MEHC
20 brought management discipline and a significant capital
21 capacity to PacifiCorp.

22 There have been obvious, measurable, and
23 verifiable improvements in our -- in nearly all of our
24 operating and customer service metrics, so not only
25 have we focused on the discipline, we, I think, have

1 the results to demonstrate that that has made a
2 significant improvement in our daily business.

3 It's fashionable in America these days to
4 decry corporate greed and profitability because of very
5 real abuses and recent business disappointments.
6 Contrary to that view, I would maintain that
7 MidAmerican Energy Holding Company's owners have shown
8 the best attributes of owners of electric utilities
9 because they have reinvested every dollar earned by the
10 Company since the acquisition and infused the Company
11 with an additional \$865 million in equity to assure
12 that we can execute on our needed capital investment
13 program. To put it another way, the owners of the
14 company have received no cash from their ownership of
15 these assets to date.

16 I believe we have met all of our express and
17 implied obligations in owning and operating a vitally
18 important electric utility. And what we expect and ask
19 for in return is the opportunity to achieve its allowed
20 rate of return, which will in turn allow us to continue
21 to meet the level of service our customers expect and
22 deserve.

23 Clearly, the revenue requirement testimony
24 filed by OCS and DPU would prevent the Company from
25 having even a remotely possible opportunity to achieve

1 its commission-ordered return on equity, whatever that
2 turns out to be, let alone meet the statutory
3 requirement that the Company have a reasonable
4 opportunity to achieve this return.

5 Without the revenue increase requested by the
6 Company as presented by Mr. Steve McDougal, absent this
7 increase, not only will the Company have no chance of
8 earning the 11 percent ROE requested in this case, but
9 is projected to earn approximately 9.3 percent during
10 this case's test period.

11 You've received a great deal of testimony,
12 and will hear more during the hearing, supporting and
13 opposing the Company's request to be granted this
14 allowed return on equity of 11 percent. I am not an
15 expert on these issues, though the Company's witnesses
16 Mr. Williams, Mr. DuVall, Mr. Hadaway, and Mr. McDougal
17 are.

18 My layman's view of the disagreements on
19 risk, rating agency comments, capital structure, return
20 on equity, and return on rate base relating to this
21 case are pretty straightforward, I think.

22 As a businessman, I do understand that the
23 Company does not have an energy or power cost
24 adjustment mechanism that would allow us to fully
25 recover our prudently incurred electricity cost in a

1 more uncertain and volatile energy environment. We
2 have the lowest monthly customer charge that I'm aware
3 of, which means that a higher percentage of our fixed
4 cost recovery and needed operating funds are at risk
5 from weather and demand side management program usage
6 reductions, and finally, a steeply inverted tail block
7 structure that is meant to encourage electricity
8 conservation, which the Company has supported as good
9 public policy, but again, if successful, diminishes the
10 Company's ability to receive the revenues it needs to
11 conduct its business acceptably for its customers.

12 Because of these factors, I believe an 11
13 percent ROE is a perfectly reasonable request for
14 consideration by this body based on the regulatory
15 mechanisms that are available to the Company, and
16 particularly that are -- those that are available to
17 regulators to use in other jurisdictions.

18 We are facing an unavoidable need to invest
19 additional billions of dollars in electric facilities
20 that are required to meet what will soon be a growing
21 number of customers and their associated electricity
22 use. The Company's plans are to expend in excess of
23 one billion dollars per year into the foreseeable
24 future to meet its service obligation.

25 The DPU reports on a monthly basis to the

1 Commission. The Company's return on equity performance
2 since February 2003, the Company has only exceeded 10
3 percent one month, and has had a simple average return
4 of about eight percent. Though the data shows a
5 continuing improving trend in ROE, this seems
6 unreasonable to expect the Company to go several more
7 years underearning with the promise at some point in
8 the future it might be able to get near the return on
9 equity the Commission believes in and orders as fair.

10 I truly appreciate that you as commissioners
11 have a very difficult job. You are provided reams of
12 spreadsheets, are asked to rely on models that are
13 subject to controversy, conflicting analyses, and
14 individuals' different assumptions about what the input
15 should be to those models. You have to take into
16 account historical circumstances, both of our business
17 and the industry. You understand the statutory
18 obligations all the way around, and we also try to
19 predict to some degree electricity use, which we do
20 with varying degrees of accuracy.

21 And after all of this, and listening to all
22 of the testimony, you're expected then to provide an
23 order that is fair, just and reasonable for both the
24 customer and the Company. That is a very challenging
25 effort that you have to undertake to try to analyze all

1 this information in a very detailed level, and yet to
2 maintain an overarching and wholistic view of the
3 issues in the case. And we're certain that you will be
4 up to the job, but understand that it's very difficult
5 working through all of these various aspects of a rate
6 case.

7 So these comments I am -- I would like to add
8 I'm very comfortable vigorously supporting the
9 Company's cost control efforts, customer service
10 performance, capital investment strategies, and
11 continuing -- continuously improving operational
12 metrics. These are all attributes of a company that
13 cares about its performance on behalf of its customers
14 and its impacts on electricity costs.

15 So based on the Company's operational and
16 financial performance, I believe that the Company's
17 requested revenue increase is both fair and ultimately
18 in the public interest. And I want to thank you again
19 for the opportunity to make these comments.

20 CHAIRMAN BOYER: Thank you, Mr. Walje.
21 Anything further, Mr. Hickey?

22 MR. HICKEY: Nothing, Mr. Chairman. Mr.
23 Walje's available for cross-examination.

24 CHAIRMAN BOYER: Thank you, Mr. Ginsberg.
25 Any cross-examination for Mr. Walje?

1 MR. GINSBERG: I do have some questions.
2 Thank you.

3 CROSS-EXAMINATION

4 BY MR. GINSBERG:

5 Q. Mr. Walje -- is it on?

6 MS. ORCHARD: Yeah.

7 Q. You referred to some documentation from the
8 Division on returns on -- that you have earned; is that
9 right?

10 A. Yes, that was information that was provided
11 through a data request.

12 Q. That information is not in your testimony?

13 A. It is not. It has recently come to my
14 attention.

15 MR. GINSBERG: You know, Commission, we
16 provided that information to him in answer to a data
17 request. And when our witnesses possibly are here, we
18 may want to respond to what that information is. Maybe
19 I can ask him some questions and...

20 Q. That information is unaudited, unadjusted,
21 actual results of operation?

22 A. Correct.

23 Q. So it doesn't include adjustments that the
24 Commission may determine should occur, for example,
25 coal inventories are too high, other expenses are

1 unreasonable, forecasts are right or wrong; is that
2 correct?

3 A. I'm assuming that the Division provides this
4 information to the commission to give them some
5 trending on --

6 Q. Well, just answer the question, please.

7 A. I do not know.

8 Q. Thank you. Do you happen to know whether its
9 total company, or Utah, or both?

10 A. It is both.

11 Q. Now, you referred to that you don't have a
12 PECAN mechanism in Utah, but you do have a mechanism
13 that would allow you additional rate relief in 2010 for
14 single-item cases, do you not?

15 A. That mechanism has not been prosecuted by any
16 case, so I don't have any idea how it's actually going
17 to turn out in practice.

18 Q. You refer to that in your testimony; is that
19 correct?

20 A. I do.

21 Q. On line 385. And when I look at that, it
22 looks like there will be two potential requests for
23 rate relief, one that will occur probably in early 2010
24 for a scrubber and a transmission line; is that
25 correct?

1 A. Correct.

2 Q. And what amount will that be?

3 A. The transmission line will be in the range of
4 \$900 million, the scrubber, I believe, about 350
5 million, but I can verify those costs.

6 Q. What would the proposed rate increase be?

7 A. I do not know. We have not started to
8 prepare the rate case yet for those two items.

9 Q. And the second single item rate case would be
10 for what?

11 A. Well, those are two separate single item rate
12 cases, one for the transmission line and one for the
13 scrubber, I believe.

14 Q. It indicates that you're going to request one
15 for May, and then one for later in the year.

16 A. Correct.

17 Q. Are they different?

18 A. Yes.

19 Q. But the total amount is \$1.2 billion?

20 A. In that range. We could verify the current
21 estimates for those projects.

22 Q. You have no idea what the estimated revenue
23 requirement will be as a result of that investment?

24 A. I do not.

25 Q. But whatever it will be, it will be a rate

1 increase in 2010 in addition to the 53 million that
2 you're proposing?

3 A. Correct.

4 Q. Do you know if it's at the \$50 million level
5 or above?

6 A. I do not, but I believe Mr. McDougal would be
7 able to give you an estimate of that in his testimony.

8 MR. GINSBERG: Thank you.

9 CHAIRMAN BOYER: Thank you, Mr. Ginsberg.
10 Mr. Proctor?

11 MR. PROCTOR: Nothing, thank you.

12 CHAIRMAN BOYER: Mr. Dodge?

13 MR. DODGE: No questions, thank you.

14 CHAIRMAN BOYER: Mr. Reeder?

15 MR. REEDER: I'm sorely tempted, but I have
16 none.

17 CHAIRMAN BOYER: Let's turn now to the
18 commissioners. Commissioner Allen?

19 COMMISSIONER CAMPBELL: Just one.

20 CHAIRMAN BOYER: Commissioner Campbell had a
21 question.

22 COMMISSIONER CAMPBELL: Just one question,
23 Mr. Walje. I think in the last rate case my memory is
24 it was stipulated there was a revenue requirement
25 stipulation, and at the time we asked the Company

1 whether that stipulation would provide the Company an
2 opportunity to earn its allowed return. And so my
3 question is, is what factors have changed since that
4 last stipulation whereas at that point the Company
5 suggested they could earn their return, and we're here
6 six months later and the Company cannot. And so what
7 are the factors that affect that?

8 THE WITNESS: I think the primary factors as
9 of today are the capital investment that continues. As
10 you well know, there is a significant lag between when
11 capital investments can come into service on behalf of
12 customers and when that investment shows up in rates,
13 which is one of the reasons we went to a single item
14 rate case, to try and help that effort. But that
15 hasn't occurred as of yet.

16 We have had some changes in net power costs,
17 though down, we are expecting them to go back up in the
18 future. If you think about the rate effective period
19 for these increases, it is into September of 2011 and
20 it's a pretty small increase, anticipating we still are
21 going to be making billions of dollars of investments
22 in capital and do expect our prices for energy and
23 perhaps other costs to go up.

24 CHAIRMAN BOYER: Okay. Thank you. Mr.
25 Hickey, any redirect for Mr. Walje?

1 REDIRECT EXAMINATION

2 BY MR. HICKEY:

3 Q. Just in response to the question that
4 Commissioner Campbell had posed, isn't it true, Mr.
5 Walje, in there are wind resources that are part of
6 this revenue requirement that will be testified to
7 tomorrow morning by Mr. Lasich in some detail?

8 A. That is correct.

9 Q. And are there other generation or supply side
10 resources that are part of the revenue requirement in
11 this case that distinguish it from circumstances that
12 existed when the stipulation was approved a year or so
13 ago?

14 A. Yes, Mr. Hickey, the Chehalis purchase.

15 Q. And do you have a degree of magnitude, Mr.
16 Walje, of the dollars involved in those additional
17 nonwind generation resources?

18 A. I believe the Chehalis acquisition was in the
19 range of about 330 to \$340 million.

20 Q. And there are additional environmental
21 compliance revenue requirements associated with other
22 generation facilities in this case; isn't that true?

23 A. That is true, as well as distribution
24 investments in the state of Utah.

25 MR. HICKEY: Thank you. Chairman, that's all

1 I had on redirect.

2 CHAIRMAN BOYER: Thank you, Mr. Walje. You
3 may be excused.

4 THE WITNESS: Thank you.

5 CHAIRMAN BOYER: Your next witness, Mr.
6 Hickey.

7 MR. HICKEY: Thank you, Mr. Chairman. We'll
8 call as our next witness Mr. Pete Eelkema.

9 CHAIRMAN BOYER: Mr. Eelkema, have you been
10 sworn in this proceeding?

11 THE WITNESS: No, I have not.

12 (Dr. Peter C. Eelkema was duly sworn.)

13 CHAIRMAN BOYER: Thank you. Please be
14 seated.

15 PETER C. EELKEMA,
16 called as a witness at the instance of the
17 Applicant, having been first duly sworn,
18 was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. HICKEY:

21 Q. Good morning, Mr. Eelkema.

22 A. Good morning.

23 Q. For the record, would you please state your
24 name, your business address, and the position you hold
25 with Rocky Mountain Power.

1 A. Yes. Peter Eelkema. My address is 825
2 North -- Northeast Multnomah, Suite 600, Portland
3 Oregon, the zip is 97232. And I am a senior consultant
4 in the forecasting department.

5 Q. And Mr. Eelkema, have you prepared both
6 direct and rebuttal testimony in this docket?

7 A. Yes, I have.

8 Q. And am I correct that there are no exhibits
9 attached to either of those testimonies?

10 A. Yes, you are correct.

11 Q. And do you have any additions or corrections
12 that you wish to make to either your direct or rebuttal
13 prefiled testimony?

14 A. Yes, I have two corrections to my direct
15 testimony. The first correction is on line 4 and my
16 address, my business address, is Portland, Oregon, not
17 Portland, Utah. And then --

18 Q. You had me wondering there for a while.

19 A. I also have another correction on page 12 of
20 my testimony, and let me step down to Table 7, and
21 there the irrigation actual data January to May 2009 is
22 incorrect. Instead of 33, 385 megawatt hours, that
23 should be 59,305 megawatt hours. And that changes the
24 total to 8,645,219 megawatt hours. And that changes
25 the percentage on line 219 from 1.6 percent to 1.3

1 percent.

2 And then also on line 226, that changes it
3 from 1.6 percent to 1.3 percent.

4 MR. HICKEY: Let's just take a minute and
5 offer for either the Commission or the parties if they
6 want you to go through that again. I know what a
7 challenge sometimes it can be to on the fly make edits.
8 If anyone, Mr. Chairman, would like Dr. Eelkema to
9 repeat that, we're happy to have him do so.

10 CHAIRMAN BOYER: Does anyone need those
11 figures repeated? I got them down.

12 MR. HICKEY: Very well.

13 CHAIRMAN BOYER: I guess not. Thank you, Mr.
14 Hickey.

15 Q. (By Mr. Hickey) Dr. Eelkema, if I were to
16 ask you all of the questions as are set forth in both
17 your direct and rebuttal testimony, would the answers
18 be the same as you stated in those documents?

19 A. Yes, they would.

20 MR. HICKEY: Mr. Chairman, I'd move for the
21 admission into evidence of Dr. Peter C. Eelkema's
22 direct and rebuttal testimony.

23 CHAIRMAN BOYER: Are there objections to the
24 admission of Dr. Eelkema's direct or rebuttal
25 testimony?

1 MR. GINSBERG: No.

2 MR. DODGE: No objections.

3 MR. REEDER: No objections.

4 CHAIRMAN BOYER: Seeing none, they are
5 admitted into evidence.

6 Q. (By Mr. Hickey) Would you please proceed
7 with a summary of your testimony.

8 A. Yes, I'd be happy to. I support the
9 Company's sales and load forecasts for the test year.
10 This forecast employs the same methodology presented in
11 testimony in the last rate case. However, data inputs
12 have been updated with the most recent available data
13 and the Company has developed an adjustment to reflect
14 the current economic conditions, specifically, monthly
15 sales, monthly peaks, and IHS Global Insight, which is
16 the third-party vendor of forecasts that we use.

17 Economic drivers have been updated. The
18 data, or the model driven results, have also been
19 updated for the industrial sector, and the industrial
20 sales were reduced approximately 3.2 percent to reflect
21 the complex downturn.

22 Forecasted Utah sales in this case are about
23 1.8 percent less than forecasted Utah sales ultimately
24 used in the previous case. The Company also monthly
25 updates its actual and compares that to the budget.

1 Through November of 2009, the Company's weather
2 normalized sales in Utah are about 1 point -- one-tenth
3 of one percent below the current forecast used in this
4 case.

5 In my rebuttal testimony, I address the use
6 of an econometric model to forecast industrial sales
7 instead of the current company model, which utilizes
8 customer specific information.

9 In his surrebuttal testimony, Mr. Nunes is no
10 longer supporting an alternative to the Company model.
11 However, Mr. Nunes is recommending that the Company
12 develop an econometric model to benchmark the Company's
13 customer specific model.

14 I believe that econometric model is
15 unnecessary. The current company model is a better
16 predictor of sales because it incorporates customer
17 specific information which is gathered as part of the
18 Company's current business practices.

19 As an example, if a -- if a customer requests
20 additional service, as a Company we would know the type
21 of business that the company is in, which is relevant
22 because that determines kind of the load profile that
23 we expect from that company. Also, the location,
24 because they're going to -- they may need additional
25 distribution service, the level of service, that is the

1 megawatt or the megawatt hours of service, and also the
2 date that they are requesting service. An econometric
3 model would not utilize any of this information.
4 Instead, it would rely on economic drivers such as U.S.
5 copper production, national copper production.

6 So in conclusion, we are all aware that no
7 forecast is perfect, but the Company has continued to
8 produce reasonable forecasts and has validation that
9 this forecast is accurate. I've already pointed out
10 that 2009 Utah sales through November are approximately
11 one-tenth of one percent deviation from the forecast,
12 from this current forecast. This concludes my summary.

13 CHAIRMAN BOYER: Thank you, Dr. Eelkema. Mr.
14 Hickey?

15 MR. HICKEY: Mr. Chairman, Dr. Eelkema is
16 available for cross-examination.

17 CHAIRMAN BOYER: Thank you. Mr. Ginsberg,
18 any cross-examination for Dr. Eelkema?

19 MR. GINSBERG: Yes, I have a few questions.

20 CROSS-EXAMINATION

21 BY MR. GINSBERG:

22 Q. Dr. Eelkema; is that correct?

23 A. Yes.

24 Q. You use an econometric model for all your
25 rate classes except the industrial class; is that

1 correct?

2 A. Yes, that is correct.

3 Q. Now, I think you indicated that you use an
4 econometric model for the industrial class if they're
5 below one megawatt; is that right?

6 A. Yes. For the more -- the smaller, more
7 homogenous industrial customers, we include those in a
8 group and forecast those using an econometric model.

9 Q. And for the commercial class you use an
10 econometric model regardless of their size?

11 A. What we do there is we have an econometric
12 model that we use for the commercial class as a whole.
13 And then if there are some large changes outside of
14 that econometric model, we make an adjustment there.
15 But --

16 Q. Large changes would be like a new customer
17 coming in or --

18 A. Yes.

19 Q. -- someone expanding load?

20 A. That is correct, a very large change to that
21 commercial class.

22 Q. Commercial class customers, though, can be
23 above one megawatt, can't they?

24 A. Yes, that is correct.

25 Q. In fact, many are?

1 A. Yes.

2 Q. And for the industrial customers above one
3 megawatt you use this interview process; is that a fair
4 way to call it?

5 A. It is a process where the -- we gather data
6 as part of our regular business practice as to what the
7 customer is expecting their usage to be. And that data
8 is then given to us and a probability is assigned, if
9 it's a new customer. So it is part of the regular
10 business process where we gather that data, yes.

11 Q. Do you benchmark at all your industrial class
12 customers against any econometric models?

13 A. No, we currently do not.

14 Q. And how did you choose one megawatt? Was
15 that just an arbitrary decision?

16 A. The one megawatt threshold is the threshold
17 at which a customer requesting a change is required
18 to -- if the change is more than one megawatt, they
19 have to provide an application to the Company.

20 And the one megawatt threshold for existing
21 customers is just a threshold at which we assume that
22 if they're smaller than one megawatt they're smaller,
23 more homogenous customers.

24 Q. Have you ever attempted to do econometric
25 modeling for any customers above one megawatt?

1 A. No, I have not.

2 Q. An econometric model is one that is more
3 of -- is available for parties in rate cases such as
4 this or IRP proceedings in order to look at the
5 assumptions that you're placing in your model to
6 determine the load growth; is that a fair way to call
7 it?

8 A. Yes. An econometric model, I would agree, is
9 more transparent than our customer driven model.

10 Q. In fact, there's almost no way to go behind
11 the data for industrial customers other than maybe --
12 there's no -- other than -- since it's all based on
13 your interviews; is that right?

14 A. The econometric model is more I guess I would
15 say audible than our customer driven model.

16 Q. Okay, thank you. Was there -- you know, it
17 appeared that early on in the year when you filed your
18 initial testimony the -- I think you used results up
19 through May. And then in rebuttal you came to I think
20 July. And now just today you gave us numbers up
21 through November. Has -- in that time period, later in
22 2009, as occurred after your initial filing, have the
23 industrial growth load projections in Utah improved
24 over what you -- what it was originally looking at? In
25 other words, is Utah industrial production improving as

1 we stand -- sit here today in 2009 over what was
2 looking -- happening earlier in the year?

3 A. Yes, that is correct. As we have progressed
4 throughout the year, the different -- the deviation
5 between the forecast and the actual, weather normalized
6 actuals, has diminished so that it's now less than one-
7 tenth of one percent.

8 Q. So the Division's original observation that
9 early on it looked like there was a deviation between
10 what was projected and what was actually occurring went
11 away as industrial growth in Utah has picked up?

12 A. Yes, that is correct.

13 Q. And is this occurring in all your service
14 areas or is Utah -- did the load growth diminish less
15 in Utah than other parts of your system, and also, has
16 it improved more rapidly in Utah?

17 A. I -- I don't have that data with me right
18 now. I can provide that. I do know that the deviation
19 between the forecast and the actual weather normalized
20 data has diminished for the entire service territory.
21 Whether it's faster in Utah or slower, I can't say
22 right now.

23 MR. GINSBERG: Thank you.

24 CHAIRMAN BOYER: Mr. Ginsberg. Mr. Proctor,
25 questions of Dr. Eelkema?

1 MR. PROCTOR: Do you have a moment?

2 CHAIRMAN BOYER: Surely.

3 MR. PROCTOR: No questions.

4 CHAIRMAN BOYER: Thank you, Mr. Proctor. Mr.
5 Dodge?

6 MR. DODGE: No questions, thank you.

7 CHAIRMAN BOYER: Mr. Reeder?

8 CROSS-EXAMINATION

9 BY MR. REEDER:

10 Q. Dr. Eelkema, what was the data collection
11 period for forecasting your revenue requirements in
12 this case? The load information for forecasting, was
13 it calendar year '08, or what was the period of time?

14 A. The monthly sales data was gathered through
15 January of 2009.

16 Q. So it was -- calendar '08 was the data
17 collection period, so you had a full 12 months?

18 A. For the --

19 Q. Go ahead.

20 A. I'm not -- I'm sorry, I'm maybe not following
21 your question.

22 Q. I'm looking for the period of time over which
23 you collected data for forecasting sales for this case.

24 A. The monthly sales data that was used in this
25 case is approximately five years of data through

1 January of 2009.

2 Q. Okay. Was there any data collected for
3 calendar year '08?

4 A. Yes, the entire 2008 would have been
5 collected.

6 Q. Was the calendar year of 2008 particularly
7 significant in your forecast in this case?

8 A. 2008 calendar year data was not given any
9 different weight in the model than other years.

10 Q. In the case that was completed approximately
11 six or nine months ago, the '08 case before this
12 Commission, what was the data collection period for
13 that case?

14 A. I do not recall that.

15 Q. Is there someone in the room that can help
16 your recollection be refreshed?

17 A. I'm sorry, I -- I don't know.

18 Q. If we have a break in this proceeding later
19 in the morning, would you be so kind as to ask what the
20 data collection period was for the last case and
21 provide that answer for us on the record?

22 A. Sure, I'd be happy to do that.

23 Q. For purposes of presenting forecasts in this
24 case, your responsibility includes not only forecasting
25 sales but also forecasting peaks, does it not?

1 A. Yes, that is correct.

2 Q. What was the data collection period for
3 forecasting peaks in this case?

4 A. I believe it -- the monthly peaks used in
5 this case were through November 2008.

6 Q. What was the data collection period for
7 forecasting peaks in the last case?

8 A. That, I do not recall.

9 Q. Is there someone in this room who can help
10 you refresh your recollection on that question?

11 MR. HICKEY: Mr. Chairman, we'll certainly
12 take the question through Dr. Eelkema to the support
13 that's in the room and as suggested by Mr. Reeder be
14 willing to put Mr. Eelkema back on the stand, if that's
15 your preference, Mr. Chairman.

16 MR. REEDER: Or if there's another witness
17 who has that information, if he can just tell me which
18 witness I should be asking those questions of, that
19 would also be adequate.

20 CHAIRMAN BOYER: Both good suggestions.
21 Either are acceptable to us.

22 MR. REEDER: Thank you, Dr. Eelkema. I have
23 nothing further.

24 CHAIRMAN BOYER: Thank you, Mr. Reeder.

25 COMMISSIONER ALLEN: I have one.

1 CHAIRMAN BOYER: Commissioner Allen.

2 COMMISSIONER ALLEN: Thank you, Mr. Chairman.

3 I have one question. It relates to your comment that
4 the we're currently about one-tenth of one percent
5 between -- with the current load forecast and what was
6 expected. Did I understand that correctly? We're
7 fairly close to the load forecast?

8 THE WITNESS: Yes.

9 COMMISSIONER ALLEN: I'm just curious about,
10 on a global scale, how you look at this. I have a lot
11 of very technical information here, and you've worked
12 very carefully with your models on load forecasts, but
13 nationally, other utilities -- and I realize everyone's
14 different -- but are other companies -- do you inform
15 yourself globally what's going on in the country with
16 forecasts, do you see what other areas, regions
17 utilities are dealing with with their forecasts?

18 THE WITNESS: We do keep track of what other
19 companies are doing with their forecasts, in
20 particular, how other companies have modeled the
21 current economic downturn. And what other companies
22 are doing is very consistent with what we have done
23 here.

24 COMMISSIONER ALLEN: That was the second part
25 of my question, you perceived that, so thank you.

1 CHAIRMAN BOYER: Dr. Eelkema, I have a couple
2 of questions. In the last litigated rate case, which
3 we dealt with last year, last -- well, I guess it's
4 part of this calendar year, actually. We've had
5 several pancaked together. I asked a series of
6 questions on the forecasting of demand, sales. And my
7 memory of the testimony was that in light of the
8 economy, I mean, the storm clouds were gathering, or
9 had gathered, at that point in time and I was -- as a
10 lay person, was thinking that demand would actually go
11 down more than predicted by the economists. And my
12 memory is that they forecast very little downturn.

13 But your forecasts, your sales forecasts, you
14 say are within a tenth of a percent of what you'd
15 forecast?

16 THE WITNESS: Yes, that is correct.
17 Currently, 2009, through November is approximately one-
18 tenth of one percent of the forecast used in this
19 current case.

20 CHAIRMAN BOYER: Would you have any way of
21 explaining why the witnesses in the last rate case were
22 so far off in their projections?

23 THE WITNESS: I think that was myself who was
24 that far off, and I think we did not get it right as
25 far as especially the effect of the economic downturn.

1 CHAIRMAN BOYER: Okay. Thank you, Dr.
2 Eelkema. Redirect, Mr. Hickey?

3 MR. HICKEY: Very little, just a couple of
4 questions that tie to some of the observations of the
5 Chairman.

6 REDIRECT EXAMINATION

7 BY MR. HICKEY:

8 Q. But I'd like to put the questions to you, Dr.
9 Eelkema, in the context of the econometric model of
10 making forecasts as opposed to how the company has
11 decided to get customer specific points of input into
12 its modeling.

13 Am I correct that the Company approach to
14 modeling is more driven by customer specific
15 information than that proposed by the Division's
16 expert?

17 A. Yes, that is correct.

18 Q. And is the reason for that that the output of
19 that model is believed to be more accurate because it
20 reflects this customer specific information?

21 MR. PROCTOR: Excuse me, Mr. Hickey. Mr.
22 Chairman, I believe the -- counsel is leading this
23 witness.

24 CHAIRMAN BOYER: I was wondering when someone
25 would mention that. Could you rephrase your question,

1 Mr. Hickey?

2 MR. HICKEY: Sure.

3 Q. (By Mr. Hickey) What, in your opinion, Dr.
4 Eelkema, makes the modeling that Rocky Mountain Power
5 engages in for purposes of forecasting sales a superior
6 model to that proposed by Mr. Nunes?

7 A. Because the Company's model is driven by
8 customer specific information. And it's the type of
9 information that I listed, where if the amount of
10 service that they're requesting, this type of
11 information is incorporated into the model and
12 contributes to the accuracy of the model.

13 If it's an econometric model, it has to be
14 driven by some forecast of an outside variable,
15 presumably provided by maybe a third-party. But this
16 variable is not able to pick up the specific
17 information which is Utah specific, and so therefore
18 you lose a lot of information, you lose a lot of
19 accuracy.

20 Q. Finally, you stated that the process of
21 obtaining this customer specific information is part of
22 a regular or ongoing business practice of Rocky
23 Mountain Power; is that correct?

24 A. Yes, that is correct.

25 Q. Would you explain how that happens. How is

1 the information gathered?

2 A. The information is gathered by the customer
3 and community managers from the individual customers.
4 If it's a new -- an additional service for the Company,
5 the -- that information is passed on to the manager of
6 all the CCMS, the customer and community managers.
7 Then we look at that customer and we assign a
8 probability to that load actually materializing.

9 We also, by the type of business that the
10 customer is engaged in, we assign some type of load
11 factor. And then we develop a forecast of the megawatt
12 hours of service monthly from that customer. Then that
13 feeds into the model.

14 MR. HICKEY: That's all I have, Mr. Chairman.

15 CHAIRMAN BOYER: Thank you, Mr. Hickey.

16 We'll --

17 MR. GINSBERG: Can I ask one final question?

18 CHAIRMAN BOYER: Surely.

19 RECROSS-EXAMINATION

20 BY MR. GINSBERG:

21 Q. You answered a question from the Chairman in
22 response from Mr. Hickey about the missed forecast that
23 you said occurred in the '07 rate case. Do you recall
24 that?

25 A. Uh-huh.

1 Q. And is it fair to say that what you missed
2 was the effect of the downturn on the industrial class
3 that you have now experienced in this rate case?

4 A. I think it's the effect of the downturn, but
5 it was also not just the industrial class, I think we
6 missed it on the residential and commercial class also.

7 MR. GINSBERG: Thank you.

8 CHAIRMAN BOYER: Okay. Thank you, Mr.
9 Hickey. Dr. Eelkema, will you be available should Mr.
10 Reeder need to ask you a couple questions after the
11 break?

12 THE WITNESS: Yes, I will.

13 CHAIRMAN BOYER: Very well. Thank you. You
14 may step down.

15 Mr. Hickey, I guess we're ready for your next
16 witness --

17 MR. HICKEY: Sure.

18 CHAIRMAN BOYER: -- Mr. Wilson?

19 MR. HICKEY: Yes, Erich Wilson will be our
20 next witness. Erich, please come forward.

21 CHAIRMAN BOYER: Have you -- you have not
22 been sworn?

23 THE WITNESS: I have not been sworn.

24 (Erich D. Wilson was duly sworn.)

25 CHAIRMAN BOYER: Thank you. Please be

1 seated. Mr. Hickey?

2 ERICH D. WILSON,

3 called as a witness at the instance of the

4 applicant, having been first duly sworn,

5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. HICKEY:

8 Q. Good morning, Mr. Wilson.

9 A. Good morning, Mr. Hickey.

10 Q. For the record, would you please state your
11 name and your business address and your current
12 position with the Company.

13 A. I will. My name is Erich, E-r-i-c-h, D.
14 Wilson. I reside at 825 Northeast Multnomah Way, Suite
15 1800, zip code 97232. And I am the Director of Human
16 Resources.

17 Q. How long have you held that position, Mr.
18 Wilson?

19 A. I've held the position of Director of Human
20 Resources since March of 2006.

21 Q. Have you had an opportunity to file both
22 direct and rebuttal testimony in this case?

23 A. I have in this case.

24 Q. And am I correct there are no attachments or
25 exhibits to either of those testimonies?

1 A. That is correct.

2 Q. Any additions or corrections you wish to make
3 to either the direct or the rebuttal testimony?

4 A. No, not at this time.

5 Q. If we were to ask you all the questions set
6 forth in both of those prefiled documents, would the
7 answers be the same?

8 A. They would be.

9 MR. HICKEY: Mr. Chairman, I'd move the
10 admission into evidence of both the direct and rebuttal
11 testimony of Eric D. Wilson.

12 CHAIRMAN BOYER: Are there objections to the
13 admission of Mr. Wilson's direct and rebuttal
14 testimony?

15 MR. GINSBERG: No.

16 CHAIRMAN BOYER: Seeing none, they are
17 admitted into evidence.

18 Q. (By Mr. Hickey) Have you had an opportunity
19 to prepare a summary of your testimony, Mr. Wilson?

20 A. I have, Mr. Hickey.

21 Q. Would you please share it with the Commission
22 and the parties.

23 A. I appreciate that, thank you. Good morning.
24 My testimony provides an overview of the compensation
25 and benefit plans provided to the Company employees and

1 supports the labor cost included in the Company's
2 filing. In particular, my testimony focuses on the
3 Company's base pay, annual incentive plan, pension, and
4 health care benefit plans.

5 At the outset, it is important to keep the
6 wage and benefit expenses in this case in perspective.
7 Total wage and benefit expenses filed in this case are
8 within one quarter percent of the company's total wage
9 and benefit expense filed in the 2008 rate case.

10 This has been achieved even in the face of
11 fluctuating medical cost and negotiated wage increases,
12 and we have achieved these savings without compromising
13 on safety, reliability, and customer service.

14 As I state in my testimony, the Company's
15 focus is to deliver pay and benefit that are
16 competitive at the market average. In doing so, our
17 program goals, which link to our pay and benefits, are
18 designed to motivate employees to improve the safety,
19 reliability and customer service of the Company, and
20 thus to provide direct benefits to its customers.

21 In an example of the above-mentioned Company
22 focus, it is important to note that as part of our
23 ongoing review of salaries and -- as part of our review
24 of salaries and market conditions, in 2010 the wage
25 increases have been adjusted downward to account for

1 those conditions and the parties have agreed on the
2 levels set by the Company for 2010.

3 At this stage in the filing process, the
4 Company and intervening parties have agreed on the
5 prudence of expenses related compensation, medical, and
6 401(k), as noted in the joint issues and positions
7 document provided to the Commission last week.

8 There are two key remaining issues in which
9 we have not reached agreement and I will summarize
10 those for you. Within the issues and positions
11 document, item 61 and 62, if you have that in front of
12 you, relates to pension and post-retirement benefit
13 obligations. It's on the second page of that document.

14 In both pension and post-retirement benefits,
15 OCS is recommending that the Company adjust the initial
16 filing to represent new information now made available
17 by the Company's actuaries so as to account for market
18 conditions or shifts.

19 I agree that the more prudent approach would
20 in fact be to make final decisions around the most
21 current known information and variables. However, both
22 the pension and post-retirement benefit obligations
23 expenses are significantly driven by variables such as
24 discount rate and rate of return.

25 The actuarial expense information that OCS

1 uses as a reference is from October. As advised by the
2 Company's actuary, using November 30th data,
3 specifically the discount rate and an assumed rate of
4 return of 20 percent, would produce an increase in the
5 2010 expense as filed by 1.3 million, which would in
6 turn increase the overall average by 700,000. And
7 that's correlated to the discount rate and the rate of
8 return changes since the filing. Therefore, the
9 Company would support maintaining the expense
10 represented in the initial filing for both pension and
11 post-retirement.

12 The second item, item 41 on the issues and
13 position log, relates to supplemental executive
14 retirement plan, or more commonly referred to as SERP.
15 In the area of SERP, both DPU and OCS are recommending
16 that the Company adjust its initial filing to reduce in
17 full the expense associated with the SERP benefit.

18 The focus of the arguments from each
19 intervening party is that the SERP benefits are
20 discretionary expenses directly benefit to shareholder
21 rather than the customer, and given that the Company
22 has actually closed the plan to new participants, there
23 is no benefit to the current customers for these
24 expenses.

25 I disagree with each of these arguments as

1 raised. Most importantly, these expenses are related
2 to the Company's commitment to provide retirement
3 benefits to those that participated in this plan.
4 These are not new expenses, except for an extremely
5 small portion which is related to one active
6 participant. The remaining expense should be viewed no
7 differently than pension expense, as it is a commitment
8 by the Company to the employee for their service, while
9 also maintaining the competitive position.

10 It is also important to note that this
11 Commission has in the past deemed SERP benefits as a
12 necessary competitive benefit and allowed recovery.

13 The Company has been successful in holding
14 the line on labor costs and increasing productivity,
15 even in a time of escalating health care costs and
16 increased capital investment by the Company. However,
17 there is only so far the Company can decrease the labor
18 costs before the cuts put the Company and its customers
19 at risk.

20 The Company is at a tipping point where
21 further decreases in costs will mean it will not be
22 able to attract the qualified personnel necessary to
23 maintain the Company's high standards on safety,
24 reliability, and customer service.

25 As a result, the disallowances presented by

1 the Division and OCS would be detrimental to the
2 Company's customers if accepted by the Commission.
3 Therefore, members of the Commission, I ask that you
4 accept the labor and benefit expenses as included in
5 the Company's filing. And that concludes my summary.

6 Q. Just one housekeeping issue. From the joint
7 issues log that you had referenced, the so-called SERP,
8 or supplemental executive retirement plan, would be
9 found at line 41; is that correct?

10 A. That is correct.

11 Q. Does that complete your summary?

12 A. It does. It does.

13 MR. HICKEY: I have nothing further.

14 CHAIRMAN BOYER: Thank you, Mr. Hickey. Mr.
15 Ginsberg, any cross-examination for Mr. Wilson?

16 MR. GINSBERG: I do. Actually, I have a --
17 maybe this would help a little bit.

18 THE WITNESS: I'll take one.

19 MR. GINSBERG: It's actually the 10-K.

20 THE WITNESS: 10-K?

21 MR. GINSBERG: 10-K, if you --

22 THE WITNESS: I don't have it with me, so
23 that would be helpful.

24 MR. GINSBERG: There you go.

25 THE WITNESS: Thank you very much.

1 MR. GINSBERG: Could we have -- oh, did I
2 give you one?

3 MR. HICKEY: Yes, you did, thanks.

4 MR. GINSBERG: Can we have this marked? I
5 just want to do cross exhibits. Should we --

6 CHAIRMAN BOYER: Let's do them numerically.
7 Let's just call it DPU Cross-1.

8 MR. GINSBERG: Okay.

9 (Exhibit DPU Cross-1 was marked.)

10 CROSS-EXAMINATION

11 BY MR. GINSBERG:

12 Q. I think I'm ready. Mr. Wilson, if we could
13 just -- if we could turn to your rebuttal, line 138.
14 You state a concern that because there's no potential
15 rate relief until sometime like August 2011 that the
16 Commission should somehow take that into account. Were
17 you aware that the Company agreed that there would be
18 no rate case filing until after January 2010?

19 A. No, I'm not aware of that specific date, no.

20 Q. So you weren't aware that there was any
21 agreement that they would stay out for that period of
22 time?

23 A. No, I'm not aware of that.

24 Q. So how would you want the Commission to take
25 this into account if they felt that the SERP adjustment

1 was unreasonable? Would you expect them to sort of
2 ignore that or -- because the Company can't get rate
3 relief for an extended period of time?

4 A. Would you mind restating the question,
5 please?

6 Q. Your statement that the Commission should
7 somehow take into account the fact that there can't be
8 any additional rate relief for labor expenses until I
9 think you say September 2011, how would you expect them
10 to take that into account if they felt that this,
11 either all or part of this SERP adjustment shouldn't be
12 paid by rate payers?

13 A. Well, I think that the focus of the
14 Commission and the relevancy is around the cost
15 incurred or expenses incorporated into this filing, and
16 that the Commission should take on merit the expenses
17 and my position on SERP as it relates to expenses for
18 2009 and through 2010, June, so...

19 Q. The SERP adjustment -- I gave you what was
20 marked as DPU Cross-1. Do you have that?

21 A. I do. From the 10-K?

22 Q. And I gave you a copy of the 10-K. There's
23 other references you want. This provides an
24 explanation of what this -- what this is?

25 A. Correct. On the middle of the page , under

1 "Supplemental Executive Retirement Plan," it describes
2 how the plan operates.

3 Q. Why was it eliminated in 2006?

4 A. It was determined in 2006, as part of the
5 acquisition by MidAmerican Holdings Company and review
6 of market conditions, that the supplemental executive
7 retirement program offerings to those deemed qualified
8 was no longer going forward a competitive position or
9 competitive program that should be offered.

10 And as I stated in my summary, our focus as
11 an organization is to deliver pay and benefits at the
12 market average and competitive.

13 Q. So it's purely a managerial decision?

14 A. It was a decision based upon market factors
15 and a management decision based upon that assessment.

16 Q. The thing that I would like to ask you about
17 here, it says: The participants' -- I'm referring to
18 the 10-K -- participants' final average pay will equal
19 60 months of the highest pay, and -- for the last 120
20 months, and pay for this purpose includes salaries and
21 annual incentive plan payments.

22 Can you tell us what annual incentive plan
23 payments are included in this?

24 A. What amount or how the --

25 Q. No, the programs.

1 A. There's one annual incentive plan that I went
2 into detail in my testimony, and as well earlier in the
3 year spoke to the Commission. It's an annual incentive
4 plan that's based on performance goals, and that value
5 that's tied to that one participant is included in the
6 SERP calculation by our actuaries.

7 Q. Is it the incentive plan that's listed above
8 the long-term?

9 A. No, it is not. It is the annual incentive
10 plan. I don't -- did you provide just this singular
11 sheet to the Commission?

12 Q. Yes.

13 A. Okay. There is a reference on page 119 --
14 what you have in front of you, Commission, is page 120
15 of the 2009 -- or 2008 10-K. However, on page 119
16 there is a descriptor of the annual incentive plan,
17 which is a plan that's based on 12 months worth of
18 performance around goals set for each employee that's a
19 participant in the plan. That is the only incentive
20 plan variable that goes into the supplemental executive
21 retirement plan calculation.

22 Q. The amount of the award that the retired
23 employee gets is in addition to his regular retirement
24 plan?

25 A. It is an offset to the regular retirement

1 plan. I am not an expert in how the retirement and the
2 supplemental executive retirement plan is calculated.
3 It is done so by the Company's actuaries.

4 But in light of how this plan works, it's an
5 offset to provide a comparable value of benefit to
6 those that participate in conjunction with the regular
7 retirement plan.

8 Q. The 10-K also says that the SERP plan is
9 based on years of service, plus performance. Is
10 financial performance one of the factors taken into
11 account in each fiscal year to determine the amount of
12 this plan?

13 A. On -- if the Commission were to look at the
14 middle of the paragraph describing the supplemental
15 executive retirement plan, where it states: The SERP
16 provides monthly retirement benefits of 50 percent of
17 final average pay plus one percent of final average pay
18 for each fiscal year that we met certain performance
19 goals as set such -- as set forth such fiscal year.
20 And that performance factor is the Company meeting its
21 budget as assigned per each fiscal year.

22 So there is an opportunity for the
23 participants to earn up to an additional 15 percent
24 through their participation in the plan, no more than
25 65 percent, based upon what would be in that example 15

1 years of -- worth of the company achieving its
2 operating budget.

3 Q. Am I correct that this type of plan has been
4 disallowed in Oregon since 2001?

5 A. I can't confirm since 2001, but I know there
6 have been time periods in which Oregon, the State of
7 Oregon's Commission has disallowed the SERP benefits,
8 SERP benefit.

9 Q. Is it currently disallowed?

10 A. That, I don't know from the most recent case.
11 I don't recall.

12 Q. Wasn't the most recent case settled?

13 A. It was settled, that's correct.

14 MR. GINSBERG: I think that's all the
15 questions I have.

16 CHAIRMAN BOYER: Thank you, Mr. Ginsberg.
17 Mr. Proctor?

18 CROSS-EXAMINATION

19 BY MR. PROCTOR:

20 Q. Mr. Williams, in your summary you provided
21 some data that I believe you referred to as November
22 the 30th of 2009. Is that correct?

23 A. That is correct. It's Mr. Wilson, though.

24 Q. Mr. -- I'm sorry.

25 A. That's okay.

1 Q. What did I say?

2 A. Williams.

3 Q. I apologize. Had you provided that
4 information to the parties to this case in your
5 rebuttal testimony?

6 A. The reference that you're referring to is the
7 November 30th discount rate and rate of return that I
8 received from the Company's actuary last week. So in
9 specific answer to your question, that was after the
10 October information that had been provided to the OCS.

11 Q. So today was the first time that you have
12 provided any of those numbers to anybody here?

13 A. That would be correct.

14 Q. Did I hear you correctly that you're
15 anticipating a 2010 return on the pension plan of 20
16 percent?

17 A. Not in 2010. What I was referencing was that
18 on November 30th the return to date had been close to
19 20 percent, and the discount rate, which is a more
20 material variable in the determination of the pension
21 expense, had significantly reduced from the time in
22 which the October data had been provided to the OCS.

23 In context, the discount rate as provided in
24 October had been 5.75 percent. The discount rate on
25 November 30th was 5.4 percent, or a reduction of 35

1 basis points.

2 The discount rate is the significant driver
3 in the increase in expenses I summarized in my summary
4 of causing a \$1.3 -- \$1.3 million increase in 2010, or
5 an average of 700,000 on this case running through June
6 of 2010.

7 Q. But in fact that discount rate that will be
8 used in 2010 will not be selected or finalized until
9 the end of this year?

10 A. That is correct, it is finalized at the end
11 of December.

12 Q. Now, as of October, the return on the pension
13 plan was 16.7 percent, correct?

14 A. That is correct.

15 Q. The Company had used -- in calculating the
16 pension expense request, had used a long-term rate of
17 7.75 percent?

18 A. That's correct.

19 Q. And now you're telling us that in fact the
20 plan assets are earning 20 percent?

21 A. That's an estimate for 2009. The 7.75
22 percent that you referenced is a long-term rate of
23 return.

24 Q. I also have some questions about the same --
25 as Mr. Ginsberg did, about your statement that's on

1 page 2 of your rebuttal testimony.

2 A. Okay. I'm there.

3 Q. It's repeated again, I think, on page 7.

4 A. Okay. Which line?

5 Q. Let's start with page 2, line 29.

6 A. Line 29. I'm there.

7 Q. Since the Company -- it says: Since the
8 Company will not be filing a rate case again until
9 2011 -- if I could stop right there and ask you a
10 question. This is per the agreement of the Company,
11 correct?

12 A. Again, as I answered earlier, that's not my
13 understanding. I don't have the context to the
14 agreement that the Company has made with the Commission
15 for the timing of the next filing.

16 Q. Well, upon what basis did you make the
17 statement that the Company will not be filing a rate
18 case again until January 2011?

19 A. Based upon review with the regulatory team.

20 Q. And they informed you that?

21 A. They informed me of that. I don't have all
22 the specifics around that. I'm going on what I was
23 told relative to the timing of the next filing.

24 Q. Well, is -- are you reflecting the Company's
25 policy, then, that because you won't be filing a rate

1 case until January 2011, and because those rates would
2 not be effective until approximately September, that
3 therefore this rate case should give you expenses to
4 cover through September 2011?

5 A. Not at all.

6 Q. Well, what is -- how does this principal that
7 you've stated here on page 2 affect the expenses that
8 are being requested for the test period that's relevant
9 to this case?

10 A. My intent with this statement here for the
11 Commission is that it is essential for the organization
12 to recover expenses as noted in this filing, in light
13 of the -- as much as is deemed appropriate by the
14 Commission, given the extended time period in which the
15 Company would not be able to be filing and be back in
16 front of this Commission.

17 Q. Aren't you forecasting, sir, a regulatory lag
18 and wanting this Commission to take that into account
19 in their order in this case?

20 A. I would -- think that the comment about
21 regulatory, like I'm not the appropriate person to
22 answer that.

23 Q. Do you understand what it is?

24 A. To a degree, yes.

25 Q. But not to a degree enough that you can

1 really discuss it?

2 A. Correct.

3 Q. I do have a few questions about the SERP
4 compensation plan.

5 A. Okay.

6 Q. I believe you testified -- well, I know you
7 testified there's one active participant in that
8 plan --

9 A. That is correct.

10 Q. -- presently employed by Rocky Mountain
11 Power?

12 A. That is correct.

13 Q. Are there any other participants in that plan
14 anywhere else, including those of NPHC?

15 A. There are no other active participants in the
16 Company's, PacifiCorp's, supplemental executive
17 retirement plan that are active employees.

18 Q. There are 63 inactive retired or terminated
19 employees, correct?

20 A. I believe that's the correct number.

21 Q. And for example, that would include Mr. David
22 Bolander?

23 A. It may, subject to check. I don't know
24 the -- all the names of the 63.

25 Q. Do you know any of the names of the 63?

1 A. I do.

2 Q. Would Al Gleason be one of those that you
3 know?

4 A. I believe that name is on the list, correct.

5 Q. And Judy Johansen?

6 A. That is correct.

7 Q. And Andy McRichey?

8 A. That is correct.

9 Q. Now --

10 MR. HICKEY: Mr. Chairman, I'm going to lodge
11 an objection as to relevance. I think the record
12 reflects there are 63 inactive participants. A litany
13 of the participants doesn't seem to me to be adding
14 much to the record and would object that it's either
15 cumulative or redundant.

16 MR. PROCTOR: Mr. Chairman, if I might, four
17 is not a litany. And secondly, they've testified that
18 there is a specific purpose for this program
19 continuing, and that's what I'm getting to, and I'll
20 get to it now.

21 CHAIRMAN BOYER: I guess what you're heading
22 toward is the benefit to customers of the continuation
23 of the SERP; is that what you're getting at?

24 MR. PROCTOR: Certainly.

25 CHAIRMAN BOYER: Overruled.

1 MR. PROCTOR: Thank you.

2 Q. (By Mr. Proctor) Now, you and others, in
3 particular, Mr. McDougal, have testified that the
4 purpose of the SERP was to retain highly qualified
5 executives that make decisions with positive impacts on
6 rate payers. Of the people that I named, the four
7 names, Johansen, McRichey, Bolander, and Mr. Gleason,
8 who is the most recently working for Rocky Mountain
9 Power?

10 A. For the most recent --

11 Q. In any capacity.

12 A. Sure. The most recent participant was Judy
13 Johansen, who was the CEO of PacifiCorp

14 Q. And when did she leave?

15 A. She left in March of 2006, at the time of the
16 acquisition by MidAmerican Holdings Company.

17 Q. And when did Mr. Bolander leave, do you know?

18 A. I do not know, sir.

19 Q. Do you know when Mr. Gleason left?

20 A. I do not know.

21 Q. Do you know the circumstances under which Mr.
22 Gleason left?

23 A. I do not know the circumstances, no.

24 Q. Would it have been prior to 1998?

25 A. That, I do not know. I joined the company in

1 2001. I don't know the specifics beyond that.

2 Q. Do you know if Mr. Bolander -- well, then you
3 wouldn't know that Mr. Bolander -- when Mr. Bolander
4 left?

5 A. That is correct.

6 Q. Do you know, for example, how much on an
7 annual basis of allocated -- is allocated towards Ms.
8 Johansen?

9 A. I do not, no.

10 MR. PROCTOR: Thank you very much.

11 CHAIRMAN BOYER: Thank you, Mr. Proctor.

12 Before we turn to Mr. Dodge, Mr. Ginsberg, did you want
13 to offer DPU Cross-1 --

14 MR. GINSBERG: Yes.

15 CHAIRMAN BOYER: -- into evidence? Are there
16 any objections to the admission of DPU Cross-1, which
17 is a page from the most recent 10-K filing by the
18 Company?

19 MR. HICKEY: No, sir.

20 CHAIRMAN BOYER: Seeing none, we will admit
21 it then.

22 MR. DODGE: I have no questions, Mr.
23 Chairman.

24 CHAIRMAN BOYER: Thank you. Mr. Reeder?

25 MR. REEDER: I have no questions of this

1 witness.

2 CHAIRMAN BOYER: Very well. Thank you. None
3 from Commissioner Allen. Commissioner Campbell?

4 COMMISSIONER CAMPBELL: I know in the past
5 that the pension has been underfunded. What is the
6 current status?

7 THE WITNESS: The current status is that it
8 is, I believe, 81 percent funded.

9 COMMISSIONER CAMPBELL: So with a pension
10 being -- would you consider that underfunded, or what
11 is the definition, at what level do you consider a
12 pension underfunded, I guess is the question?

13 THE WITNESS: Sure. Well, it is most
14 definitely underfunded. It's -- 100 percent would
15 categorize it as fully funded. There are new rules, as
16 governed by the Pension Protection Act of 2006, that
17 put into place that if a pension plan is funded below
18 80 percent there are restrictions that the company then
19 in turn has as it relates to distribution and notice to
20 its employees.

21 There are many organizations, in light of the
22 asset returned, in challenging economic climate over
23 the last couple years who are significantly below 80
24 percent. But there are also organizations that are at
25 fully funded status. We are at 81 percent at this

1 point in time.

2 COMMISSIONER CAMPBELL: As a regulated
3 utility, are you concerned at all that there's
4 intergenerational subsidies taking place here because
5 current rate payers aren't paying their fair share of
6 labor costs?

7 THE WITNESS: I wouldn't -- I guess I
8 wouldn't say I have an overconcern of that issue.

9 COMMISSIONER CAMPBELL: So it's your opinion
10 that the pension money will be there for pensioners
11 when they retire?

12 THE WITNESS: That is correct. I forgot to
13 mention that as part of the Pension Protection Act of
14 2006 there is a requirement of companies to have -- to
15 be in a fully funded status within seven years. Now,
16 there have been some extensions to that in light of the
17 economic conditions. But from a company perspective,
18 we are on target to be fully funded at, I believe, 2015.

19 CHAIRMAN BOYER: Mr. Wilson, turning to the
20 continuing benefit to customers of the continuation of
21 the SERP, I'm assuming that retaining Mr. Walje's
22 services would be one benefit, and you testified that
23 the benefit of funding this program for former
24 employees is based on completion of a commitment that
25 you have.

1 THE WITNESS: That is correct.

2 CHAIRMAN BOYER: Could you elaborate on that
3 a little bit for me?

4 THE WITNESS: Well, as -- well, take for
5 example Ms. Johansen. When Ms. Johansen was a member
6 of the organization prior to 2006, it was deemed by the
7 company that in order to attract and retain the talent
8 to be a CEO of the organization, companies of our
9 comparable nature were providing the SERP benefit to
10 those participants to offset the retirement benefit.

11 We deemed that appropriate at the time,
12 provided her eligibility for that, and provided
13 benefit, and we made a commitment to her at that point
14 in time that the company would provide both a regular
15 retirement plan as well as a supplemental plan to
16 offset, and we believe that that was the driver behind
17 retaining her and other members.

18 CHAIRMAN BOYER: Okay. Thank you, Mr.
19 Wilson. Any redirect, Mr. Hickey?

20 MR. HICKEY: Just a couple. Thank you, Mr.
21 Chairman.

22 REDIRECT EXAMINATION

23 BY MR. HICKEY:

24 Q. In follow-up to Commissioner Campbell and the
25 Chairman's questions, do you believe there's a benefit

1 today to Rocky Mountain Power to be perceived as a
2 company that honors its retirement or pension
3 commitments to its employees?

4 A. Very much so. I believe that's a key driver
5 in our ability to not only retain the talent that we
6 have today but also attract talent in the future.

7 Q. As the Director of Human Services for this
8 organization, do you know whether or not you use that
9 as a tool to recruit, that this company honors pension
10 commitments?

11 A. We do. We don't -- it's not -- well, it's
12 not documented as part of the recruitment process, but
13 there is a company offering. And I can -- I can convey
14 to you that over the last couple of years quite many of
15 the individuals that are interested in joining our
16 organization have asked similar questions around where
17 is the funding status? What are your plans as an
18 organization? And we're in a position to articulate
19 that, which I shared with you, Mr. Commissioner, that
20 we do have an obligation by 2015. We are at 80 percent
21 or greater, which doesn't preclude the limitations that
22 the PPA does with regards to those plans that are
23 underfunded under 80 percent. And that has helped us,
24 I believe, to a degree in the recruitment process.

25 Q. Finally, Mr. Wilson, to put some perspective

1 on the 16 percent return through October and 20 percent
2 return expected for the end of the year, can you take
3 us back so I can do my own reality check in here to
4 September of '08. What kind of returns did you receive
5 following September '08 for 12 months following that on
6 the pension fund?

7 A. Subject to check, the 2008 was a very
8 challenging year. There were periods of time that we
9 were, I believe, upwards of minus 23 percent as a
10 return.

11 Q. So does that make the seven-and-a-half
12 percent targeted return over, I believe you said a 20-
13 year perspective seem more balanced?

14 A. It does. It takes out the significant
15 fluctuations in interval, such as driven by the
16 economy, and that's why the reference is that it's a
17 long-term rate of return. It's not an annual rate of
18 return.

19 MR. HICKEY: I have nothing further, Mr.
20 Chairman.

21 CHAIRMAN BOYER: I'm going to take the
22 chair's prerogative and ask another question raised by
23 redirect by Mr. Hickey. In view of your statement
24 regarding commitments to pension obligations to
25 employees, how does that jibe with the recent

1 elimination of the defined benefit program?

2 A. Well, it's in support of what we do provide
3 now, which is a replacement, which is the Company's
4 401(k) plan, which is a defined contribution plan. As
5 part of that plan, the Company makes contributions on
6 behalf of the individual, and it's a reassurance that
7 the Company will continue to make those contributions
8 on behalf of the employee.

9 CHAIRMAN BOYER: Was that change well
10 received by your employees?

11 A. It's been well received by -- I would have to
12 say there are parts of the organization that haven't
13 received it well, namely some of the unions that we've
14 been negotiating with. However, we did offer a choice,
15 offering the nonunion to stay in the cash balance plan
16 or the 401(k), as I mentioned in testimony, and all new
17 hires that join the organization do actually embrace
18 the opportunity of a 401(k) plan because of its
19 portability.

20 CHAIRMAN BOYER: Okay, thank you. Do you
21 have anything further, Mr. Hickey?

22 MR. HICKEY: No thanks.

23 CHAIRMAN BOYER: Okay. Thank you, then, Mr.
24 Wilson. You may be excused.

25 Okay. This would be, I think, an appropriate

1 time to take a 10- or 15-minute recess to give our
2 reporter a break and the rest of us a break as well.

3 MR. GINSBERG: Can I ask one question? It
4 probably doesn't need to be on the record, about
5 scheduling and what will happen after --

6 CHAIRMAN BOYER: Yeah, if we're just talking
7 processes, do that off the record.

8 (Recess from 10:23 - 10:41 a.m.)

9 CHAIRMAN BOYER: Okay. Let's go back on the
10 record. I believe we've reached the time in the
11 schedule we're going to hear from Mr. McDougal.

12 Have you been sworn in this case, Mr.
13 McDougal?

14 THE WITNESS: I have not.

15 (Steven R. McDougal was duly sworn.)

16 CHAIRMAN BOYER: Please sit down.

17 STEVEN R. McDOUGAL,
18 called as a witness at the instance of the
19 Applicant, having been first duly sworn,
20 was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. HICKEY:

23 Q. Good morning, Mr. McDougal. Please state
24 your name, your business address, and your current
25 position with Rocky Mountain Power.

1 A. My name is Steven R. McDougal. I'm the
2 Director of Revenue Requirements for Rocky Mountain
3 Power. My business address is 201 South Main, Salt
4 Lake City, Utah 84111.

5 Q. And because this hearing for today and
6 tomorrow are in the area of your expertise, you have
7 several prefiled testimonies to identify to the
8 Commission; isn't that correct, Mr. McDougal?

9 A. That is correct.

10 Q. Let's begin with your direct testimony. Does
11 it have attached to it four exhibits marked SRM-1
12 through 4?

13 A. Yes, it does.

14 Q. And then did you later file rebuttal
15 testimony and attach to it Exhibits SRM-1R through 4R?

16 A. That is correct also.

17 Q. And was there supplemental rebuttal testimony
18 filed on November 23rd without exhibits?

19 A. Correct.

20 Q. And then finally on the 30th of November did
21 you file surrebuttal testimony, Mr. McDougal, attaching
22 SRM Exhibits-1SR through 3SR?

23 A. Yes.

24 Q. Are there any additions or corrections to
25 those four prefiled testimonies?

1 A. No, there is not.

2 Q. If I were to ask you each of the questions
3 set forth in the four documents, I presume the answers
4 would be the same as you published in those four
5 prefiled testimonies?

6 A. Yes, they would.

7 MR. HICKEY: Mr. Chairman, I'd move for
8 admission of Mr. McDougal's direct with exhibits,
9 rebuttal with exhibits, supplemental rebuttal, and
10 surrebuttal with exhibits.

11 CHAIRMAN BOYER: Are there any objections to
12 the admission of Mr. McDougal's testimony, together
13 with exhibits? Seeing none, they are all admitted into
14 evidence.

15 Q. (By Mr. Hickey) Mr. McDougal, have you had a
16 chance to prepare a summary of your testimony?

17 A. Yes, I have.

18 Q. Would you please share it with the Commission
19 and the parties.

20 A. Yes, I would. I am here today to testify on
21 the Company's revised rate increase of \$53.2 million,
22 as shown in the joint issues and position that's filed
23 with the Commission on December 2nd.

24 The original rate increase requested in my
25 direct testimony was 66.9 million. This request was

1 reduced to \$55 million, as summarized in my rebuttal
2 testimony on page 3. The largest single adjustment was
3 a reduction of \$9.6 million related to the tax
4 adjustment previously filed with the Commission.

5 Subsequent to filing rebuttal testimony, the
6 Company has agreed to make three additional
7 adjustments, decreasing the Company's request to \$53.2
8 million.

9 In the supplemental rebuttal testimony of Mr.
10 DuVall, the Company agreed to accept the coal price
11 adjustment proposed by Mr. Evans. In my surrebuttal
12 testimony, the Company updated the forecasted costs for
13 McFadden Ridge 1 and reduced the amount of settlement
14 fees in the case.

15 The Company is using a June 30th, 2010 test
16 period in this case, with a 13-month average rate base
17 per the May 14th, 2009 stipulation among the parties,
18 as approved by this Commission on June 1st, 2009. The
19 test period was forecasted using a base historic period
20 consisting of calendar year 2008.

21 Absent the rate increase requested in this
22 case, the Company is projected to earn a 9.3 percent
23 return on equity in the state of Utah -- excuse me --
24 during the June 30th, 2010 test period.

25 An increase of 65.4 million is necessary to

1 achieve the 11 percent ROE requested in this case. The
2 65.4 is reduced to \$53.2 million because of the MSP
3 price cap.

4 The Company has reviewed the testimony from
5 the intervening parties and on rebuttal has agreed to
6 completely accept or partially accept many of their
7 proposed adjustments.

8 I would briefly like to mention the remaining
9 outstanding revenue requirement adjustments addressed
10 in my testimony. In referring to these adjustments, I
11 will be referring to them using their associated line
12 numbers from the joint issues and position lists filed
13 with the Commission, for those who would like to follow
14 along.

15 From the joint issues list, I am addressing
16 adjustments number 37, the generation overhaul
17 escalation; 38, the uncollectible accounts expense; 42,
18 the pension administration costs; 43, injuries and
19 damages; 46, airplane expenses; 47, rent expense; 64,
20 the Chehalis due diligence bonus; 65, Utah distribution
21 maintenance; 66, MEHC management fees; 67, settlement
22 fees; 72, the hydro facilities adjustment; 73, the
23 CWHIP write-offs.

24 I believe that all of these adjustments
25 should be rejected. These costs represent prudent

1 expenses which the company should be allowed to
2 recover.

3 I will not go into detail on each of the
4 adjustments, but would like to quickly summarize a
5 couple of the outstanding items in this case. The
6 first one I'd like to summarize is the Utah
7 distribution and maintenance adjustment. The OCS
8 proposes removing this adjustment that increases
9 distribution maintenance by approximately \$3.5 million.
10 From September through December 2008, the Company
11 reduced distribution maintenance expenditures to keep
12 costs in line with the revenues the Company was allowed
13 as part of the 2007 rate case.

14 The Company reduced some inspection cycles
15 from every month to every other month, reduced our full
16 test and treat work and reduced other Utah substation
17 and equipment maintenance expenditures.

18 These costs need to be reset to an
19 appropriate ongoing level in this rate case. These are
20 prudent costs which are needed to properly maintain the
21 distribution system in the long run. This adjustment
22 to the case is necessary to give the Company the money
23 needed to operate the Utah distribution system in a
24 prudent and reliable manner during the test period.

25 The second adjustment is the overhaul --

1 generation overhaul expense escalation. This
2 adjustment is approximately one-and-a-half million
3 dollars. In the 2007 rate case, generation overhaul
4 expenses were calculated using a four-year average, but
5 the amounts were not restated using current dollars.
6 The purpose of averaging is to adjust for uneven costs,
7 not to adjust for inflationary pressures. Using
8 averaging results in dollars being stated using
9 historic values and understates the amounts needed to
10 perform overhauls during the test period.

11 In surrebuttal testimony, the DPU has agreed
12 that this approach results in our appropriate
13 projection of costs in the test period.

14 The third item is MEHC management fees. The
15 OCS proposes to eliminate approximately one million in
16 charges from MEHC related to bonuses and SERP. These
17 costs are reasonable, above-the-line costs that should
18 be allowed in a rate case. Since MEHC acquired
19 PacifiCorp, it has implemented cost-cutting strategies
20 that save rate payers millions of dollars.

21 As one example, in the March 2006 results of
22 operations filed with this Commission, total company
23 A&G was over \$240 million. As part of the MEHC
24 transaction, MEHC agreed to a stretch pool of \$222.8
25 million adjusted for inflation as a merger commitment

1 for A&G costs with several states.

2 In this case, the Company has delivered A&G
3 of less than \$180 million, which is more than \$40
4 million below the target set at the time of the
5 transaction. These savings are made possible due to
6 the decisions made by MEHC management. The costs of
7 the Company's SERP and bonus programs is reasonable and
8 is an essential part of compensation and is
9 appropriately included in the management fee from MEHC.

10 The fourth item, the settlement fees in
11 Chehalis due diligence bonuses. This case includes
12 approximately \$300,000 in settlement fees and Chehalis
13 due diligent bonuses. Nobody has argued the prudence
14 of these costs, but that they are out of period and are
15 one time. These costs are prudent and Utah customers
16 should bear their allocated share.

17 The adjustments proposed by interveners
18 remove various one-time adjustments from the rate case,
19 which is an unreasonable position and does not give the
20 Company an opportunity to recover prudently incurred
21 costs. Prudently incurred, one-time costs are an
22 ongoing part of the business and similar costs will be
23 incurred in the future. Because settlement fees
24 included in the base period are above previous levels,
25 the Company has agreed in my surrebuttal testimony to a

1 three-year amortization of the coal strip settlement
2 fees. I'd also like to apologize, I've been having a
3 cold and my voice is a little scratchy.

4 Fifth item is uncollectible accounts expense.
5 The uncollectible expenses included in this case are at
6 a reasonable level. Uncollectible expenses in the test
7 period is lower than the actual expense for 2008. The
8 Company believes that a projection of uncollectible
9 accounts expense during the test period should be used.

10 However, if the Commission adopts the DPU
11 proposal to use a three-year average, the Company would
12 like the three-year average to be applied consistently
13 in future proceedings, not just when it results in a
14 lower rate increase.

15 Six, injuries and damages, the DPU is
16 proposing to compute the allowed level of expenses for
17 injuries and damages using a five-year average as
18 opposed to the three-year average ordered in the 2007
19 case. At the same time, they are requesting a three-
20 year average for uncollectible expenses.

21 I think we need to be consistent in the time
22 periods we are using. Three years is a reasonable time
23 period. By changing to a longer average, this will
24 understate these costs due to inflation, similar to the
25 generation overhaul expenses, unless the historic costs

1 are escalated.

2 In addition, the DPU proposes to calculate
3 the average using the most recent 60 months of data.
4 If a five-year average is used, it should be the five
5 years ending with the historic test period, similar to
6 other averages, which would result in a \$200,000
7 increase in Utah revenue requirements in this case.

8 To use the most current 60 months would
9 entail updating all future rate proceedings once they
10 have been filed to the new average.

11 The last item I'd like to address briefly is
12 the pension and administration. The DPU proposes using
13 2008 costs to set the ongoing level for pension
14 administration. As shown on page 12 of my rebuttal
15 testimony, expenses booked in 2008 are lower than any
16 of the three prior years and are lower than 2009 year-
17 to-date expenses. This adjustment would set the
18 pension administration costs artificially low.

19 In conclusion, the \$53.2 million revised
20 request in this case is reasonable. The Company has
21 held O&M costs relatively constant, but the \$53.2
22 million is necessary for the Company to continue to
23 provide safe and reliable power and to invest in needed
24 capital improvements.

25 The rate changes proposed by the DPU and the

1 OCS are not realistic and will not cover the costs of
2 the Company's -- the Company's costs of providing
3 service to our customers. The Company will continue to
4 underearn its authorized ROE unless this Commission
5 provides fair rate relief in this proceeding. Thank
6 you.

7 MR. HICKEY: Mr. Chairman, Mr. McDougal is
8 available for examination.

9 CHAIRMAN BOYER: Thank you. Mr. Ginsberg,
10 questions for Mr. McDougal?

11 MR. GINSBERG: Yes.

12 CROSS-EXAMINATION

13 BY MR. GINSBERG:

14 Q. Mr. McDougal, let's start -- Mr. Walje sort
15 of referred, I think, to you to answer a question about
16 the amount of additional rate relief that will occur
17 potentially in 2010 because of the single item rate
18 cases.

19 A. That is correct. Basically, there's going to
20 be two single item rate cases next year. The first one
21 which will be filed somewhere in the February time
22 frame, around February 1st, will include the DJ
23 scrubber and the terminal to Ben Lomond piece of
24 transmission line.

25 MR. HICKEY: Just to complete the record,

1 could you describe what DJ is.

2 A. Okay, the Dave Johnston Power Plant, and they
3 have a scrubber. Those two plants will combine for
4 approximately \$550 million of capital expenditures. I
5 would anticipate that the revenue increase related to
6 those will probably be in the \$30 million range,
7 somewhere between 25 and \$40 million. The exact
8 details are still being calculated.

9 Those costs will be used only to offset the
10 incremental costs of operating the scrubber and the
11 transmission line. They will not be used, and those
12 revenue increases will not include, any increases
13 related to any other operations of the Company.

14 Likewise, at the end of 2010, there will be a
15 second single item rate case for the populous to Ben
16 Lomond piece of transmission line and a wind resource
17 which is projected to go in service. Those two will
18 probably total somewhere in the \$800 million range.

19 I do not have net power costs offset
20 associated with the wind, but I would anticipate that
21 will be slightly larger, probably in the 35 to \$50
22 million range. But again, that will only cover the
23 incremental costs associated with that particular
24 transmission line and the wind resource that goes in.

25 Q. (By Mr. Ginsberg) So if I add those all up,

1 there will be -- you're proposing a \$53 million
2 increase in February, which is four percent; is that
3 right?

4 A. It's approximately four percent, yes.

5 Q. And then in May or June would be the next
6 rate increase, which would be 25 to 40 million, which
7 would be like three percent?

8 A. Somewhere in the two to three percent range,
9 probably closer to two.

10 Q. And then at the end of the year, an
11 additional how much did you say?

12 A. Probably 35 plus million, 35 to 50 million.

13 Q. So potentially another three to four percent
14 increase?

15 A. Correct, two to three percent.

16 Q. So adding all those up, there's quite a large
17 increase planned for 2010, even with -- even if you use
18 the \$16 million Division proposed revenue requirement
19 in this case; isn't that correct?

20 A. It's quite a bit, but as I mentioned earlier,
21 the single item rate cases are covering only the cost
22 of those specific items. They are not covering any of
23 the increases related to net power costs or any of the
24 increases related to ongoing capital to maintain the
25 rest of the system.

1 Q. But I think I've understood from testimony
2 that's been filed that what is driving these rate cases
3 is the capital expenditures that the Company is making.

4 A. That is one of the major drivers, yes.

5 Q. In fact, I think you said that O&M costs are
6 actually lower than the last case.

7 A. O&M costs are approximately equal.

8 Q. And power costs are equal or lower than the
9 last case; isn't that right?

10 A. I cannot remember exactly what the power
11 costs were settled at in the last case, but they are
12 probably within reason. But a lot of this case is
13 capital, but it is the ongoing capital to maintain the
14 system.

15 Q. There are -- as far as you know, are there
16 any adjustments in this rate case on ongoing capital
17 expenditures, the distribution plan in this case?

18 A. There aren't any that are still under -- that
19 are still contested, no.

20 Q. So all of your capital expenditures are being
21 included in rates?

22 A. Under the, you know, current case, yes.

23 Q. I just had a question about how you decide --
24 if you could turn for a second to page -- it's in your
25 direct, page 30, line 675, that section that deals with

1 the coal stockpile. Do you see that?

2 A. Yes, I do.

3 Q. And are you referring there to the increase
4 to the coal stockpile that's due to the Arch -- what's
5 it called?

6 A. There is an Arch coal settlement.

7 Q. Arch Electric coal settlement?

8 A. Yeah, as far as the record states.

9 Q. Is that what you're referring to in this
10 comment?

11 A. It's part of the reason, yes.

12 Q. Well, what other increase in the coal
13 stockpile has taken place other than as a result of
14 that settlement and other increases in the coal
15 stockpile at the Utah plants? Is there any?

16 A. That would be better addressed by Mr.
17 Walje -- excuse me, Mr. Lasich, who will be telephoning
18 tomorrow.

19 Q. Do you have any idea whether Mr. Lasich
20 addressed this issue at all in his direct testimony?

21 A. I don't believe he did, but he did under
22 rebuttal.

23 Q. So how did you decide that an issue such as
24 this increase in the coal stockpile at the Utah plant
25 only deserved this little amount of testimony?

1 A. We talked to the mining people, the people
2 who work for Mr. Lasich. We asked them what is your
3 projected coal inventory levels? They provided us that
4 data and we put it into the case. As far as the
5 testimony, we knew there would be extensive discovery
6 on it and...

7 Q. But you saw that there were huge, large
8 increases of the coal stockpile at the Utah plants, did
9 you not?

10 A. Yes, we did.

11 Q. And why did you choose not to address it?

12 MR. HICKEY: I'll object, argumentative and
13 asked and answered.

14 CHAIRMAN BOYER: I think he has answered
15 that, Mr. Ginsberg.

16 Q. (By Mr. Ginsberg) Okay. Let's -- if we
17 could, if you could turn real quickly to line 244 of
18 your rebuttal testimony, if you could. I have just a
19 couple questions about the pension expense, if you
20 could, for a second.

21 A. Okay.

22 Q. Now, I think you've agreed that your original
23 estimate for -- was too high; is that correct?

24 A. That is correct.

25 Q. And how did you choose to -- how did you

1 choose to adjust your proposal?

2 A. In looking at that chart, on line 244, we
3 looked at the trends and we noticed that there is
4 significant variability in the pension administration
5 costs from a high of \$900,000 in calendar year 2007 to
6 a low of 338,000 in calendar year 2008. And in looking
7 at that, the 2008 number appears extremely low and is
8 lower than in any of the three prior years.

9 We also looked at the available data for
10 January through September 2009 and noticed that we had
11 spent for those nine months \$514,000 in 2009. So in
12 looking at the level, we decided the most appropriate
13 level to project 2010 would be to look at the January
14 through September 2009, annualize it, and use that for
15 the projection for the test period ending June 2010.

16 Q. Why is the number bounced around from 900,000
17 to 300,000?

18 A. Pension administration cost is one of those
19 things that varies greatly, depending on the amount of
20 work done in one particular year.

21 Q. Is that the extent of your answer?

22 A. Yes.

23 Q. If you look at the earlier years, they
24 haven't varied too much. It appears only in the last
25 couple years, at least for the data that's available on

1 your exhibit on your schedule, that the only variation
2 has been in the last couple years.

3 A. I have not looked at a longer term trend, so
4 I can't state whether that's true or not.

5 Q. The 2009 amount, did you actually break that
6 down monthly, since most of that is not in the test
7 year?

8 A. I did not look at it on a monthly basis.

9 Q. So you have no idea whether what the estimate
10 for 2010, June through -- '09 through June 2010 might
11 actually be lower than earlier in 2009?

12 A. It might be, but I tend to think that by
13 looking at January through September 2009 if we have
14 already spent \$514,000 this year, to project that we
15 would go back down to \$338,000 level looks extremely
16 low.

17 Q. This is another one that might qualify for
18 averaging?

19 A. It might, yes.

20 Q. And it doesn't sound like you have any
21 inherent opposition to averaging those that -- accounts
22 that have variations like uncollectibles?

23 A. I don't have any inherent problem. However,
24 I do not want it to get to a point where we're
25 averaging every account and using trends. I think we

1 have to look at what data is available. And in
2 specific rate cases there might be accounts like this
3 where you'd want to use an average.

4 Q. Here, let me give you this.

5 Just to make the record clear, that these are
6 portions of the order from '97, the '97 rate case,
7 Order 97-035-01, and the 99 rate case, Order 99-035-10.
8 One is dated 3/4/99, the other one 5/24/2000. And The
9 commission can certainly take notice of the order, so
10 I'm not sure we need to make them an exhibit.

11 Just to get back to -- let's talk about
12 uncollectibles, if we could, for a minute. Were you
13 the witness actually back in those days?

14 A. I was not in the ninety -- no, I was not in
15 either of these cases.

16 Q. Now, just to make it clear how you originally
17 did uncollectibles, you just took the base period and
18 escalated it; is that right?

19 A. That is correct. We actually didn't -- we
20 take it and escalate it, and then we use that
21 percentage for the rate increase.

22 Q. Right. But the percentage being the -- for
23 example, you arrived at a proposed uncollectible rate
24 of .34 percent; is that correct?

25 A. That sounds correct.

1 Q. .35 percent?

2 A. That sounds correct, yes.

3 Q. So why did you choose just to escalate those
4 figures?

5 A. That is what we have done in the most recent
6 rate cases, and we did not look at any specific
7 details, and felt like that was a reasonable approach.

8 Q. You did not -- is it because the year, the
9 current year was high, so the number --

10 A. There was no --

11 Q. Is it fair you resulted in a very high figure
12 because it escalated off of a high base year?

13 A. There was no discussions about whether the
14 number was high or low. The discussion was that was
15 the methodology that had been used, so we continued to
16 use it.

17 Q. Did you know at the time that your target was
18 .27?

19 A. I did not.

20 Q. And can you explain what that target is.
21 It's a target for whom?

22 A. That is a target for Rocky Mountain Power
23 that they are going to try to achieve. I will note
24 that year-to-date uncollectibles are running higher
25 than what they had planned, partially because of the

1 recession.

2 Q. And who is the target for, which states?

3 A. It is for Rocky Mountain Power, which
4 includes Utah, Wyoming, and Idaho. Utah accounts for
5 probably in excess of 70 percent of that.

6 Q. Did you do any analysis to determine whether
7 Utah's uncollectible rates are higher or lower than the
8 other states?

9 A. I did not.

10 Q. Is the target higher or lower for Pacific
11 Power, do you know?

12 A. I don't have that number. I think it is
13 higher. Generally, Rocky Mountain -- generally Pacific
14 Power has had higher uncollectibles, but I do not have
15 the number in front of me.

16 Q. And is it also fair that generally Utah would
17 have lower uncollectibles than other places in the
18 system?

19 A. I really don't know. Especially in the Rocky
20 Mountain Power states, you've got a different mix of
21 customers because of the large number of industrials in
22 Wyoming. That could all impact it and it could be
23 higher, it could be lower. I don't know the answer.

24 Q. So your proposal was to use the target; is
25 that right?

1 A. That is correct.

2 Q. But it doesn't sound like -- it doesn't sound
3 like you particularly object to using a three-year
4 average; is that right?

5 A. If the Commission would like us to use a
6 three-year average on a consistent basis, it is not
7 something that we would object to.

8 Q. Were you aware -- I handed you these two
9 orders that -- going back to the -- I guess the last
10 litigated rate cases prior to the '07 rate case, the
11 discussion was around a three-year average.

12 A. I was not aware of that. Could you point me
13 to where it is? I have to read it. But no, I was not
14 aware of that.

15 Q. The prior orders can speak for themselves.
16 Do you use a three-year average in any of your other
17 jurisdictions?

18 A. No, we do not. In all of the other states
19 we're doing it just as we filed in this case.

20 Q. I did see some Oregon testimony where they
21 proposed using a three-year average. Was that in your
22 last rate case?

23 A. That was in the last one that was settled.

24 Q. The three-year average results in the .24,
25 does it not?

1 A. That is correct.

2 Q. And when you say -- you said -- you didn't
3 mean to imply that when we use averages for different
4 accounts that have, I guess, lumpy results from one
5 year to another that you would always necessarily use
6 the same three years? In other words, shouldn't you
7 have to look at the information that's available for
8 each account to determine, one, whether an average is
9 appropriate, and two, what is it you're going to
10 average?

11 A. I'm not sure I quite understand what the
12 question was.

13 Q. Well, in your summary you said that what we
14 should be doing is -- and you gave some examples of
15 sometimes people propose three years, for another
16 account it's five years, some of the net power costs is
17 four years. I mean, do you agree that the purpose of
18 using an average is to remove -- is to try and
19 normalize the test year?

20 A. I agree that that is the purpose. The point
21 I was trying to make is that here we have an example.
22 The example I mentioned in my summary was injuries and
23 damages where we're trying to go from a three-year to a
24 five-year. And yet here on uncollectibles we're
25 proposing to go to a three-year. And I just don't see

1 any consistency in people recommending one or the
2 other.

3 Q. I guess my question goes to, don't you first
4 have to decide one whether an average is appropriate,
5 and then two, whether -- how many years are needed in
6 the average to bring it to a normalized level? It
7 might not always be three?

8 A. It might not always, but I think we've got to
9 be consistent, because what I don't want to see happen
10 is everybody look and say let's look at the prior five
11 years and if years four and five, the earliest ones,
12 were high, let's exclude them. If they're low, let's
13 include them.

14 I think we've just got to be consistent and
15 say let's use a set number of years. Let's not change
16 in every rate case based upon what is going to give a
17 low result. That is something I object to.

18 Q. Well, isn't that sort of an evidentiary
19 question for the hearing, to decide how many years are
20 needed in order to normalize that test year?

21 MR. HICKEY: I'll object. I think it's a
22 conclusion of law and it does sound a tad bit
23 argumentative, Mr. Chairman.

24 MR. GINSBERG: I'm not sure I understand what
25 the conclusion of law would be. I think the

1 question --

2 MR. HICKEY: Mr. McDougal is not a lawyer and
3 what is or is not competent evidence I think is a legal
4 question.

5 MR. GINSBERG: My question was whether that's
6 a question for the hearing of how many years are needed
7 in order to normalize the test year. Maybe if I
8 phrased it that way he can answer.

9 CHAIRMAN BOYER: If you phrase it that way,
10 Mr. McDougal, you can answer that question.

11 A. I believe you would have to look at what
12 number of years would be appropriate, but I think we've
13 got to be consistent, and that's the point I'm trying
14 to make, is that, you know, we've got to decide are we
15 going to use three years, are we going to use five
16 years, and we've got decide to use that going forward.

17 My only other concern with using longer
18 periods of time is the impact that longer periods of
19 time have in periods of inflation, not necessarily on
20 uncollectible expenses where it's a percent of
21 revenues, but in other type of O&M when you average,
22 the longer the period of time, the more you are
23 understating inflation on the answer you are getting.

24 Q. (By Mr. Ginsberg) I have a few questions on
25 this lease payment issue , very briefly. The one I'd

1 like to ask about is the One Utah Center lease. And it
2 appeared to me that -- that's a lease for two
3 organizations. Can you remind me who they were?

4 A. They are the Economic Development Corporation
5 of Utah and the Utah Sports Authority.

6 Q. And you provide those basically -- the space
7 basically free, do you not?

8 A. Basically, yes.

9 Q. Now, the question I'd like to ask, though, is
10 if I understand it right, that issue was raised in the
11 2007 rate case and those leases were excluded; is that
12 right?

13 A. I believe it was the 2008 case, but it could
14 have been the...

15 Q. Well, my understanding is in the 2008 rate
16 case the Company filed their rate case with these
17 leases out; is that --

18 A. We filed a whole bunch of lease corrections
19 and pulled those out. I do not believe they should
20 have been pulled out.

21 Q. Well, why did you -- why did you pull them
22 out?

23 A. We had other vacant leases at the time that
24 were part of the adjustment, and in pulling out the
25 vacant leases and doing that adjustment, we overlooked

1 those and pulled those out at the same time.

2 Q. So in the 2008 rate case you specifically
3 excluded those leases, but in this rate case you ask
4 for them to be recovered; is that right?

5 A. Yes.

6 Q. But you didn't point out to anybody that you
7 were making that change, did you?

8 A. No, we did not.

9 Q. Do you think you have some obligation to
10 point out to the Commission when you are proposing to
11 include a cost that you excluded from the last case?

12 A. I think that we should point it out, but I
13 would point out that I did not even understand at the
14 point -- at that point this time that we had excluded
15 it from the '08 case. That was an error in the '08
16 case that I was not aware of.

17 Q. Nothing has changed on these leases, though,
18 since '07, you've been -- in other words, they've
19 been -- you've been providing these two organizations
20 space for these two or three years at the same price?

21 A. Nothing has changed. And we believe that
22 that is a prudent expense of the company and that the
23 Company should be allowed to recover those costs.

24 Q. Do you write those off as a charitable
25 contribution?

1 A. I do not know how they're handled on our tax
2 return, but my understanding is generally costs like
3 that are not.

4 Q. Two -- one question about -- you were the
5 witness that talked about these two little hydro plants
6 that are being excluded, where the Division proposed an
7 adjustment; is that right?

8 A. That is correct.

9 Q. And I'm correct that those plants no longer
10 provide electrical service?

11 A. That is correct.

12 Q. And there's no intention that they will?

13 A. No. That to me is similar to a lot of other
14 expenses that have been talked about where the Company
15 had commitments, those plants were used, they provided
16 electricity, they no longer are, but we are still
17 obligated to fulfill commitments to irrigation
18 companies and others, so we are continuing to operate
19 those and to fulfill those commitments.

20 So even though those plants are not
21 generating electricity, it is part of the Company
22 fulfilling that obligation, and customers received the
23 benefits of those hydro plants during the years when
24 they were producing electricity.

25 Q. Under that theory, then, any plant that just

1 stops operating, there's some future obligation, or any
2 obligation, even though it might not be being used to
3 provide service to rate payers, it would stay in rate
4 base?

5 A. I believe it should either stay in rate base
6 or we should be allowed recovery on it. If it was a
7 prudent investment that was used to provide service and
8 there is something that happens that makes that plant
9 stop producing, I believe there should be a recovery
10 in -- for that plant for either the removal or the
11 ongoing operations.

12 Q. Now, one of them, it sounded like you might
13 actually restart operating the plant with the broken
14 turbine?

15 A. There is one that we may. The other one is a
16 lease that expires, I believe, in 2013 that we are
17 still providing water to an irrigation company.

18 Q. But the other one has a broken turbine; is
19 that correct?

20 A. That is correct.

21 Q. And you're considering fixing that turbine?

22 A. The Company is looking at whatever options we
23 have with that unit.

24 Q. So wouldn't be fair, though, if you ever
25 decided to operate that plant that you could reinclude

1 it back into rate base at that time?

2 A. We could, but what would we do with the
3 return in the meantime? And the additional question I
4 think we have to ask ourselves is, you know, is it fair
5 to remove it from rate base now and then bring it back
6 in at its appreciated value, with the Company having to
7 absorb those costs in the meantime, or should we
8 accumulate those costs and add them to the costs of the
9 plant.

10 Q. Well, isn't a basic question, though, when a
11 plant no longer provides service to rate payers, should
12 it be removed from rate base?

13 A. That's a basic question, yes.

14 Q. If we could turn to page 54 and 56 -- 54 of
15 your rebuttal for a second. I think that's it. And
16 the question I'd like to ask you about will be
17 basically the answer beginning on line 1214. Do you
18 see where I am?

19 A. Yes.

20 Q. This is the area that deals with whether
21 construction work in progress that is cancelled or
22 eliminated solely at the Company's discretion rate
23 should be included in rates; is that right?

24 A. That is correct.

25 Q. And what happens to this construction work in

1 progress that is cancelled, what happens to that cost,
2 in an accounting standpoint?

3 A. From an accounting standpoint --

4 Q. Where does it go?

5 A. -- whenever you have construction work in
6 progress, if that construction work in progress is
7 cancelled, you write that expense -- well, you write
8 that asset off to expense, you record it on the books
9 of your company.

10 Q. So it's just expensed in this year, nothing
11 is carried forward, any asset you see that was
12 accumulated is just written off as an expense?

13 A. That is correct, you write-off the entire
14 asset value to expense.

15 Q. Now, there's a small amount that apparently
16 you were not able to identify, that's the question I'd
17 like to ask you. It says: A small amount of write-off
18 for projects that can be not be completed for
19 unforeseen reasons. What does that mean, "unforeseen
20 reasons"? Simply you just don't know why they were
21 written off?

22 A. They were written off because we started
23 construction and at some point along the lines either
24 there was a more efficient place to build or that for
25 some reason that was not anticipated when you started

1 construction you had to cancel the construction.

2 Q. But you weren't able to place these into
3 categories as you were with the others?

4 A. Well, some categories --

5 Q. No, of this particular note specifically.

6 A. We actually have a listing of all of those
7 that we're provided, and basically the categories that
8 we looked at and that were defined were some of these
9 projects are cancelled because of work outside of our
10 control, which were --

11 Q. I think everyone -- I'm sorry.

12 A. -- which are things like a permit not getting
13 allowed. These are projects which we started to build.
14 You could claim they're within our control, but we
15 found a more efficient way to construct it or we found
16 a different line or we determined that we needed to
17 delay it. So for some reason, a variety of reasons, we
18 write those projects off.

19 Every year there's going to be -- in a
20 company the size of ours where you have as many
21 construction projects ongoing, there's always going to
22 be a couple of small projects you're going to start and
23 write off.

24 This \$70,000, in my opinion, is a reasonable
25 level for a company the size of ours, when you're

1 spending a billion dollars a year in capital, to write
2 off 70,000 a year because of projects you start which
3 are not completed, seems totally within reason. That's
4 less than --

5 Q. So these would be --

6 A. -- a fraction of one percent.

7 Q. These would be the projects, though, that
8 would fall into the category of those within the
9 Company's control?

10 A. Yes.

11 Q. And you disagree that they should be -- you
12 want them to be written off because they're small and
13 occur every year as opposed to the -- if they were
14 large and they were written off because they were
15 within your control, should they then be excluded?

16 A. I think at that point if they were -- if they
17 were large, I still think we should be allowed
18 recovery, but we should probably look at smoothing
19 those out over multiple years. Where they're small, it
20 appears to be an ongoing level.

21 MR. GINSBERG: Can I take a second?

22 CHAIRMAN BOYER: Yes.

23 MR. GINSBERG: Thank you.

24 CHAIRMAN BOYER: Is that all, Mr. Ginsberg?

25 MR. GINSBERG: Yeah, I think so.

1 CHAIRMAN BOYER: Mr. Proctor, cross-
2 examination?

3 MR. PROCTOR: Yes, thank you.

4 CROSS-EXAMINATION

5 BY MR. PROCTOR:

6 Q. Mr. McDougal, in your summary you referred to
7 a comparison between the 2006 A&G expense and a
8 reduction in the present case from roughly 222 million
9 to 180 million. Recall that summary?

10 A. Yes.

11 Q. Now, in your rebuttal, on page 39 and 40, you
12 were asked to explain and justify the MEHC management
13 fees. Is there anywhere within that explanation where
14 you refer to the reduced A&G costs?

15 A. I mentioned, and that was just one example,
16 on the bottom of line -- of page 39, that the Company
17 has benefited and will continue to benefit from having
18 MEHC as its holding company. What I was trying to do
19 was just give an example of the kind of benefit that
20 MEHC has brought to our company.

21 Q. So in your summary you brought here specific
22 numbers and that you refer to as a specific benefit
23 from MEHC; is that correct?

24 A. That is correct.

25 Q. And those numbers don't appear anywhere in

1 any of the testimony that you had filed up to this
2 point?

3 A. The 180 million would be in the A&G amount in
4 the case.

5 Q. Is it in your testimony?

6 A. Yes, in my exhibit.

7 Q. Is the comparison in your testimony?

8 A. No, it is not.

9 Q. You were present when Mr. Wilson testified
10 about the supplemental executive retirement program?

11 A. Yes, I was.

12 Q. And Mr. Wilson referred to the fact that the
13 Company does want to be known as a company that upholds
14 its commitments with respect to retirement programs.
15 Do you agree with that?

16 A. Yes, I do.

17 Q. Now, is there a condition within the
18 contracts, if I can refer to them as that, for the
19 supplemental retirement program that the obligation to
20 pay that retirement is contingent upon recovery of the
21 amount from rate payers?

22 A. I have not seen the contracts, so I am not
23 aware of whether such a provision exists or not.

24 Q. Wouldn't you assume that that commitment was
25 one from the company to its employee and was not tied

1 to the recovery from rate payers of those costs?

2 A. I would assume that, but like I said, I have
3 never seen the contracts.

4 Q. That would be the traditional or typical
5 contractual obligation one would find in a pension
6 program, would it not?

7 A. Yes.

8 Q. So in the event that this Commission should
9 find that at this point in time, after some ten years,
10 given the nature of that program, that it was no longer
11 recoverable from rate payers, the Company would still
12 keep its commitment, would it not?

13 A. I believe the Company would continue to keep
14 its commitment, yes.

15 Q. Now, does MEHC also have a supplemental
16 executive retirement program?

17 A. Yes, it does.

18 Q. Is that program also closed?

19 A. I do not know. I know there are three active
20 participants, per a data request.

21 Q. And those would be Mr. Socall Able and Mr.
22 Goodman?

23 A. Yes.

24 Q. Are you familiar with the 2008 Form 10-K
25 filed on behalf of MEHC?

1 A. I have briefly looked at it, but I have not
2 read the entire filing, no.

3 Q. Do you recall whether or not on page 136 it
4 states that that plant is closed?

5 A. I have not read that entire filing, so I am
6 not aware of what it states.

7 Q. Would you be willing to accept that it is in
8 fact closed?

9 A. Subject to check, yes, I would.

10 Q. So that particular plant is not even used at
11 MEHC level as a means to entice persons to come to work
12 for MEHC, correct?

13 A. That would be correct.

14 Q. Nor is it used to entice people to work, at
15 this point in time, for Rocky Mountain Power?

16 A. Correct. It is still a prudent expense in
17 that because that commitment was made, I believe the
18 Company has the obligation, just like any employer has
19 an obligation, I believe, to fund and to continue to
20 fund their pension plans.

21 Just because people have retired or are no
22 longer entering the program does not relieve the
23 Company of the obligation to continue to fund that.

24 Q. Mr. McDougal, I don't think anyone would
25 disagree with you, but the issue here is whether or not

1 rate payers should continue to fund this plan until its
2 ultimate end. Isn't that -- isn't that the issue here?

3 A. Right, but if this was a prudent decision to
4 enter into these SERP type of agreements, which was
5 indicated, I would tend to think that continuing to
6 fund that is also prudent.

7 Q. But the plan also provides not only for the
8 payment of the employee, but in the event of the
9 employee's death, it is paid to their beneficiary until
10 that person dies; is that correct?

11 A. I would have to look at the specific
12 documents. I am not aware. Some are, some are not.
13 Some pension plans do that, some do not. I do not know
14 on the SERP plan.

15 Q. Oh, okay. Thank you very much. Also,
16 according to MEHC's 2008 10-K, Mr. Socall was awarded a
17 one-time special achievement bonus of \$8.5 million in
18 2008 for having relinquished his CEO position and
19 remaining as chairman. Is any of that \$8.5 million
20 within the bonus charges charged to PacifiCorp?

21 A. I do not know. That is something I would
22 have to ask. I have not asked and I do not know the
23 answer to that.

24 Q. Does your testimony address the MEHC charges,
25 including the bonuses?

1 A. Yes, it does.

2 Q. Did you make any inquiry, in preparing for
3 your testimony, for the origins of the amount that you
4 were asking for?

5 A. I asked, and I was told they were the MEHC
6 bonuses. I did not ask if there was any special one-
7 time, nor was I told, so I do not believe there are
8 special one-time charges, but I have not specifically
9 asked.

10 Q. So you wouldn't know, for example, whether or
11 how much of the \$4.5 million performance incentive plan
12 paid to Mr. Socall in 2008 is or is not in the
13 PacifiCorp charges?

14 A. I would not know, but I also believe that
15 that four-and-a-half million was probably a prudent
16 investment, a prudent expense of the company.

17 Q. Well, no doubt it was for MEHC, sir. But the
18 issue here, is it not, whether or not Utah rate payers
19 should pay that?

20 A. That is correct.

21 Q. And I assume you have no information or
22 knowledge, then, about the \$5 million paid to Mr. Able
23 as a performance incentive bonus?

24 A. I would not.

25 Q. Mr. Ginsberg asked you some questions about

1 some leases that had been omitted in the 2008 rate
2 case, or removed, perhaps, we don't know, and then
3 appear here, and he asked you whether or not the
4 Company had an obligation to this Commission and the
5 Interveners whether to disclose when you add something
6 like that in. I believe your answer was yes, you
7 believe the Company should in the ideal environment.
8 Is that a fair statement?

9 A. One of the data -- one of the master data
10 requests asks for any material change, and on a
11 material accounting change or other change, yes. If
12 there's just a small change in expenditures, normal
13 changes, no.

14 Q. Well, I want to ask you about a couple of
15 expenses that you -- that the Company had requested in
16 this rate case. The first was a charge to account 925,
17 injury and damages, and the other one was a charge to
18 accounts 506, miscellaneous steam power expenses, the
19 latter is the coal strip settlement that you've
20 referred to, and the first is what you have -- or the
21 Company, pardon me, sir, has referred to as restitution
22 for an avian matter. Did you describe for the
23 Commission what the restitution came from?

24 A. Specifically with regards to the avian
25 settlement?

1 Q. In your testimony did you describe what it
2 came from?

3 A. No, I did not.

4 Q. Did you describe or elaborate upon what the
5 avian matter was?

6 A. No, I did not.

7 Q. Do you believe that the 900,000 restitution
8 award is material and that you should have disclosed
9 that?

10 A. The 900,000 restitution award, which award is
11 that? I'm a little unclear.

12 Q. Well, that was the one stemmed from a plea of
13 guilty on June 24th, 2009 by PacifiCorp dba Rocky
14 Mountain Power to 34 counts of the illegal taking of
15 migratory birds in the Federal District Court of
16 Wyoming.

17 A. Okay. There was not 900,000 included in the
18 case.

19 Q. How much of that was included in the case?

20 A. Originally, there was 500,000, but that
21 amount has been removed.

22 Q. That was lumped in your testimony, however,
23 with the coal strip settlement, and how much was that?

24 A. I would have to check.

25 Q. Well, let me help you. Was it \$1.2 million?

1 A. That sounds correct.

2 Q. And with respect to both of those charges, in
3 your rebuttal testimony, on page 51, beginning at line
4 1,111, the question was whether or not you agreed, the
5 Company agreed, that the expenses should be removed.
6 And if I may read your answer: No, a certain level of
7 legal risk is inherent in the nature of the electric
8 utility industry. Although the Company makes
9 significant efforts to mitigate these risks, settlement
10 and legal expenses are unavoidable and necessary in
11 order to provide adequate electric power to its
12 customers.

13 Now, in -- your answer there was referring to
14 both the coal strip and the avian settlement, and
15 that's found on line 1,107, correct?

16 A. Yes, it is.

17 Q. When you included the 500,000 for the
18 restitution, because that's how it's referred to
19 originally, did you make any inquiry as to where that
20 restitution came from?

21 A. Yes.

22 Q. And what did you discover?

23 A. That 500,000 relates to payments that are
24 being made to various organizations within the state of
25 Wyoming and national organizations to study the impacts

1 of birds on power lines and how to mitigate that.

2 Now, those costs were originally included,
3 and they are a prudent expenditures. They were removed
4 in my surrebuttal testimony, as I have already
5 mentioned, basically because of the threshold, they're
6 minimal, and they are not recurring, so we have removed
7 those costs.

8 Q. They are not recurring. Do you think that
9 that's an adequate explanation when the 900,000
10 restitution award was given at the same time as a
11 \$510,000 fine, \$1700 in special assessments, as a
12 result of a plea of guilty to federal crimes?

13 MR. HICKEY: Mr. Chairman, I'm going to
14 object on the basis of argumentative and relevance. I
15 have not objected up to this point because of the fact
16 that there was discussion in the direct and rebuttal
17 testimony, but as Mr. McDougal has candidly stated to
18 the Commission in response to the questions, this issue
19 is no longer in the case, and because the avian
20 recovery is not being asked for per the surrebuttal of
21 Mr. McDougal, I don't see the relevance of continuing
22 this line of examination.

23 MR. PROCTOR: I'll go on.

24 CHAIRMAN BOYER: Thank you.

25 Q. (By Mr. Proctor) Well, let's talk, then,

1 about the coal strip settlement. In your testimony
2 prefiled with this Commission did you describe the
3 nature of that settlement and its origins?

4 A. No, I did not.

5 Q. In fact, Mr. McDougal, claims against the
6 Company and all the owners of the coal strip power
7 plant for leakage from the pond system began in about
8 1976, didn't they?

9 A. Subject to check, I will believe that.

10 Q. Well, and in fact, there was a report filed,
11 I believe, with all of the owners of the coal strip
12 plant referred to as Background of Settlement of
13 Claims, Duane and Carol Ankney -- I hope I've
14 pronounced that correctly -- vs. PP&L Montana, LLC, et
15 al, that referred to these particular claims for which
16 you are asking 1.2 million as second generation claims
17 for the same damage. Are you familiar with that
18 report?

19 A. No, I am not.

20 Q. Do you know when the lawsuit that resulted in
21 the settlement was first filed?

22 A. No, I do not.

23 Q. Would you accept May of 2003?

24 A. I would accept that.

25 Q. And it was settled and funded in May of 2008,

1 correct?

2 A. Correct.

3 Q. And that's a one-time, nonrecurring expense,
4 correct?

5 A. That is correct.

6 Q. Now, you testified that in order to acquire,
7 or excuse me, include in rates an expected amount of
8 forecasted claims, settlement and fees, that that's why
9 you left the 500,000 restitution award and the \$1.2
10 million settlement costs in that list. Is that a fair
11 statement of why you did it?

12 A. Could you restate that?

13 Q. Yeah. It's a bad question, I apologize.

14 You've testified that even though these were
15 one-time, nonrecurring expenses, the avian matter and
16 the coal strip settlement, that nevertheless the
17 Company's history would reflect that indeed you're
18 going to be needing to account for future settlements
19 that will probably be in the nature of 2.2, \$2.4
20 million.

21 A. That was in the rebuttal that was later
22 revised, yes.

23 Q. All right. So if in fact, however, the full
24 amount of the restitution was removed, and it has been
25 removed, and the full coal strip settlement amount was

1 removed, that would still leave you with remaining
2 settlement costs in the test year of \$825,000.

3 A. Okay. Where that is 825,000 coming from?

4 Q. I'll show you. It was a response to the
5 Office's data request 24.9, and you provided a list of
6 the types of settlement fees that combined into the
7 \$2.2 million you were requesting. Would it help you if
8 I showed this to you?

9 A. Sure, if you could.

10 Q. Down at the bottom. That was the list that
11 you --

12 CHAIRMAN BOYER: Mr. Proctor?

13 MR. PROCTOR: I'm sorry.

14 CHAIRMAN BOYER: Yeah, why don't you identify
15 for the record what you've just shown the witness.

16 THE WITNESS: Data requests.

17 Q. (By Mr. Proctor) I'm sorry, Mr. Chairman.
18 This is the Company's response to OCS Data Request
19 24.9, and it's A. I will make certain that we have
20 copies of that made and submitted for everyone.

21 So the total, sir, that appears is \$2.5
22 million, and then you estimated that the average over
23 the last three years was \$2.2 million?

24 A. Yes, that was the original.

25 Q. So in the test year, then, if one removed the

1 full of the coal strip costs and the restitution, you
2 would still be granted or acknowledge that there was
3 \$825,000 in the test year for those settlements?

4 A. I'm just trying to look through the list real
5 quick and make sure I'm clear.

6 MR. HICKEY: Mr. Chairman, this is, I think,
7 a multi-page response with I think quite a bit of
8 figures on it. Would it be an appropriate time to let
9 Mr. McDougal look at that over the noon hour, since
10 we're approaching it, and I think he'd be better able
11 to respond to this line of examination having refreshed
12 his recollection?

13 MR. PROCTOR: I'm almost done. But this was
14 prepared by him, I would assume he would be quite
15 familiar with it.

16 CHAIRMAN BOYER: Let's give Mr. McDougal a
17 couple of minutes to see if he can collect his
18 thoughts.

19 MR. PROCTOR: Sure.

20 THE WITNESS: What I was just doing is
21 checking through the list to make sure we had all of
22 the items out, and subject to check, yes, I believe
23 that math is correct.

24 Q. (By Mr. Proctor) Okay. Now, did you
25 describe to the Commission in your written testimony

1 and the intervening parties the fact that there is an
2 outstanding insurance reimbursement claim for the coal
3 strip settlement?

4 A. I believe it was mentioned, yes.

5 Q. Where in your testimony did you mention that
6 there was an outstanding insurance reimbursement claim?

7 A. I'm trying to think if I had ever heard that
8 before, because I've heard about insurance outstanding,
9 but I am not aware of on the coal strip one if there
10 is.

11 Q. And on your answer to OCS 24.9 you don't
12 reference the amount net of insurance proceeds on the
13 coal strip settlement, do you?

14 A. No.

15 Q. And with respect to your rebuttal testimony,
16 you again refer to it as the \$1.2 million.

17 A. Correct.

18 Q. And you also in your surrebuttal, in
19 modifying the coal strip settlement, at least asking
20 for deferred accounting of it, you don't mention the
21 insurance proceeds then either, do you?

22 A. No.

23 Q. But in fact that insurance claim has been
24 made and it's outstanding, and it would reduce by
25 approximately half the amount of the coal strip

1 settlement that the company is responsible for; isn't
2 that true?

3 A. I don't have any details on that.

4 Q. If I were to show you an application filed in
5 Idaho from Avista and the report that we spoke about
6 earlier, do you believe that you could look at this and
7 make that determination as to whether or not the
8 insurance proceeds would cut it by about half?

9 A. I could look and see what it does for Avista.

10 Q. What I'm handing Mr. McDougal -- and let me
11 just point right to the place so you can go through it.
12 I want you to look at -- I'm going to want you to look
13 at line -- or page 7 of 9 to the report attached. All
14 right.

15 And Mr. Chairman, what I -- what I've handed
16 him is the filing by Avista for an order authorizing
17 deferral of coal strip lawsuit settlement payment filed
18 with the Idaho Commission May 22nd, 2008. And on the
19 back of that, attached to that is a report that is
20 entitled "Background of Settlement of Claims, Duane and
21 Carol Ankney -- that's A-n-k-n-e-y -- vs. Avista
22 Corporation, and page 7 of 9 that I referred to you.

23 Do you have that, Mr. McDougal?

24 A. Yes.

25 Q. Based upon that report and Avista's filing,

1 the Company, PacifiCorp's obligation net of potential
2 insurance would be \$691,857 rather than 1.2 million,
3 correct?

4 A. That is correct.

5 MR. PROCTOR: Mr. McDougal, thank you very
6 much.

7 CHAIRMAN BOYER: Okay. Thank you, Mr.
8 Proctor. I think this is probably -- I'm sure Mr.
9 Dodge has questions and Mr. Reeder.

10 MR. DODGE: I do not, Mr. Chairman, thank
11 you.

12 CHAIRMAN BOYER: Oh. Why don't we -- if it's
13 going to be poquito, let's see if we can complete the
14 cross-examination of Mr. McDougal then before the lunch
15 break. Mr. Reeder?

16 MR. REEDER: Thank you.

17 CROSS-EXAMINATION

18 BY MR. REEDER:

19 Q. Mr. McDougal, in questions by Mr. Ginsberg
20 you were discussing an electric plant that no longer
21 provides electricity but does provide benefit to
22 irrigators. Do you recall that line of questions?

23 A. Yes, I do.

24 Q. Is the benefit provided to irrigators water?

25 A. Yes, it is.

1 Q. Do you charge the irrigators for the water?

2 A. The payments that are being talked about are
3 the O&M payments that are obligated the Company has to
4 pay net of any revenues. I do not believe under that
5 contract we are.

6 Q. You don't believe you charge irrigators for
7 water?

8 A. I am not sure. I believe it's just -- but I
9 could check.

10 COURT REPORTER: I'm having trouble hearing
11 you.

12 CHAIRMAN BOYER: Mr. McDougal, maybe you
13 could slide that microphone around.

14 A. I would have -- the question was about the
15 hydro facilities and payments for revenues associated
16 with that water. I know the amount that we are
17 referring to is the O&M expenses of the company. I do
18 not know if there are any associated revenues. I would
19 have to check into that.

20 Q. But the plant provides no electricity and
21 does provide water benefits?

22 A. That is correct.

23 Q. And because it provides water benefits, you
24 believe it's appropriate that the retail rate payers in
25 Utah continue to pay for that plant?

1 A. I believe because it generated electricity
2 and it was a benefit that continuing to serve and
3 continuing to fulfill our obligations is a reasonable
4 expense that should be borne by the rate payers.

5 Q. Do you think it's equally reasonable for this
6 Commission to conclude that providing water benefits is
7 a separate trade or business, not a core utility
8 business?

9 A. If it does determine that, we would have to
10 change the accounting on the plant and I'd want to look
11 at what the options are, like as was mentioned in the
12 one that is providing the irrigation service, it does
13 expire in 2013. So I don't view it as a separate
14 business. I just view it as a continuation of the
15 operation of that plant.

16 Q. But if it were a separate business, you would
17 agree, would you not, sir, that it would be
18 inappropriate to continue to recover from the retail
19 rate payers?

20 MR. HICKEY: Object, asked and answered.

21 MR. REEDER: I submit it.

22 CHAIRMAN BOYER: Okay, we'll deem it asked
23 and answered, in that event. Do you have any other
24 questions, Mr. Reeder?

25 Q. (By Mr. Reeder) Mr. McDougal, at what point,

1 in your judgement, does the doctrine of used and useful
2 come into play on these kinds of investments?

3 A. I believe used and useful as far as a
4 doctrine comes into play when a plant is originally put
5 in service. But I also believe that just because a
6 plant is used and useful and is providing benefits,
7 there are continuing obligations after the plant shuts
8 down that I believe are -- continues and are related to
9 that plant that should be borne by the utility's
10 customers.

11 Q. The plant is no longer used and useful in
12 providing core utility benefits to the rate payers. Is
13 it your testimony that this Commission should allow it
14 in rate base nonetheless because once in the history of
15 man it was prudent?

16 A. I believe it should either be allowed in rate
17 base or recovery of the investment should be set up as
18 a deferred regulatory asset of the Company and recovery
19 should be granted.

20 MR. REEDER: Nothing further.

21 CHAIRMAN BOYER: Okay. Let's turn to the
22 Commissioners. Any questions, Commissioner Allen?

23 COMMISSIONER ALLEN: A couple of questions.
24 Thank you, Mr. Chairman. Mr. McDougal, in your
25 prefiled testimony I believe you addressed some of the

1 issues that had to do with the Division's assertions on
2 the use of the aircraft on the Company airplane,
3 correct?

4 THE WITNESS: Correct.

5 COMMISSIONER ALLEN: And I had just a few
6 just a few questions to kind of get a general sense. I
7 know it's a small number, but if you'll pardon the pun,
8 flight expenses are kind of on the radar screen these
9 days, so -- when staff or employees are using the
10 corporate jet -- do you have more than one jet, by the
11 way, that you have access to at RFD?

12 THE WITNESS: Just one plane, a little prop
13 plane, but...

14 COMMISSIONER ALLEN: Are they required to
15 fill out detailed travel reports on what the purpose of
16 their trip was, or is it a general format that a flight
17 crew member or someone might fill out? I'm just
18 curious.

19 THE WITNESS: It's a general format. You
20 know, for instance, you will say that you've got a
21 meeting at -- you know, with so and so.

22 COMMISSIONER ALLEN: Is there anyone
23 responsible for looking at those flights and
24 determining whether or not commercial flights are
25 available or not or what the cost-benefit is in using

1 the jet? Are there limitations on that?

2 THE WITNESS: There are limitations in that
3 generally the jet -- the plane is reserved for Rich
4 Walje, Bob Lasich, the senior executives of the
5 Company, and most of the flights are to accommodate
6 their schedules.

7 COMMISSIONER ALLEN: Is it also true that
8 your territory probably has a number -- I'm going to
9 ask some fairness questions here now.

10 THE WITNESS: Okay.

11 COMMISSIONER ALLEN: -- that you also have
12 some airports that are accessible -- are not generally
13 accessible by commercial aircraft, that might be
14 another reason for using them?

15 THE WITNESS: It is one of the major reasons.
16 Plus, if you look at even flights to several of the
17 locations, if they are available, they're out of the
18 way compared to where you really want to go.

19 COMMISSIONER ALLEN: And I guess another
20 fairness question, is it possible when we see on the
21 report that perhaps a flight was responsible for
22 meeting with the Governor of Wyoming or something that
23 specific that those trips also involve some
24 multitasking? It could be true that while one person
25 might be mentioned as the destination or meeting, it

1 could also involve, for instance, discussion of the
2 flow of electricity for Utah or Utah customers, you
3 don't go into that level of specificity?

4 THE WITNESS: They do not go into that level
5 of detail.

6 COMMISSIONER ALLEN: But it could happen?

7 THE WITNESS: It could happen.

8 COMMISSIONER ALLEN: Okay. And then would
9 you just characterize, then, the use of the corporate
10 jet as being strict in terms of having access to it
11 or --

12 THE WITNESS: It's fairly strict in that you
13 have to be one of the senior officers or there has to
14 be a commercial reason.

15 COMMISSIONER ALLEN: All right. I think that
16 answered my questions. Thank you.

17 CHAIRMAN BOYER: Commissioner Campbell?

18 COMMISSIONER CAMPBELL: I believe earlier it
19 was your testimony that providing free space or paying
20 the lease for the Sports Authority was prudent. Can
21 you just provide further explanation of the utility
22 purpose for that?

23 THE WITNESS: That is trying to help out the
24 State of Utah, help out the Sports Authority, help out
25 the economic development. It is something that we are

1 doing to try and help the State of Utah. If it is not
2 allowed in rates, it's something we will probably
3 reexamine.

4 COMMISSIONER CAMPBELL: I want to ask you
5 about the distribution expense reset, expenses reset
6 for a minute. I believe that most of us were here on
7 the Commission in '07 when we went through that case,
8 and my memory was that we were, I think, very explicit
9 in granting recovery of distribution expenses,
10 particularly tree trimming, because we wanted the
11 Company to get on a three-year cycle. And my
12 recollection is the Company was pretty upset about the
13 overall outcome of that case, based on what I read in
14 my bill and in the newspaper.

15 And so my question is, if we were to give you
16 full recovery of your distribution expenses again in
17 this case, but you're dissatisfied with the overall
18 outcome, what assurance would we have that you actually
19 spend that money in this area?

20 THE WITNESS: I think, one, that would have
21 been a question more appropriately directed to Mr.
22 Walje because he would be the one that ultimately makes
23 the decisions.

24 But I tend to think the Company is trying to
25 live within the dollars that are allotted to it by this

1 Commission.

2 CHAIRMAN BOYER: Okay. I have no questions
3 of Mr. McDougal. Redirect, Mr. Hickey?

4 MR. HICKEY: I do have some. If you would
5 allow it, Mr. Chairman, we'd like to take the noon hour
6 to talk through the redirect and get prepared for the
7 rest of the case this afternoon. If you want, I can do
8 it now. It's your hearing.

9 CHAIRMAN BOYER: Well, let's do that, let's
10 recess, then, until 1:30.

11 MR. PROCTOR: Mr. Boyer?

12 CHAIRMAN BOYER: I'm sorry. Mr. Proctor?

13 MR. PROCTOR: Certainly it's your discretion,
14 but if we're going to take an hour to prepare redirect
15 and then come back, then I think all the parties ought
16 to have the opportunity to cross-examine based upon the
17 redirect as well, and that may be extending it far
18 beyond what's necessary.

19 I think we could complete it and then go to
20 the next witnesses. This is the last, I believe, of
21 the Company's witnesses today. That way, we can start
22 with the next phase this afternoon. That would be my
23 preference, but I do respect your decision.

24 CHAIRMAN BOYER: Mr. Ginsberg, you had
25 something to say on the issue?

1 MR. GINSBERG: No, I don't. I wanted to talk
2 a little more about the witness schedules, when we have
3 a chance, but I -- whatever you want to do.

4 CHAIRMAN BOYER: Mr. Dodge or Reeder, any
5 preferences?

6 MR. REEDER: Let's just finish.

7 CHAIRMAN BOYER: Let's just finish. You know
8 what? We all would like to finish the case. How much
9 time do you think you'll need, Mr. Hickey?

10 MR. HICKEY: Could we take a three-minute
11 break here and pick it up then, is that -- how long do
12 I think the redirect will actually take?

13 CHAIRMAN BOYER: Yes.

14 MR. HICKEY: I would guess at most 10 to 15
15 minutes.

16 CHAIRMAN BOYER: Let's do that, let's take
17 three or four or five minutes we'll be in recess, and
18 then we'll finish up the redirect. And then we can
19 pick up with the next witness after lunch.

20 MR. HICKEY: Thank you.

21 (Recess from 12:01 - 12:07 p.m.)

22 CHAIRMAN BOYER: Okay. We're back on the
23 record. Mr. Hickey, redirect.

24 MR. HICKEY: Thank you, Mr. Chairman, and
25 thank you especially for the opportunity to confer with

1 my client. I think that's helped shorten the need of
2 redirect.

3 REDIRECT EXAMINATION

4 BY MR. HICKEY:

5 Q. I want to go back, Mr. McDougal, kind of in
6 the last-in, first-out theory of redirect. Let's start
7 with the Commission questions that we had redirect on,
8 and then we'll go to Mr. Reeder's, and then conclude
9 with some of the other parties.

10 Just as a small issue so it's clear, the
11 Company doesn't fly a jet airplane, do they?

12 A. It is a prop plane, it's a King Air.

13 Q. In fact, it's called a King Air, isn't it, a
14 twin-engine prop?

15 A. Correct.

16 Q. And it's suitable for flying into places like
17 where I come from in Wyoming where the commercial
18 airports are pretty limited with the number of flights?

19 A. That is correct.

20 Q. Okay. There was a question from Mr. Reeder
21 regarding whether or not the Company was engaging in
22 the sale of water, if I got the thrust of his question,
23 and it was in the context of whether or not irrigators
24 were paying the Company for water. Do you remember
25 that line of examination from Mr. Reeder?

1 A. Yes, I do.

2 Q. Isn't it true that the Company's hydro
3 facilities are licensed by the FERC, the Federal Energy
4 Regulatory Commission?

5 A. That is correct.

6 Q. And do you know whether or not the licensing
7 agreements that apply to those --

8 CHAIRMAN BOYER: Is your mic on?

9 MR. HICKEY: Excuse me?

10 CHAIRMAN BOYER: I just want to slide Mr.
11 McDougal's mic closer to him --

12 MR. HICKEY: Sure.

13 CHAIRMAN BOYER: -- and make sure that it's
14 on.

15 THE WITNESS: It was not on. It is now.

16 CHAIRMAN BOYER: Thank you.

17 THE WITNESS: Thank you.

18 Q. (By Mr. Hickey) Do you know whether or not
19 as part of the relicensing of hydro facilities there
20 are conditions placed upon the water that is generated
21 and a responsibility to see that it's used by those in
22 the general area of the hydro facility?

23 A. There is, and generally the Company has to
24 operate within that license.

25 Q. Now, to be fair to the Commission and to Mr.

1 Reeder's examination, we haven't had time to pull the
2 relicensing agreement in the last five minutes that
3 would relate to the hydro facility that Mr. Reeder was
4 addressing with you, have we?

5 A. We have not. But if there is any revenues
6 associated, they would be already reflected in this
7 rate case.

8 Q. So let me then conclude by visiting with you
9 about the coal strip settlement that Mr. Proctor, on
10 behalf of the Office, had some examination with you.

11 A. Okay.

12 Q. First of all, there has been no recovery from
13 any third-party insurance carrier for any of the
14 damages or settlements in that litigation; isn't that
15 true?

16 A. Not to date, that I am aware of.

17 Q. And to the extent that there is a claim for
18 reimbursement or recovery of funds from an insurance
19 company, that's at this point certainly a hope of Rocky
20 Mountain Power, but it hasn't become a reality; isn't
21 that true?

22 A. That is correct.

23 Q. And in the event that Rocky Mountain Power is
24 successful in receiving a recovery from an insurance
25 carrier for any of that damage or loss, how would that

1 insurance recovery be accounted for?

2 A. If the coal strip settlement costs are
3 allowed in this rate case as proposed by the Company,
4 we will take any insurance settlements given to the
5 Company and we will give those settlement -- those
6 insurance settlement monies back to the Utah customers.

7 Q. Mr. McDougal, anything else by way of
8 redirect that you wanted to address or clarify for this
9 Commission?

10 MR. PROCTOR: Objection, Your Honor -- or
11 excuse me, Mr. Chairman. It calls for a narrative by
12 the witness. There's no question before him.

13 CHAIRMAN BOYER: Well, it's a yes, no
14 question, I think. You can answer that.

15 A. No.

16 MR. HICKEY: That concludes the redirect.

17 CHAIRMAN BOYER: Thank you, Mr. Hickey. I
18 know Mr. Ginsberg wants to talk about the scheduling.
19 We would also --

20 MR. PROCTOR: Mr. -- oh.

21 MR. GINSBERG: Go ahead.

22 MR. PROCTOR: Chairman Boyer, I think that I
23 forgot to offer into evidence both the Avista
24 Corporation filing before the Idaho Public Utilities
25 Commission and also OCS -- the responses to OCS 24.9.

1 I will make certain that there are copies of those for
2 the Commission, but I would move that they be admitted
3 as Cross Exhibit --

4 CHAIRMAN BOYER: How should they be marked,
5 Mr. Proctor?

6 MR. HICKEY: Let's call them OCS Rebuttal or
7 McDougal Cross --

8 CHAIRMAN BOYER: Yeah, let's do -- no, let's
9 just do OCS Cross-1 and 2.

10 MR. PROCTOR: Okay.

11 CHAIRMAN BOYER: And we haven't seen those
12 yet, so that's why I didn't remind you of them.

13 MR. REEDER: We have the Avista exhibit. Is
14 that OCS-2, Mr. Proctor?

15 MR. PROCTOR: That would be OCS-2. And the
16 OCS -- or the response to OCS 24.9 and attached
17 exhibits would be OCS Cross-1, if that's acceptable, so
18 I would move to admit those.

19 CHAIRMAN BOYER: Are there objections to the
20 admission of these two exhibits into evidence?

21 MR. DODGE: No objection.

22 MR. HICKEY: It seems like I ought to object
23 to Mr. Proctor's offer just for the sake of objecting,
24 but I won't.

25 MR. PROCTOR: No, please do.

1 THE WITNESS: Welcome to Utah.

2 MR. PROCTOR: I like for the sake of doing
3 things.

4 CHAIRMAN BOYER: All right. Well, Mr.
5 Proctor, if you could get copies of this for the
6 reporter and also the Commissioners, we'd be
7 appreciative of that.

8 Now, getting back to the schedule, we have --
9 the schedule that the parties have proposed to us show
10 us hearing from Mr. -- or Dr. Brill and Mr. Thomson
11 after lunch. In the event that we complete these two
12 witnesses earlier, we'd like to move on to the next
13 logical witness. I thought I saw some Mr. Lasich here
14 earlier, but apparently not.

15 MR. GINSBERG: As I understand it, he was a
16 date certain on Tuesday morning.

17 MR. HICKEY: He's a date certain? Oh, okay.

18 CHAIRMAN BOYER: So why don't you talk among
19 yourselves , but in the event that -- for example, Mr.
20 Hickey said he only has a few questions of Mr. Brill.
21 In the event that we finish early, we'd like to keep
22 the case moving inasmuch as we have a lot of witnesses
23 to cover.

24 MR. GINSBERG: I think we'd like to go -- to
25 do Croft, Salter, and Peterson this afternoon, then.

1 MR. DODGE: No problem.

2 MR. HICKEY: We have no objections.

3 MR. GINSBERG: And allow Ms. Zenger to go
4 after Mr. Lasich. That means tomorrow we would just
5 have the -- Mr. Lasich, the two out-of-town
6 consultants, and Ms. Zenger. I would imagine we could
7 finish that up tomorrow.

8 MR. HICKEY: If I could, Mr. Chairman, I'd
9 certainly endorse the idea of while we're in an
10 opportunity here to keep the case going, we ought to --
11 I would be prepared to go ahead and ask Ms. Zenger the
12 questions that I have of her today. The schedule
13 originally anticipated her being called well in advance
14 of Mr. Lasich and --

15 MR. GINSBERG: She just responds to him,
16 though, that's the --

17 CHAIRMAN BOYER: Let's -- we're talking here
18 academically, but we at least have some op -- or
19 alternatives here, with Mr. Croft, Ms. Salter, and Mr.
20 Peterson as well, so we'll see how that goes.

21 MR. GINSBERG: I think we're also prepared to
22 go ahead and put Ms. Zenger on today --

23 CHAIRMAN BOYER: All right.

24 MR. GINSBERG: -- if we get that far.

25 CHAIRMAN BOYER: We may be overly optimistic,

1 but we'll see.

2 MR. GINSBERG: I would guess that these will
3 go relatively quick this afternoon.

4 CHAIRMAN BOYER: Perhaps we should take a --
5 create a pool, or something like that. We shall see.
6 We're often surprised in these matters.

7 MR. HICKEY: Mr. Chairman, I had one other
8 housekeeping item that we could do before lunch, if you
9 would allow me, and that would be I would move the
10 direct -- for the receipt into evidence of the direct
11 testimony of Kenneth M. Shortt. He was a witness the
12 parties agreed need not appear, as there was no
13 cross-examination of him.

14 CHAIRMAN BOYER: Are there objections to the
15 admission of Mr. Shortt's testimony?

16 MR. GINSBERG: No.

17 MR. PROCTOR: No.

18 CHAIRMAN BOYER: Very well, it is admitted as
19 well. Then. All right. Let's take an hour and a half
20 break, so a few minutes before two we will reconvene.

21 (Lunch recess from 12:16 - 1:50 p.m.)

22 (Exhibits OCS Cross-1 and Cross-2 were marked.)

23 CHAIRMAN BOYER: Okay. Let's go back on the
24 record. I think now it's time to hear from Dr. Brill,
25 is that correct, Mr. Ginsberg?

1 MR. GINSBERG: Well, before we got started,
2 we had some discussions off the record about how this
3 case would end with Mr. Hickey and Mr. Proctor and
4 others, and I think we've all decided that, you know,
5 we want to have a briefing schedule set up at some
6 point when the hearings end next week, so -- but I
7 think we wanted to let everyone know that that was at
8 least the intention of all of us, that there would be
9 briefs.

10 CHAIRMAN BOYER: Post-hearing briefs?

11 MR. GINSBERG: Yes.

12 CHAIRMAN BOYER: Okay. We'll consider that.

13 MR. GINSBERG: I think the thought was it
14 shortens cross-examination and allows the arguments to
15 occur within the context of the briefs. The last
16 contested case that we had in '07 there were briefs,
17 and hopefully you found them helpful, so --

18 And then the other thing I sort of wanted to,
19 you know, at least find out what the expectations were
20 and when, as the motion was filed on Friday that the
21 Office filed. Mr. Reeder, I understand, has already
22 responded to it. I'm just wondering if the expectation
23 is that we all be responding to that in writing or
24 whether it will be something addressed in briefs or
25 what.

1 I think a lot of people expected it to be
2 brought up this morning, but -- so I just wonder what
3 the Commission's expectations are on that and also, I
4 guess, what Mr. Proctor's are.

5 CHAIRMAN BOYER: Well, this Commissioner
6 hasn't read it yet.

7 MR. GINSBERG: Oh, his motion?

8 CHAIRMAN BOYER: (Nodding head.)

9 MR. GINSBERG: Okay.

10 CHAIRMAN BOYER: So we'll deal with that, I
11 guess, later on. I don't even know what the motion
12 entails.

13 MR. GINSBERG: The motion is a motion in
14 limine to limit certain testimonies and power costs and
15 cost of service from the proceeding. It was filed
16 Friday.

17 CHAIRMAN BOYER: Okay. I'll read that
18 tonight.

19 MR. REEDER: May we add our voice to the
20 Court supporting the post-hearing brief. I, like Mr.
21 Ginsberg, believe if there is an opportunity to argue
22 the evidence in the brief, I won't need to argue it
23 with the witnesses and it may shorten the cross-
24 examination.

25 CHAIRMAN BOYER: You make a persuasive case,

1 Mr. Reeder. We'll take a break in an hour, hour and a
2 half, and we'll chat about that very issue and give you
3 some guidance before the day is over.

4 MR. GINSBERG: Thank you.

5 CHAIRMAN BOYER: With that, let's hear from
6 Dr. Brill.

7 MR. HICKEY: Mr. Chairman, if I may, while
8 Dr. Brill is coming up to the stand, I owed the
9 Commission an answer through Mr. Eelkema and Mr. Reeder
10 to a question that was deferred this morning. You may
11 recall the question was Mr. Reeder asked Dr. Eelkema
12 what was the time period of actual monthly data, both
13 sales and peak, that was used in forecasting in the
14 last rate case, the 2008 case. That was deferred.

15 I can now represent into the record, as I did
16 shortly before we reconvened, Mr. Reeder, that that
17 period was January of 1997 through December of 2007.

18 CHAIRMAN BOYER: Thank you. Thanks for
19 following up on that.

20 Dr. Brill, have you been sworn in this case?

21 THE WITNESS: No.

22 (Dr. Thomas Brill was duly sworn.)

23 CHAIRMAN BOYER: Thank you. Please be
24 seated.

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THOMAS BRILL,

called as a witness at the instance of the
Division, having been first duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GINSBERG:

Q. I know you just stated it, but if you would
go ahead and state your name for the record again.

A. Thomas Brill.

Q. And you filed three sets of testimony in this
docket?

A. Yes, I did.

Q. DPU Exhibit-2.0, that's your testimony and
you have Exhibits-2.1 through 2.8; is that correct?

A. That's correct.

Q. And one of them, 2.3, is confidential, at
least I have it marked as?

A. Then it must be.

Q. Okay. And you filed some supplemental direct
testimony, did you not, which has been marked 2 SD,
with two exhibits, 2.2 SD and 2.5 SD?

A. Yes, I did.

Q. And is 2.5 SD an electronic exhibit?

A. It most likely is, yes.

Q. And you also filed surrebuttal testimony, 2

1 SR, 2.2 SR and 2.5 SR?

2 A. That's correct.

3 Q. And do you have any corrections you wish to
4 make to your testimony or exhibits?

5 A. One correction that I know about from my
6 direct on page 4, it would be line 45, the correct
7 docket number is T08. I had T14, I think.

8 Q. Okay.

9 A. It is T08.

10 Q. And those would be the -- that would be the
11 testimony you'd like to present today to this
12 proceeding, this testimony?

13 A. Well, that was the correction to my direct
14 testimony.

15 Q. Were there corrections in your -- in any of
16 your other testimonies?

17 A. No.

18 Q. So if those were presented to you today,
19 those would be the answers you would give?

20 A. Yes, it would.

21 MR. GINSBERG: With that, I would ask for
22 admission of those exhibits, as identified.

23 CHAIRMAN BOYER: Are there any objections to
24 the admission of Dr. Brill's prefiled written testimony
25 and exhibits?

1 MR. HICKEY: No objection.

2 MR. PROCTOR: No.

3 MR. REEDER: No.

4 CHAIRMAN BOYER: They are admitted.

5 Q. (By Mr. Ginsberg) Have you prepared a summary
6 of your testimony?

7 A. Yes, I have. I coordinated the Division's
8 investigation of the general rate case, which included
9 a team of auditors, analysts, and consultant. My
10 testimony introduced the Division's witnesses and
11 presented the Division's overall revenue requirement
12 recommendation.

13 The specific adjustments the Division
14 recommended are found in my Exhibit 2.2. In
15 particular, I wish to introduce our three new
16 consultants, Michael McGarry of Blue Ridge Consulting
17 Services will testify on revenue requirements. George
18 Evans of Slater Engineering will testify on net power
19 costs. And Joseph Bentonelli and Jonathan Nunes of
20 R.W. Beck will testify on cost-of-service issues.

21 After making a set of adjustments in its
22 direct testimony, the Division reviewed the adjustments
23 of other parties as well as the rebuttal testimony of
24 the Company. The Division included adjustments for
25 SMUD from the DSM stipulation and for tax normalization

1 from another stipulation.

2 The Division then accepted, rejected, or
3 modified all available adjustments to arrive at a
4 revenue requirement recommendation increase of \$16.7
5 million.

6 Q. Does that complete your summary?

7 A. Yes, it does.

8 Q. And just to let the Commission know, that by
9 agreement we -- Mr. Brill will be returning later
10 during the cost-of-service phase of the case, so that
11 as I understand it, the examination today will be more
12 limited to the revenue requirement issues.

13 CHAIRMAN BOYER: Okay, thank you, Mr.
14 Ginsberg and Dr. Brill. Cross-examination of Dr.
15 Brill, Mr. Hickey?

16 MR. HICKEY: Thank you, Mr. Chairman.

17 CROSS-EXAMINATION

18 BY MR. HICKEY:

19 Q. Good afternoon, Mr. Brill. My name is Paul
20 Hickey. We haven't met yet, but I'm representing Rocky
21 Mountain Power in this case. Nice to meet you.

22 Mr. Brill, am I correct that there are
23 certain objectives that the Division is to meet
24 statutorily under its appointment by the Utah
25 Legislature to serve the function that it serves the

1 State of Utah in proceedings like this?

2 A. Yes, you are.

3 Q. And to be specific, I'm looking at a
4 provision of the Utah Code at 54-4A-6, which
5 specifically states those objectives. I'd be happy to
6 give you a copy, but I know you're much more familiar
7 with that provision of Utah law than I.

8 A. That is where our responsibilities and
9 objectives are stated.

10 Q. And is it true that under this statute one of
11 the specific objectives is to -- in addition to
12 promoting safe, healthy, and economic, reliable service
13 is to see that public utilities receive just and
14 adequate compensation for the utility services that
15 they provision?

16 A. That is true.

17 Q. Is that true?

18 A. That is true.

19 Q. And that's because the Division is committed
20 to seeing that a utility remains economically healthy
21 so that it continue -- can continue to meet the service
22 obligations that it has, correct?

23 A. That is true. We refer to it as financial
24 health or financial integrity.

25 Q. And I want to, against that background, visit

1 with you with the initial recommendation that was
2 reflected in your direct testimony. Isn't it true that
3 in your direct testimony the revenue requirement that
4 the Division proposed as adjusted for the tax
5 settlement was a negative revenue requirement of
6 approximately 900,000?

7 A. That is correct.

8 Q. Now, that's changed, as you noted in your
9 summary?

10 A. Yes.

11 Q. And in fact, in your rebuttal, Mr. Brill,
12 that figure is now a positive figure and you would
13 suggest to this Commission that the appropriate new
14 revenue needed by Rocky Mountain Power in this case is
15 \$16.7 million; isn't that correct?

16 A. That is correct and the position of the
17 Division.

18 MR. HICKEY: I'd like to hand you what we've
19 marked, Mr. Chairman, as Rocky Mountain Power-RR Cross
20 Exhibit-1, and I'll represent to the Commission and to
21 the parties that it's the Division's response to Rocky
22 Mountain Power Data Request 8.1.

23 Julie, do I give these to you?

24 MS. ORCHARD: Yes, that would be great.

25 MR. HICKEY: Do you have four of them?

1 MS. ORCHARD: Or five.

2 MR. HICKEY: Five, sure. And are -- sure.

3 (Exhibit RMP RR Cross-1 was marked.)

4 Q. (By Mr. Hickey) You're familiar with this
5 particular response to Rocky Mountain Power 8.1, Mr.
6 Brill?

7 A. I am at a general level, at a high level.
8 The Division is also able to put forward the analysts
9 who completed this request in the report, if we're
10 looking at a more detailed view of it.

11 Q. What I would like to do is refer you to the
12 attachment, which is part of this response, and ask you
13 if you can identify this response that is attached to
14 the Court.

15 A. Yes, I can, I've seen it.

16 Q. Okay. And just for the record, tell us what
17 that is, Mr. Brill.

18 A. It has the -- it's done by the Division. It
19 comes from the monthly reports or results of
20 operations, the columns that have every row reported,
21 and it does display information that shows the Company
22 has been underearning.

23 The Division has put this together, but I
24 do -- I do advise you that, as was mentioned this
25 morning, those results are not normalized and not fully

1 audited.

2 Q. This report is something that the Division
3 offers to the Commission as a tool to assist the
4 Commission in assessing the earnings level of in this
5 instance Rocky Mountain Power, but you prepare similar
6 reports for other operating utilities in the state,
7 don't you?

8 A. I don't know if we prepare similar reports.
9 I know this was done for Rocky Mountain Power.

10 Q. Just limiting our discussion, then, to Rocky
11 Mountain Power, the purpose of this is to give the
12 Commission a tool from which the Commission can have
13 information as to whether or not the return that has
14 been targeted from rate proceedings has actually been
15 achieved by the Company; isn't that true?

16 A. That is true. The Division has provided this
17 to the Commission.

18 Q. Going back to this objective that
19 specifically provides, under subset 4A of the statute I
20 read, that for purposes of guiding the activities of
21 the Division of Public Utilities, the phrase "just and
22 reasonable and adequate" encompasses, but is not
23 limited to, the following criteria, the first of which
24 is to maintain the financial integrity of public
25 utilities by assuring a sufficient and fair rate of

1 return.

2 Against that statutory provision, would you
3 agree with me at this point Rocky Mountain Power, from
4 the report that is reflected in this exhibit, Rocky
5 Mountain Power RR Cross Exhibit-1, is not meeting the
6 level of financial return that this Commission had
7 targeted in prior proceedings?

8 A. The Company has been underearning, and this
9 may have gone back as far as the year 2000.

10 Q. Looking in more detail at the attached
11 report, I'm going to ask you if you would follow across
12 with me, and I'm looking at the fourth column,
13 marked -- actually, the fourth named column, marked
14 "Total Company Before Tax Return on Investment." That
15 is one area of the report that has not been normalized,
16 correct?

17 A. I understand this entire report has not been
18 normalized. But I do suggest that for a more detailed
19 interpretation of this report I can refer you to the
20 analysts who built this table.

21 Q. Okay. Well, and maybe we need to go there,
22 but let me just ask you, as to the next two columns the
23 "Semiannual Total Company Return on Equity" and the
24 "Semiannual Utah Return on Equity," isn't it true, Mr.
25 Brill, that those two columns are normalized, isn't

1 that your understanding?

2 A. That is my understanding, yes.

3 MR. HICKEY: I have no further questions, Mr.
4 Chairman. Thank you, Mr. Brill. I would move the
5 admission of the exhibit.

6 CHAIRMAN BOYER: Are there any objections to
7 the admission of RMP-RR Cross Exhibit-1?

8 Seeing none, it will be admitted. Mr.
9 Ginsberg, do you have anything?

10 MR. GINSBERG: It's marked as confidential,
11 but I assume that the Company is waiving any
12 confidentiality.

13 MR. REEDER: I would raise the same question.
14 Now it has been distributed, I presume that any claim
15 for confidentiality has now been waived.

16 MR. GINSBERG: And I understand the reason
17 that they're confidential is that they're based on
18 monthly reports which have not been publicly released
19 into their quarterly financial reports. Once the
20 quarterly financial report is released, that these
21 monthly reports or results of operation are no longer
22 confidential, but I could be wrong on that.

23 CHAIRMAN BOYER: Let's hear from the Company.

24 MR. HICKEY: I think that what I understand
25 this is actually the Commission's report and it was the

1 Commission that marked it confidential. Is there a --

2 MR. GINSBERG: No, we mark it confidential
3 when we file it with the Commission because the
4 document we get, as I understand it, is considered
5 confidential.

6 MR. HICKEY: We have no concern about
7 maintaining confidentiality on behalf of Rocky Mountain
8 Power over the document.

9 CHAIRMAN BOYER: Very well. It is admitted
10 into evidence.

11 Turning now to Mr. Proctor, have you any
12 cross-examination for Witness Dr. Brill?

13 MR. PROCTOR: Yes, just a few.

14 CROSS-EXAMINATION

15 BY MR. PROCTOR:

16 Q. Mr. Brill, did you review the rebuttal
17 testimony from Mr. Walje?

18 A. Yes, I did.

19 Q. Do you recall Mr. Walje's complaints about
20 the Division's analysis in this matter, the initial
21 recommendation that you made?

22 A. I recall they were strong.

23 Q. Could you describe briefly the substance of
24 Mr. Walje's complaint about the Division in particular.

25 MR. HICKEY: I'll object, Mr. Chairman. I

1 think this is beyond the scope of this witness's direct
2 testimony. It seems to be off the message of what the
3 introduction of the Division's case that Mr. -- Dr.
4 Brill was called to do.

5 CHAIRMAN BOYER: I think Mr. Hickey is
6 correct, Mr. Proctor. Are you trying to lay some
7 context --

8 MR. GINSBERG: Except that it does seem to
9 relate to the provisions that were -- I'm not sure
10 where Mr. Proctor is going, but it does seem to
11 somewhat relate to the statutory provisions that were
12 brought up. But I think he's maybe trying to go to the
13 Division's overall responsibilities.

14 MR. HICKEY: Mr. Walje was here this morning,
15 Mr. Chairman, and if Mr. Proctor had questions of Mr.
16 Walje, he had every opportunity this morning to pose
17 those.

18 CHAIRMAN BOYER: Well, I'm going to let Mr.
19 Proctor ask another question or so and we'll see where
20 you're going to those.

21 MR. PROCTOR: Could I respond to the
22 objection?

23 CHAIRMAN BOYER: Sure. You've won.

24 MR. PROCTOR: Okay, then I won't respond to
25 the objection.

1 Q. (By Mr. Proctor) Can you summarize, just
2 briefly, what Mr. Walje's complaints were about the
3 Division's performance of these duties that Mr. Hickey
4 talked to you about in 54-4A-6?

5 A. Seeing how that was modelled as of November
6 12th, that's some time ago and I don't remember too
7 much of it, but I do recall that Mr. Walje had used the
8 word dismayed, I believe, and that the mission of the
9 Division was to at least consider the financial health
10 of the Company.

11 Q. Wasn't his description of the mission of the
12 Division to assist the Company in acquiring sufficient
13 rate recovery?

14 MR. HICKEY: Object, beyond the scope and
15 hearsay.

16 CHAIRMAN BOYER: Yeah, we'll sustain at that.
17 Mr. Walje's testimony is of record.

18 Q. (By Mr. Proctor) Within Section 54-4A-6,
19 there are objectives and those objectives are four. Do
20 you have that before you?

21 A. I think I have it adequately before me.

22 Q. And the first three topics in general terms
23 of both the service provided and the rates for that
24 service and the regulatory process, the fourth
25 objective states, does it not, for the purposes of

1 guiding the activities of the Division, the phrase
2 just, reasonable and adequate encompasses, and then it
3 lists A through F. The first one is as Mr. Hickey has
4 described. What are the others?

5 A. I list only four on my summary, not the six,
6 but I'll tell you the other three I have in front of
7 me. Number two is promote efficient management and
8 operation. I should say 3I. That was 2I. 3I is
9 promote the long-range interests of consumers, giving
10 adequate service at the lowest cost, and that might be
11 a paraphrase. And IV, provide a fair burden of the
12 total cost of service between customer categories. And
13 you are correct, there are probably two others.

14 Q. The two others are promote stability in rate
15 levels for customers and revenue requirements for
16 utilities from year to year, and protect against
17 wasteful use of public utility services, correct?

18 A. I recall those, yes.

19 Q. And in particular, the third one you
20 mentioned as far as the long-range interest of
21 consumers to provide quality and adequate levels of
22 service at lowest cost consistent with the other
23 provisions of subsection 4, which is the financial
24 integrity, efficient management, correct?

25 A. Yes.

1 Q. Now, as to the cross exhibit and the results,
2 and the ROE results in particular, what is your
3 understanding as to what the Commission's authorized
4 rate of earning, or ROE, provides to the Company? And
5 I can restate that if I wish, but I would like you to
6 try to answer that question. What is the Commission
7 giving to the Company when it authorizes an ROE?

8 A. I -- I -- I am not able to answer that
9 question adequately.

10 Q. Isn't it giving them the opportunity to earn
11 that ROE through the authorized rates and charges?

12 MR. HICKEY: Object. The witness just said
13 he wasn't able to answer the question.

14 MR. PROCTOR: And I'm certainly permitted to
15 follow up.

16 CHAIRMAN BOYER: And you can lead him. Go
17 ahead. Overruled.

18 Q. (By Mr. Proctor) Isn't that what the
19 Commission gives, is an amount, an ROE, that's
20 authorized, but it's an opportunity to earn that
21 through the authorized charges and rates; is that
22 correct?

23 A. Yes, it is.

24 Q. Now, in your capacity with the Division, have
25 you on occasion, either in rate cases or elsewhere, had

1 the opportunity to determine the reasons why a utility
2 may not achieve its authorized rate of return?

3 A. The Division has observed that and identified
4 the lag that's associated with bringing a number of
5 these large capital investments in. I think Chehalis
6 was a good example of that.

7 Q. Are there other reasons besides simply the
8 lag in bringing in large capital investments, such as,
9 for example, inefficient management of the utility?

10 A. I can imagine that would be the case, but it
11 would be speculation on my part.

12 MR. PROCTOR: Thank you, Mr. Brill.

13 CHAIRMAN BOYER: Okay. Thank you, Mr.
14 Proctor. Mr. Dodge, have you cross-examination for Dr.
15 Brill?

16 MR. DODGE: I do, a few questions. Thank
17 you, Mr. Chairman.

18 CROSS-EXAMINATION

19 BY MR. DODGE:

20 Q. Dr. Brill, just to follow up briefly on your
21 statement that the exhibit given you by Rocky Mountain
22 Power demonstrates that the Company is underearning, I
23 want to follow up just a bit on that.

24 Are you able, in analyzing the results of a
25 semiannual, to determine the ROE that a utility has

1 earned based on a fully normalized, adjusted, audited
2 basis?

3 A. For details on this report, I would refer you
4 to another Division witness.

5 Q. And who is that?

6 A. William Powell.

7 Q. But let me just explore your understanding of
8 it. In a rate case, is it your understanding that the
9 Division does a complete audit?

10 A. Reasonably complete, subject to the normal
11 constraints, yes.

12 Q. And in this case in fact you've suggested
13 adjustments of some \$40 million, correct?

14 A. Yes, we have.

15 Q. Do you do that with the semiannual?

16 A. The semiannual is not adequately audited.

17 Q. Does the -- did the numbers on this exhibit
18 reflect things, for example, like the impact on the
19 Company's earnings of a stipulation to, in the MSP
20 context, the MSP cap, for example?

21 A. I'm unable to answer that question.

22 Q. You don't know whether the semiannual results
23 somehow -- or the numbers on this exhibit reflect the
24 MSP cap in some way?

25 A. I cannot address that with this exhibit.

1 Q. Has the Division reached a conclusion on
2 whether the financial health of this utility is at
3 risk?

4 A. I am not aware of any conclusion by the
5 Division.

6 MR. DODGE: No further questions.

7 CHAIRMAN BOYER: Thank you, Mr. Dodge. Mr.
8 Reeder?

9 CROSS-EXAMINATION

10 BY MR. REEDER:

11 Q. Dr. Brill, directing your attention to the
12 last column in the exhibit, do you know the source of
13 those numbers? Are they calculations by your staff or
14 are they numbers provided to you by the utility?

15 A. They could be either one. I don't know the
16 answer.

17 Q. So if I were to ask you if they reflected an
18 application of the MSP method as capped or not, you
19 wouldn't be able to answer the question?

20 A. I would not know.

21 Q. So if someone were to make a representation
22 based on this exhibit to anyone outside of this hearing
23 room that these numbers reflect the utility's health,
24 or lack thereof, they might be making a representation
25 that we couldn't support on this record at this time,

1 could they?

2 A. That is possible.

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

5 CHAIRMAN BOYER: Thank you, Mr. Reeder.
6 Commissioner Allen? Commissioner Campbell?

7 COMMISSIONER CAMPBELL: Dr. Brill, I'm going
8 to ask you the same question I asked Mr. Walje and that
9 is -- I'm going to have to narrow it a little bit. The
10 month after we approved the last stipulation, do you
11 know if the Company earned its return before all of
12 these big capital investments came on board?

13 THE WITNESS: I do not know if they earned
14 that return. I am aware that the Company engages in
15 those stipulations.

16 CHAIRMAN BOYER: Okay. I have no questions.
17 Mr. Ginsberg, any redirect?

18 MR. GINSBERG: No, I have no redirect. Does
19 the Commission wish us to provide a more detailed
20 explanation to you about this report?

21 COMMISSIONER CAMPBELL: I'd like it.

22 MR. REEDER: Well, at this point, Mr.
23 Ginsberg, it appears that the exhibit lacks foundation.

24 CHAIRMAN BOYER: Yeah, I think we're all
25 interested in knowing a little bit more about this. I

1 mean, I receive them and read them on a monthly basis
2 and I'm not sure how the numbers are derived and so on
3 and so forth.

4 However, I understand that we're going to be
5 hearing from Dr. Powell later in this case, and he did
6 prepare those, so perhaps that would be an appropriate
7 time to --

8 MR. GINSBERG: I actually don't think that he
9 is the one that prepares the numbers. He may have some
10 understanding of it, but I think another witness puts
11 this schedule together.

12 CHAIRMAN BOYER: And who might that be?

13 THE WITNESS: Matthew Croft.

14 CHAIRMAN BOYER: Okay. So Mr. Croft, okay.
15 We would like to know more about this, but let's get it
16 from the horse's mouth. Let's find out who prepared it
17 and we'll be able to ask some questions about it.

18 Thank you for the offer, though, Mr. Ginsberg. Do you
19 have any redirect?

20 MR. GINSBERG: No.

21 CHAIRMAN BOYER: Thank you, Dr. Brill. I
22 guess we'll be hearing from you later in the case.
23 Very well.

24 MR. GINSBERG: I think the next witness is
25 Dave Thomson.

1 CHAIRMAN BOYER: I don't believe you've been
2 sworn in this proceeding.

3 THE WITNESS: I have not.

4 (David T. Thomson is duly sworn.)

5 CHAIRMAN BOYER: Thank you. Please be
6 seated.

7 DAVID T. THOMSON,
8 called as a witness at the instance of the
9 Division, having been first duly sworn,
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MR. GINSBERG:

13 Q. Would you state your name for the record?

14 A. David T. Thomson, without a P.

15 Q. And you are -- let me find it -- you are
16 providing exhibits that have been marked DPU Exhibit-4,
17 which is your direct testimony, with Exhibit-4.1, 4.11,
18 4.2 through 4.31; is that correct?

19 A. I think there was a 4.3.

20 Q. Yeah, 4.3, I'm sorry. And then you also
21 filed surrebuttal testimony, Exhibit-4.0 SR, with
22 Exhibits-4.1, 4.11, as marked on our sheet maybe would
23 be the easiest way to do this.

24 A. There was a 4.2 SR too, yes.

25 Q. 4.2 SR and 4.21 SR. Do you have any

1 corrections to make in either your testimony or
2 exhibits?

3 A. I do not.

4 Q. And that would be the testimony you would
5 like to present today to the Commission?

6 A. Yes.

7 Q. And do you have a summary that you wish to
8 make?

9 A. I do.

10 CHAIRMAN BOYER: Mr. Ginsberg, do you want to
11 offer --

12 MR. GINSBERG: Oh, yes, I'm sorry. Could
13 I -- I'd like to offer the exhibits that were
14 identified and listed on our exhibit list.

15 CHAIRMAN BOYER: Are there any objections to
16 the admission of Mr. Thomson's testimony and exhibits?
17 Seeing none, they are admitted into evidence.

18 A. Good afternoon.

19 CHAIRMAN BOYER: I apologize for interrupting
20 you.

21 A. Are you ready? I have put forth three
22 adjustments to the Company derivative requirement
23 position in this docket. My first adjustment was a
24 payroll tax adjustment and it was done in combination
25 with an adjustment that Mr. Matthew Croft made to the

1 Company's revenue requirement having to do with its
2 budget target adjustment.

3 I have withdrawn this adjustment because Mr.
4 Croft has withdrawn his adjustment, as was explained
5 in his and Dr. Thomas Brill's surrebuttal testimony.

6 My second and third adjustments reduce the
7 revenue requirement for the Company airplane and
8 certain lease costs. After reviewing the Company's
9 surrebuttal testimony, I have modified my adjustment to
10 meet it in these areas as I will now explain.

11 I have modified my Company's airplane
12 adjustment to correct a double accounting of a trip to
13 reduce my adjustment for overhead, and I have withdrawn
14 my adjustment to allocate airplane depreciation of
15 fixed costs between, above, and below the line costs.
16 The reasons for doing so are explained in my
17 surrebuttal testimony.

18 In surrebuttal, the Company has said that
19 certain of my adjustments to take out Company airplane
20 trips that it agreed had no benefit to Utah rate
21 payers. However, there was other of my Company
22 airplane trip adjustments it did not accept. As
23 explained in my surrebuttal testimony, I still maintain
24 that these trips should be a reduction adjustment to
25 the revenue requirement for Company airplane costs.

1 I have modified my Company lease expense
2 adjustment in two areas. I am taking a six-month
3 reduction for lease costs instead of a full year for a
4 vacant lease, as explained in my surrebuttal testimony.
5 I'm also withdrawing an adjustment for rent for a lease
6 that was vacant since January 2007 because I am
7 accepting the Company's representation that there were
8 no payments for this vacant lease during 2008.

9 In the last rate case, the Company made
10 adjust -- an adjustment to reduce the rent expense for
11 this lease as if payments were being made, but now
12 states that the adjustment was mistaken.

13 The Company does not accept my adjustment to
14 reduce rent expense for two subleases for reasons as
15 outlined in its rebuttal testimony. In my surrebuttal
16 testimony I explain why these adjustments should still
17 be made. This concludes my statement.

18 MR. GINSBERG: Thank you.

19 CHAIRMAN BOYER: Thank you, Mr. Thomson. Mr.
20 Hickey, cross-examination?

21 MR. HICKEY: Thank you, Mr. Chairman, just a
22 few.

23 CROSS-EXAMINATION

24 BY MR. HICKEY:

25 Q. Good afternoon, Mr. Thomson.

1 A. Good afternoon.

2 Q. Is it fair to say that over the course of
3 filing your direct testimony and reviewing rebuttal
4 testimony from the Company and watching the case
5 further refine itself or distill itself to a
6 surrebuttal case that the more answers you got from the
7 Company the more of your issues went away?

8 A. No, my basic issues were the same.

9 Q. Well, for instance, the first adjustment was
10 a payroll adjustment. That was withdrawn, correct?

11 A. Oh, you're referring to -- generally to the
12 payroll adjustment.

13 Q. Well, I'm just kind of speaking at a broader
14 level of the more information the Company was able to
15 get to you, it seems to me, from my more distant
16 observations, that the more information you had, it
17 resolved more of your adjustments, and that's all I'm
18 trying to establish.

19 A. Well --

20 Q. Isn't that a fair observation?

21 A. -- I think the payroll adjustment is valid if
22 the Company reduces its wages without the target
23 adjustment. If it reduces its wages and withdrew the
24 target adjustment and said it's wages were reducing,
25 then its payroll tax would reduce.

1 Q. I really don't want to talk to you about the
2 payroll tax for the reason that it's no longer in play
3 in the case, is it?

4 A. It's not in the case because we withdrew the
5 target adjustment.

6 Q. So let's talk about the airplane. Isn't it
7 true that the more information you got from the Company
8 regarding the trips, the use of the plane, how they
9 were accounted for, that that narrowed the issues you
10 had about the airplane expense?

11 A. No.

12 Q. Well, there's less that you're challenging
13 the Company on today than when you filed your initial
14 testimony; isn't that true?

15 A. I withdrew one trip because there was a
16 double accounting, and then they agreed. I withdrew
17 the overhead and then the major part of my adjustments.
18 They agreed on some of mine.

19 Q. Sure.

20 A. And the others are the areas we're in
21 disagreement with.

22 Q. Fair enough. But from the standpoint of the
23 bench or the tribunal here are three commissioners who
24 have to sort through all of these issues and come to
25 judgment about them, there's less they have to worry

1 about today about the plane than what was there when
2 the case started?

3 A. Yes.

4 MR. GINSBERG: I think it was asked and
5 answered.

6 A. There's a lower adjustment amount for the
7 airplane.

8 CHAIRMAN BOYER: Overruled. I'll let him
9 answer that question. Were you answering it while your
10 attorney was speaking? Will you answer it again?

11 THE WITNESS: I'm rambling?

12 CHAIRMAN BOYER: No, would you answer it
13 again. It sounded like you were speaking over your
14 attorney, or he was speaking over you, and we were not
15 quite getting it, and I'm sure our reporter was having
16 a challenge with that. So perhaps, Mr. Hickey, if you
17 could ask the question again --

18 MR. HICKEY: Sure.

19 CHAIRMAN BOYER: -- and then let Mr. Thomson
20 answer.

21 MR. HICKEY: Thank you, Mr. Chairman.

22 Q. (By Mr. Hickey) I think the question was
23 just this, Mr. Thomson, that as a result of the sharing
24 of information on both sides, what your questions were
25 and what answers the Company could give you, there's

1 less for the Commission to address regarding the
2 airplane expense now than there was six months ago when
3 the initial testimonies were filed; isn't that true?

4 A. That's true.

5 Q. Now, you don't disagree with the notion that
6 Rocky Mountain Power should have access to a private
7 plane, do you?

8 A. I do not.

9 Q. You fully appreciate the challenges of
10 operating in a six-state service territory, I'm sure?

11 A. I do.

12 Q. And you would agree with me that this
13 particular six-state service territory has some pretty
14 remote locations, doesn't it?

15 A. It does.

16 Q. Many of which are not served by commercial
17 airports?

18 A. I would think so.

19 Q. And so to get those individuals with the
20 Company to the supply side resources that generate
21 electricity for Utah and other states that may be
22 outside of Utah, access to a plane has direct benefit,
23 doesn't it?

24 A. If it -- if it gets them there and saves
25 costs, yes.

1 Q. Sure. And then just finally, the fact that
2 there would be a meeting with the Governor of Wyoming,
3 or we could change this and say the Governor of Idaho
4 or the Governor of Oregon, that doesn't mean that the
5 conversations were limited only to issues that impacted
6 the residents of Wyoming, Idaho, or Oregon; isn't that
7 true?

8 MR. GINSBERG: If you know the answer to
9 that.

10 A. I don't know the answer to that.

11 Q. (By Mr. Hickey) But you're aware of the fact
12 that there are substantial supply site generation
13 resources physically located in the state of Wyoming,
14 aren't you?

15 A. There is.

16 Q. Yeah, the Viaduct Plant near Gillette, Jim
17 Bridger Plant in Sweetwater County, the Dave Johnston
18 Plant in Converse County, all coal-fired plants,
19 correct?

20 A. Yes.

21 Q. Several new wind resources that have been
22 added over the course of the last 24 months are located
23 in Wyoming; isn't that also true?

24 A. It's true.

25 Q. And those resources are going to provide

1 benefits to residents of Utah; isn't that true?

2 A. Yes.

3 Q. So conversations with policymakers that might
4 affect either the generation of electricity or the
5 transmission of it with the governor in a state where
6 those resources are physically located could benefit
7 all six states; isn't that true?

8 A. If those conversations were made when they
9 made the trip.

10 MR. HICKEY: That's all I have. Thank you
11 very much, Mr. Thomson.

12 CHAIRMAN BOYER: Okay, Mr. Hickey. Mr.
13 Proctor, any cross-examination for Mr. Thomson.

14 MR. PROCTOR: No, thank you.

15 CHAIRMAN BOYER: Mr. Dodge?

16 MR. DODGE: No questions.

17 CHAIRMAN BOYER: Mr. Reeder?

18 MR. REEDER: No questions.

19 CHAIRMAN BOYER: Commissioner Allen? Neither
20 do I. Mr. Thomson, you are excused. Thank you very
21 much. Oh, I'm sorry, I didn't give Mr. Ginsberg an
22 opportunity for redirect.

23 MR. GINSBERG: No.

24 CHAIRMAN BOYER: Okay. No harm, no foul.

25 MR. GINSBERG: I think Mr. Croft is next.

1 (Matt Croft was duly sworn.)

2 CHAIRMAN BOYER: Thank you. Please be
3 seated.

4 MR. GINSBERG: Would you give me just a
5 second so that I can find his testimony.

6 MATT CROFT,
7 called as a witness at the instance of the
8 Division, having been first duly sworn,
9 was examined and testified as follows:

10 DIRECT EXAMINATION

11 BY MR. GINSBERG:

12 Q. Would you state your name for the record?

13 A. My name is Matt Croft.

14 Q. And you have filed direct testimony Exhibits
15 7.0 with -- 7.0 was partially confidential; is that
16 right?

17 A. Yes.

18 Q. With Exhibits 7.1, through 7.3; is that
19 right? 7 through -- 7 point -- through 7.6?

20 A. I believe so. It could be 7.7, but -- on
21 direct, yes.

22 Q. And then you filed some supplemental direct
23 testimony, Exhibit-7.0 SD, 7.7 SD; is that right?

24 A. Yes.

25 Q. And then you filed surrebuttal testimony, 7.0

1 SR, 7.8 SR and -- do you have any corrections or
2 additions you wish to make to those testimonies?

3 A. I do not.

4 Q. And do you have a brief -- is that -- this is
5 it. Do you have a summary you would like to make of
6 your testimony?

7 A. I do, yes.

8 CHAIRMAN BOYER: Mr. Ginsberg, would you like
9 to offer his prefiled testimony?

10 MR. GINSBERG: Yes, and if I could ask for
11 the admission of the exhibits as identified.

12 CHAIRMAN BOYER: Is there any -- are there
13 any objections to the admission of Mr. Croft's direct,
14 supplemental direct, and surrebuttal testimony,
15 together with exhibits?

16 MR. HICKEY: No.

17 CHAIRMAN BOYER: They are admitted.

18 A. Okay. Good afternoon. In my direct and
19 supplemental direct testimony, I testified that the
20 costs associated with the Keno development, St.
21 Anthony, and Cline Falls facilities should be removed
22 from rates. The principal reasoning for this was
23 because these facilities do not generate power and do
24 not benefit downstream generating facilities.

25 In rebuttal testimony, the Company provided

1 specific information as to why the Keno development
2 should be included in rates. My understanding of the
3 Company's response is that the operation of the Keno
4 development is necessary to meet obligations to other
5 parties, specifically to keep the FERC license in order
6 to operate the entire Klamath River Project.

7 Meeting these obligations then allows the
8 Company to operate benefit-providing hydro facilities,
9 which do provide a benefit to Utah rate payers. I have
10 therefore dropped this adjustment concerning the Keno
11 development.

12 In relation to St. Anthony and the Cline
13 Falls facility, the Company is also subject to other
14 obligations. These obligations are to the Eagan
15 Irrigation Canal and the Central Oregon Irrigation
16 District.

17 Despite these obligations, the benefit to
18 Utah rate payers no longer exists. St. Anthony has a
19 damaged turbine and does not provide power, and Cline
20 Falls is no longer operated by the Company.

21 It is my understanding that the operation of
22 other benefit-providing hydro facilities is not
23 dependent upon the Company meeting their obligations
24 with the Eagan Irrigation Canal and the Central Oregon
25 Irrigation District. That is the primary difference

1 between the Keno development and St. Anthony and Cline
2 Falls.

3 I'm not opposed to these facilities being put
4 back into rates at a later date if there is benefit
5 restored to Utah rate payers. However, it does not
6 appear at this point that there will be benefit
7 provided during the test year, and therefore these
8 facilities should be removed from rates. That
9 concludes my summary.

10 MR. GINSBERG: Thank you.

11 CHAIRMAN BOYER: Thank you, Mr. Croft.

12 Cross-examination, Mr. Hickey?

13 MR. HICKEY: Just very brief.

14 CROSS-EXAMINATION

15 BY MR. HICKEY:

16 Q. Good afternoon, Mr. Croft. Are you familiar
17 with the Powerdale facility?

18 A. Yes.

19 Q. And isn't it true that that facility was shut
20 down, but recovery for costs associated with it were
21 allowed in the last rate case?

22 A. Yes.

23 Q. That wouldn't be any different than either
24 St. Anthony or Cline Falls, would it?

25 A. No, I don't believe it is the same.

1 Powerdale was -- the closure of Powerdale was the
2 result of a flood, if I remember correctly, and a force
3 of nature that put the hydro facility out of
4 commission. Otherwise, it would have been providing
5 benefit to Utah rate payers.

6 Q. But as a result of those circumstances, the
7 Powerdale facility is in the same nonfunctioning
8 condition as St. Anthony and Cline Falls, correct?

9 A. It is nonfunctioning, that's right.

10 MR. HICKEY: I have nothing further, Mr.
11 Chairman.

12 CHAIRMAN BOYER: Mr. Proctor, no questions?

13 MR. PROCTOR: No, thank you.

14 CHAIRMAN BOYER: Mr. Dodge?

15 MR. DODGE: No questions.

16 CHAIRMAN BOYER: Mr. Reeder?

17 CROSS-EXAMINATION

18 BY MR. REEDER:

19 Q. On the document marked 1-RR --

20 CHAIRMAN BOYER: Mr. Reeder, would you bring
21 your mic a little closer to you? Thank you.

22 MR. REEDER: Certainly.

23 Q. On the document marked RR-1, there is a name
24 that appears in the upper left-hand column of that
25 document that says Matt Croft. Are you that Matt

1 Croft?

2 A. I am the same Matt Croft, yes.

3 Q. Are you the fellow that prepared this
4 document?

5 A. Yes.

6 Q. Are you prepared to stand examination on this
7 document?

8 A. Yes.

9 Q. What's the source of the numbers in this
10 document?

11 A. There are two principal sources of the
12 information that are in this docket.

13 MR. GINSBERG: I think your mic is --

14 CHAIRMAN BOYER: It might be off.

15 MR. REEDER: You and I have the same
16 microphone problem.

17 A. There we go. Okay. There are two principal
18 sources of these numbers that are on this sheet here,
19 and four of the columns relate to the Company's
20 semiannual results of operations, and those are the
21 columns that state semiannual toll company, return on
22 rate base, semiannual Utah return on rate base, then
23 skipping over a column to semiannual toll company ROE
24 and semiannual Utah ROE. Those are from the semiannual
25 report and I believe that they are from the revised

1 protocol.

2 And the other columns are from -- are
3 numbers -- the percentages are taken from numbers that
4 are given in a monthly report that is given to the
5 Division.

6 Q. These numbers are then numbers given to you
7 by the Company?

8 A. The percentages are -- for the semiannual are
9 given by the Company, but the percentages are not.
10 Those are calculated by -- by me and by the Division.

11 Q. You calculate some percentages on this
12 document, then?

13 A. Correct.

14 Q. The base numbers, the far right-hand numbers,
15 utility operating numbers, you just accept those
16 numbers from the Company?

17 A. As we -- when we furnish this report to the
18 Commission, we state very clearly that these are
19 estimates and that they cannot be relied on completely
20 and -- completely accurately for a complete picture of
21 the Company's return on rate base or ROE.

22 Q. And you don't vouch for these numbers in any
23 way, then, do you?

24 A. They are -- we vouch to them to the extent
25 that they are rough estimates.

1 Q. And given to you by the Company?

2 A. The numbers that form the percentages are
3 given to us from the Company.

4 Q. Sticking with the column that says "Utility
5 Operating Income," they're numbers directly from the
6 Company?

7 A. Yes, that number is.

8 Q. Do you know whether those numbers have been
9 adjusted for disallowances or imputations ordered by
10 this Commission in its orders?

11 A. I believe those are unnormalized. They're
12 just unadjusted.

13 Q. They don't account for all the things the
14 Commission might order here. Do you know whether these
15 numbers are protocol numbers? I think you said these
16 are protocol numbers as opposed to rolled-in numbers,
17 so that the MSP calculation through them all is a bit
18 of a mystery?

19 A. Yeah, the -- that does not apply to these
20 numbers, to the utility operating income.

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

23 CHAIRMAN BOYER: Thank you, Mr. Reeder.
24 Commissioner Allen? Commissioner Campbell?

25 COMMISSIONER CAMPBELL: I just have one

1 question, and I was trying to sort through the small
2 hydro issuing. Is it -- is the Company proposing to
3 continue O&M of these facilities versus the Powerdale
4 experience where that was just a write-off of rate base
5 and given to directors? Would that be a distinction
6 between these different types of facilities?

7 THE WITNESS: If I understand, your question
8 is, is the Company including --

9 COMMISSIONER CAMPBELL: Let me ask it this
10 way. That was poorly worded. If the Company were just
11 to cease operating these two facilities and write them
12 off, would you have any issue at treating them the same
13 way you did Powerdale?

14 THE WITNESS: I'm not entirely certain. The
15 circumstances surrounding them are a little bit
16 different. I would have to give that some further
17 thought.

18 COMMISSIONER CAMPBELL: I guess my question
19 is, is your objection to the continuing O&M costs of
20 these facilities without a benefit to rate payers or
21 are you potentially proposing a policy change that
22 prior assets that were used and useful that for some
23 reason are shut down? I think historically typically
24 those would be written off and amortized over some
25 period of time. Are you drawing the distinction

1 between O&M and capital? I guess that's my question.

2 THE WITNESS: Okay. My adjustment includes
3 both O&M and capital, so I've taken out the O&M
4 components and the rate base components of both of the
5 hydro facilities.

6 CHAIRMAN BOYER: Mr. Croft, you seem to be
7 making a distinction between acts of nature and things
8 that might be within the control of the Company, a
9 choice, for example, in shutting something down or a
10 choice in not repairing a turbine, or something like
11 that, is that a distinction or a difference in your
12 mind?

13 THE WITNESS: It is a difference. The
14 Company has chosen not to operate, I think it's the
15 Cline Falls, and at this point there's a turbine that's
16 still damaged with St. Anthony, so it is the Company's
17 choice whether to proceed with the operation of those
18 two hydro facilities, whereas Powerdale was beyond the
19 Company's control.

20 CHAIRMAN BOYER: And if the failed equipment
21 rendered repair uneconomic, would that still be within
22 the Company's discretion, that is, through no fault of
23 their own, the equipment wore out and failed, they
24 looked at replacing it and it was going to be
25 prohibitively expensive, so they decide to shut it

1 down. Is that a different circumstance than a flood?

2 THE WITNESS: Giving it some further thought,
3 no, I don't think so.

4 CHAIRMAN BOYER: Okay. Thank you, Mr. Croft.
5 Redirect, Mr. Ginsberg?

6 REDIRECT EXAMINATION

7 BY MR. GINSBERG:

8 Q. Just on the exhibit that Mr. Reeder asked you
9 about, the last column, are those total company's,
10 total company numbers?

11 A. The last column, the utility operating
12 income, yes, that is total company.

13 Q. So they don't -- this monthly report doesn't
14 report Utah net operating income, just total company?

15 A. Just total company, the monthly report.

16 Q. The only time you ever get Utah operating
17 results is the semiannual?

18 A. Yes.

19 Q. And that's a document they prepare?

20 A. Yes.

21 Q. Okay.

22 MR. HICKEY: Mr. Chairman --

23 MR. GINSBERG: Can we have one moment?

24 MR. HICKEY: -- if I could make this request
25 while they're conferring. I know it's out of the

1 sequence of cross-examination somewhat, but since Mr.
2 Reeder after my examination brought up the issue of the
3 report, may I have an opportunity to ask Mr. Croft a
4 couple of questions that follow that examination, as
5 well as the question just posed by Mr. Ginsberg?

6 CHAIRMAN BOYER: Mr. Ginsberg, Mr. Hickey has
7 asked for permission, even though it's out of order, to
8 ask another couple of questions that arose as a result
9 of Mr. Reeder's questioning. And in the interest of us
10 understanding how these monthly reports, these earning
11 reports are compiled, I'm inclined to do that. But
12 we'll give you an opportunity for redirect --

13 MR. GINSBERG: Okay.

14 CHAIRMAN BOYER: -- after Mr. Hickey's asked
15 his questions.

16 Proceed, Mr. Hickey.

17 MR. HICKEY: Thank you.

18 RE-CROSS-EXAMINATION

19 BY MR. HICKEY:

20 Q. Just a couple of additional questions about
21 the report. I had asked Dr. Brill if the columns that
22 appear on the report semiannual total company ROE and
23 semiannual Utah ROE, I'd asked Dr. Brill whether those
24 were normalized. And he answered that he believed they
25 were. Can you confirm, Mr. Croft, that in fact those

1 are normalized?

2 A. They are normalized to the extent that
3 they -- by the Company's methods of normalizing, yes.

4 Q. Okay. And the Division believes that this
5 report serves a purpose for the Commission or you
6 wouldn't prepare it; isn't that a fair observation?

7 A. It's used as -- as a general estimate, yes.

8 Q. Sure. It's a tool that you within the
9 Division use and find value in, and you offer it to the
10 Commission for whatever value the Commission may place
11 on it; isn't that a fair commentary on why this work is
12 done?

13 MR. PROCTOR: Well, I would object at this
14 point because that is far beyond what Mr. Reeder was
15 asking and now we're back into what should have been
16 original cross, so I think it should be cut off with
17 the first questions.

18 MR. GINSBERG: And also, I think it should
19 have been more directed to Mr. Brill, who is the policy
20 witness.

21 MR. HICKEY: Who passed it to Mr. Croft.

22 MR. GINSBERG: Well, only on the
23 calculations.

24 CHAIRMAN BOYER: Well, I'm going to sustain
25 the objection but let Mr. Hickey ask again. I mean,

1 you can ask, for example, if he knows of what use we
2 put it to, or something like that.

3 Q. (By Mr. Hickey) Chairman had a much better
4 question than mine. Do you know whether or not the
5 Commission has any use for this report?

6 A. The Commission will do with it what it wants.
7 I'm not sure exactly.

8 Q. Well, let me ask you this. As a State
9 employee, the State of Utah, you don't think you're
10 wasting taxpayer money by preparing this report, do
11 you, Mr. Croft?

12 MR. GINSBERG: I would object to that
13 question. The question was what use the Commission
14 would make of it, and he answered that he didn't know.

15 CHAIRMAN BOYER: But now he's asking the
16 question is it of -- do you think it's of value when
17 you prepared this. That's a fair question. I think I
18 know the answer, but it's a fair question.

19 A. Could you maybe restate the question?

20 Q. (By Mr. Hickey) Sure. The question was you
21 don't believe you're wasting taxpayer money as a
22 salaried Utah employee, State of Utah employee, by the
23 time you devote to preparing this report, do you, Mr.
24 Croft?

25 A. No.

1 Q. And in a similar way, you've never -- you
2 have no evidence you could point the Commission to that
3 any of the figures provided by Rocky Mountain Power in
4 that last column are inaccurate, do you?

5 A. No.

6 Q. And in fact, if you believed any of them were
7 inaccurate you would have brought that to the attention
8 of this Commission, wouldn't you?

9 A. Most likely.

10 MR. HICKEY: That's all I have.

11 CHAIRMAN BOYER: Thank you. Mr. Ginsberg,
12 any redirect?

13 REDIRECT EXAMINATION

14 BY MR. GINSBERG:

15 Q. Do you happen to know if the Powerdale
16 example that you were asked about, whether the Company
17 did any cost benefit analysis to determine whether to
18 reopen the project or repair the project after the
19 flood or not?

20 A. I -- I would assume that they did. I -- it's
21 been a while since I've reviewed that, but I would
22 assume so, yes.

23 Q. But you don't know, or do you know? You're
24 just assuming they did; is that correct?

25 A. Again, it's been a while since I've reviewed

1 it. I'm not entirely certain. But I would assume so,
2 yes.

3 MR. GINSBERG: Thank you.

4 CHAIRMAN BOYER: Okay. Thank you, Mr. Croft.
5 You may be excused. We'll take a 15-minute recess now
6 and reconvene here at something like five after the
7 hour.

8 (Recess from 2:48 - 3:02 p.m.)

9 CHAIRMAN BOYER: Okay. We're back on the
10 record, or soon will be. Let's take care of a couple
11 of matters that were raised just before the recess.

12 With respect to post-hearing briefs, we've
13 determined to permit the filing of simultaneous
14 post-hearing briefs, pages not to exceed 50 per side,
15 35 would be better, and -- but we ask you what would be
16 a convenient time frame after the close of hearings
17 next week? 10 days? 15 days? Three months? What do
18 you need? Mr. Hickey.

19 MR. HICKEY: Mr. Chairman, I would suggest,
20 knowing that you will be considering the ECAM case the
21 11th of January, I believe, that on behalf of the
22 Applicant we would suggest that the briefs be filed
23 prior to that, and we were hoping for the 10th of
24 January.

25 MR. REEDER: Aside from the fact that it's a

1 Sunday, that sounds like a good day.

2 MR. HICKEY: Is that a Sunday? We better
3 make it the Friday, the --

4 MR. REEDER: How about filed on the 10th, the
5 morning of the 10th?

6 MR. GINSBERG: And I assume that since rate
7 return had already been heard and no briefings were set
8 that the briefings will only address this revenue
9 requirement and cost of service phase of the case.

10 MR. PROCTOR: Oh, no, I think that it
11 would -- I'm sorry. Can I have my say?

12 CHAIRMAN BOYER: Let's hear from Mr. Proctor
13 too.

14 MR. PROCTOR: Mr. Chairman, I see no reason
15 to have the briefs any longer than 30 pages. I would
16 even be saying shorter. Brevity is -- should be the
17 watch word, number one. Secondly --

18 CHAIRMAN BOYER: As I've often said,
19 parsimony is next to cleanliness.

20 MR. PROCTOR: Yes, absolutely. And Judge
21 Jenkins, of course, would do you in for anything that
22 was not brief.

23 Second, the ROE remains an issue, and I think
24 that particularly in light of some of the testimony
25 that's been provided here today, very much an issue, so

1 I would like to address ROE issues in my brief,
2 certainly.

3 As far as the time to file them, Mr. Reeder
4 and I had also spoken about the very first part of
5 January.

6 MR. REEDER: January 8th is the first Friday
7 following the 1st.

8 MR. PROCTOR: What's wrong with the 10th? I
9 would -- personally, I would like a weekend to final
10 things, if it requires that. I certainly hope not,
11 but --

12 MS. SCHMID: Monday is the 11th. That would
13 be --

14 MR. PROCTOR: The 11th would be fine too.

15 MS. SCHMID: Is that when the ECAM starts?

16 MR. GINSBERG: Yes.

17 MR. PROCTOR: I'm more concerned about having
18 it in sufficient time for you, given that you have a
19 February 14th -- is that -- there's a date that you
20 have to complete your work. I mean, the briefs ought
21 to be supplemental to your work that you're doing now,
22 I'm sure. Anyway, that's the Office's position.

23 MR. REEDER: So you'll stipulate to the 11th,
24 I'll stipulate to the 11th, and we'll see if others
25 will join us.

1 MR. HICKEY: Sure, I think we're all in
2 agreement -- when Mr. Chairman has a second -- in
3 agreement as to the 11th, at least between the
4 Applicant, Mr. Reeder, and Mr. Proctor. I hope that
5 the Division --

6 MR. GINSBERG: The 11th is fine.

7 MR. HICKEY: I would note that 30 pages I
8 think is optimistic at best, and on behalf of the
9 Applicant, who has the burden in the case, we would
10 appreciate the discretion of being able to go to the 50
11 pages if necessary. I say that as a seasoned trial
12 lawyer as well, Mr. Chairman, knowing that less is
13 better when it comes to briefs and we'll certainly try
14 to reflect that in what we file, but I couldn't commit
15 to a 30-page limit this afternoon.

16 CHAIRMAN BOYER: Okay. What we're going to
17 do then is permit the briefs. They'll be filed by
18 January 11th, 50 page max, but you get extra points and
19 gold stars if you can do it in a more concise manner.
20 So I think that deals with that.

21 Now, we also have a motion in limine filed by
22 Mr. Proctor. And I have sort of a contingent
23 suggestion on that, but I wanted to give you a heads up
24 at this point in time.

25 We have public witness -- an hour for public

1 witnesses scheduled this afternoon from five until six.
2 To the extent there is free time during that one-hour
3 period, we would like to hear arguments from the
4 parties respecting Mr. Proctor's motion.

5 MR. HICKEY: I'm sorry, Mr. Chairman, I did
6 not see the motion until over the weekend, and then it
7 was a low priority, given the other demands of
8 preparing the case. I would hope that we could file
9 our response on Thursday and really have not prepared
10 anything in response, either by way of notes or
11 certainly not by way of a formal pleading that we would
12 like to file on this Thursday.

13 MR. DODGE: Chairman, if I could address that
14 as well.

15 CHAIRMAN BOYER: Mr. Dodge.

16 MR. DODGE: I don't believe the issues raised
17 in the motion have to be decided before next week.

18 That's when the net power costs --

19 CHAIRMAN BOYER: They do deal with net power
20 cost testimony.

21 MR. DODGE: So I would join with Mr. Hickey
22 in requesting time to file a written response, and if
23 you'd like, find time for an oral argument.

24 CHAIRMAN BOYER: Well, let's do that, then,
25 Mr. Proctor. That will give me a chance to read it as

1 well.

2 MR. PROCTOR: Just so long as it's something
3 above a low priority.

4 MR. REEDER: We filed our response, Mr.
5 Proctor, this morning at 11 o'clock. We thought it was
6 high priority.

7 MR. PROCTOR: It was not my intent to -- by
8 my motion to exclude evidence. This being an
9 administrative body, the concept of excluding evidence
10 is one that doesn't apply. The rules are liberally
11 applied, at worst. At best, the technical rules of
12 evidence don't apply.

13 I styled it as a motion in limine in an
14 administrative context more as a guideline to suggest
15 to the Commission, as we did in our brief in the '07
16 case, that the evidence is in the record, it's there,
17 you've read it, I know you have. The question is
18 whether or not you consider it. If you'll remember,
19 the issue of updates was addressed on page 50 of your
20 '07 motion.

21 So it's not my intent to exclude evidence,
22 because it's there and this is an administrative
23 setting. So I was doing it to try to preserve the
24 Commission's time and not have to continually make
25 objections and argue about whether it's admissible or

1 not. It's not to be considered in -- I'm prepared to
2 argue it, certainly, on that basis, but it was not my
3 intent to exclude, merely to request that you not
4 consider it.

5 MR. REEDER: Would you consider withdrawing
6 your matter as a motion and argue it in the
7 post-hearing brief?

8 CHAIRMAN BOYER: That would be my suggestion
9 as well.

10 MR. PROCTOR: Well, it's going to -- yeah,
11 because it's the same thing. I did it because last
12 time there was another matter that was dealt
13 preliminarily. This time I thought I'd at least give
14 the parties a notice that we had concerns over that
15 evidence, but I wasn't going to be taking a lot of time
16 objecting to it continually and having to remind the
17 Commission of our position.

18 Either way, I'm more than willing to deal
19 with it in the setting of the brief. I'll probably
20 need another 20 pages beyond my 30.

21 CHAIRMAN BOYER: Since we've already said 50-
22 page limit, you're covered there on that.

23 MR. PROCTOR: Yeah. Yeah.

24 CHAIRMAN BOYER: Why don't we do that. Let's
25 do that and then we won't take time away from everybody

1 and have everyone sit around listening to legal
2 arguments. I think we understand --

3 MR. PROCTOR: Thank you.

4 CHAIRMAN BOYER: -- what you've raised here
5 and what the issue is, and we have read the updated
6 information already, so we're aware of it. So let's do
7 that, let's deal with those issues raised in Mr.
8 Proctor's motion in limine in the post-hearing briefs.
9 We'll decide there as part of the case in chief.

10 Okay. Are there any other loose ends that
11 I've overlooked?

12 MR. HICKEY: Not that you overlooked at all,
13 Mr. Chairman. I had another one on behalf of the
14 Applicant. Mr. Eelkema has now addressed everything
15 that I believe either we or the bench or the parties
16 wanted him to address. I've conferred with counsel and
17 they have no objection to my request of you that he be
18 permanently excused.

19 CHAIRMAN BOYER: He is excused, then, based
20 on that representation.

21 MR. HICKEY: Thank you.

22 CHAIRMAN BOYER: Okay. Well, let's proceed
23 with the next witness, who I believe is Ms. Salter from
24 the Division of Public Utilities.

25 (Brenda Salter was duly sworn.)

1 CHAIRMAN BOYER: Thank you. Please be
2 seated. Mr. Ginsberg, are you conducting this
3 examination?

4 MR. GINSBERG: Yes.

5 BRENDA SALTER,
6 called as a witness at the instance of the
7 Division, having been first duly sworn,
8 was examined and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. GINSBERG:

11 Q. Ms. Salter, state your name for the record,
12 please.

13 A. Brenda Salter.

14 Q. And you are -- filed testimony that's been
15 marked as DPU Exhibit-8.1 through 8.4; is that correct?

16 A. Those are my exhibits, yes.

17 Q. And you also filed surrebuttal testimony
18 that's Exhibit-8 SR, those exhibits?

19 A. Yes.

20 Q. Do you have any corrections to make?

21 A. I do not.

22 Q. With that, those would be the testimony you'd
23 like to give today if you were asked those questions?

24 A. Excuse me?

25 Q. If those questions were asked to you today,

1 those would be what you would give to the Commission?

2 A. Yes, they would.

3 MR. GINSBERG: And with that, I'd ask that
4 those exhibits as identified be admitted.

5 CHAIRMAN BOYER: Thank you. Any objection to
6 the admission of Ms. Salter's testimony together with
7 exhibits? Seeing none, they are admitted.

8 Q. (By Mr. Ginsberg) Can you provide a brief --
9 maybe not brief, but a summary.

10 A. It is brief. My testimony addresses
11 adjustments made by Rocky Mountain Power witness Mr.
12 Steven McDougal to generation overhaul expense
13 Exhibit-4.15, the environmental settlement PERCO
14 adjustment, Exhibit-8.4, the green tag revenue,
15 Exhibit-3.5, and my review and adjustment to the
16 uncollectibles expense, FERC account 904.

17 The June 2010 pro forma uncollectible expense
18 is based on a percentage increase to the base year 2008
19 actual uncollectible expense. The Company has used
20 this method in determining the uncollectible expense in
21 the last three rate cases.

22 The Division, in determining the
23 uncollectible expense and -- wait a minute. Excuse me.
24 The Division proposed to normalize the uncollected --
25 uncollectible expense by taking a three-average year of

1 the actual Utah uncollectible expense as a percentage
2 of general business revenues.

3 Company witness Mr. McDougal in rebuttal
4 testimony disagreed with the use of a three-year
5 average and proposed the use of the Rocky Mountain
6 Power target percentage rate for uncollectible expense.
7 He stated if the Commission prefers to adopt a certain
8 method for computing test year uncollectible expenses,
9 such as an average of actual as proposed by the DPU, it
10 should be done as a matter of policy rather than just
11 adjusting to a lower amount when the company's request
12 is above historical levels.

13 The Division's proposal would be to accept
14 the three-year average as a means of smoothing for an
15 expense that can vary from year to year.

16 The Division has accepted the Company's
17 adjustment to generation overhaul. In regards to the
18 PERCO adjustment, the Company accepted with a caveat
19 the Division's adjustment, using a three-year average
20 to project spending.

21 And on the green tag revenue, the Company
22 accepted the adjustment of OCS witness Ms. Donna Ramos
23 and I am in agreement with this adjustment. And that
24 concludes my summary.

25 MR. GINSBERG: Thank you.

1 CHAIRMAN BOYER: Okay. Thank you, Ms.
2 Salter. Cross-examination, Mr. Hickey?

3 MR. HICKEY: I have none for this witness.

4 CHAIRMAN BOYER: Mr. Proctor, any questions
5 for this witness?

6 MR. PROCTOR: Yes, thank you, Mr. Chairman.

7 CROSS-EXAMINATION

8 BY MR. PROCTOR:

9 Q. Ms. Salter, in -- my questions relate to the
10 generation overhaul expense, in particular the question
11 of escalation before averaging, or averaging and then
12 escalating the average amount. On -- at line 90 to 93
13 of your direct testimony, you explain the reasons for
14 the -- or the reason for your adjustment to the
15 generation overhaul expense as being your
16 recommendation in the Docket 08-035-38 and also based
17 upon the Commission's order in Docket 07-035-93.

18 First of all, let me ask you about 07-035-93.
19 What was the nature of that order, then, the Commission
20 entered?

21 A. I don't have the order in front of me, but
22 they did agree with the Office's adjustment to not --
23 to not have the escalation within averaging.

24 Q. So you would average the generation overhaul
25 expense over a certain period of time and then escalate

1 that final number, correct?

2 A. Correct.

3 Q. Is that an averaging of actual overhaul
4 expenses?

5 A. Yes, it is. Well, for the most part it is.

6 Q. In Docket 08-035-38, what position did the
7 Division take in that matter?

8 A. That we took the position that was ordered in
9 the 07-035-93, we did take that same position, the
10 escalation doing the averaging, and then the escalation
11 not escalating and then averaging.

12 Q. Now, the parties stipulated to a resolution
13 of that case and ultimately the Commission accepted it.
14 Did either the stipulation or the Commission's order
15 address this issue of averaging before escalation or
16 escalation before averaging?

17 A. Not to my knowledge.

18 Q. Further down on -- beginning at line 97
19 through to 104, you pointed out there that the
20 Company's initial request was based upon what I gather
21 you believe to be excessively high amounts of overhaul
22 costs for two plants, Currant Creek and Chehalis.

23 A. Correct. The forecasts were -- seemed high
24 at the time.

25 Q. Did that cause you to then determine whether

1 or not the Company was escalating and then averaging,
2 or the way that the Commission had ordered in
3 07-035-93?

4 A. Well, the two amounts that I looked at were
5 for the 2009 year, and that was just an estimate of
6 what they would spend in that year, so I didn't assume
7 there was escalation -- well, there was probably an
8 escalation for the 2008 to the 2009, but there's no
9 averaging in those two numbers that I had on line 100.

10 Q. But your further examination, what you
11 describe at -- beginning at line 111 was that Mr.
12 McDougal had escalated the actual Currant Creek
13 generation for 2007 to December 2008 level, using
14 inflation indices, correct?

15 A. Yes, he did do that.

16 Q. And that's what you removed at that point?

17 A. Right, I did.

18 Q. Now, later on then in your surrebuttal
19 testimony filed November 30th -- and by the way, did
20 you file a rebuttal testimony?

21 A. No, I did not.

22 Q. Did anyone other -- any other witness from
23 the Division in direct or rebuttal testimony address
24 the issue of averaging and escalation?

25 A. No.

1 Q. Then you filed your surrebuttal testimony,
2 and I'm looking at line 18. Well, let me go back up to
3 line 13, the question have you reviewed Mr. McDougal's
4 rebuttal testimony? And you said yes, you had. What
5 did Mr. McDougal say in his rebuttal testimony
6 pertaining to that particular issue?

7 A. He said basically the same information that
8 he had provided in his direct testimony, nothing really
9 changed that I could see. I mean, there may have been
10 some differences slightly, but no additional
11 information.

12 Q. Did he address your application of the
13 Commission's order in the '07 general rate case?

14 A. I don't remember if he did specifically.

15 Q. The next question that was asked was has the
16 Division's position changed as a result of evidence
17 presented by Mr. McDougal? And your answer was yes and
18 no. First of all, it's changed, the yes, in what way
19 did it change?

20 A. We changed because some calculations that
21 were done regarding the averaging and then escalate --
22 the escalation and averaging, so we changed our
23 position based on that.

24 Q. What calculations were done?

25 A. Based on Dr. William Powell. He had -- he

1 had done some calculations, and I would have him
2 address that in his testimony.

3 Q. Do you -- can you describe what those
4 calculations were?

5 A. Based on Mr. McDougal's tables that he
6 provided in his rebuttal testimony, Dr. Powell used
7 those tables to add some variables into the
8 calculation.

9 Q. The tables that Mr. McDougal provided in
10 rebuttal were the precise same tables that he had
11 presented in direct, were they not?

12 A. They were.

13 Q. So Mr. McDougal didn't provide any additional
14 information in his rebuttal testimony?

15 A. To my knowledge, no.

16 Q. Well, on line 20 you state Mr. McDougal's
17 testimony did not provide additional information that
18 had not already been presented in past rate cases.

19 A. Correct.

20 Q. Is that where you were referring to the '07
21 case?

22 A. The '08 case.

23 Q. Both?

24 A. Yeah.

25 Q. Now, going back on line 18, when you were

1 asked has the Division's position changed? You also
2 said no. What about the Division's position did not
3 change?

4 A. What we didn't change was -- well, what --
5 that the Company didn't provide additional information.
6 And that goes along with the question on 16, as a -- as
7 a result of Mr. McDougal's rebuttal testimony hasn't
8 changed.

9 Q. Well, at that point was the Division still
10 seeking to enforce the Commission's -- or apply the
11 Commission's '07 rate case order?

12 A. We were up until surrebuttal testimony.

13 Q. What changed? What happened to change your
14 decision to apply the '07 order?

15 A. Mr. Powell's calculations.

16 Q. Anything else?

17 A. No.

18 Q. Now, Mr. Powell did not -- Dr. Powell, pardon
19 me, did not address any of this issue in his rebuttal
20 testimony?

21 A. He did not.

22 Q. Did he file rebuttal testimony?

23 A. I do not believe he did.

24 Q. On line 21 you state what has changed is the
25 Division's view of escalation to current dollars prior

1 to averaging of four years. For purposes of this rate
2 case, what is the dollar difference that results from
3 this change, from your direct position to your
4 surrebuttal position?

5 A. We agreed with Mr. McDougal's amount, so we'd
6 have to take those numbers, and I don't have those
7 numbers in front of me.

8 Q. You basically reversed the adjustment that
9 you had made?

10 A. The escalation within averaging, but we
11 retained the adjustment to the Chehalis and the Carrant
12 Creek plants.

13 Q. Am I correct that the total -- the swing was
14 approximately a million dollars?

15 A. Approximately. I think it's 1.2 or something
16 like that.

17 Q. Now, on the next page to your surrebuttal,
18 you reference, on line 22 and then 23, the Division has
19 completed a series of tests to validate the Company's
20 position. Is that the calculations that you referred
21 to in -- that Mr. Powell had performed?

22 A. Yes.

23 Q. Using the tables that were first presented by
24 Mr. McDougal in direct?

25 A. Yes.

1 Q. When did Mr. Powell perform those
2 calculations?

3 A. Prior to surrebuttal.

4 Q. How long prior?

5 A. I can't remember the exact date.

6 Q. Did you assist him?

7 A. Not in the calculations.

8 Q. On line 25, the question is asked, the move
9 to escalation within averaging would be considered a
10 policy change. Was that your position at that time in
11 surrebuttal, that it was a policy change?

12 A. Well, I think my understanding is because the
13 Commission had already ordered it in the '07 case that
14 it would have to be a change in this case if they did
15 agree with that.

16 Q. Well, and you're asked then to provide a
17 recommendation on may I say a policy change. And your
18 answer is if the Commission accepts this change in
19 policy, the Division recommends that the Company
20 address any other accounts that may be -- may be
21 affected in the next general rate case.

22 Ms. Salter, what within your surrebuttal
23 testimony supports the Commission changing that policy
24 that it announced in the '07 rate order?

25 A. Can you restate the question? I'm not sure.

1 Q. What within your surrebuttal testimony
2 supports the Commission changing its policy?

3 A. My testimony doesn't support it. Dr.
4 Powell's does.

5 MR. PROCTOR: Thank you, Ms. Salter.

6 CHAIRMAN BOYER: Thank you, Mr. Proctor. Mr.
7 Dodge, any questions for Ms. Salter?

8 MR. DODGE: No questions.

9 MR. REEDER: No questions.

10 CHAIRMAN BOYER: Commissioner Allen?
11 Commissioner Campbell?

12 COMMISSIONER CAMPBELL: Just one. In the
13 answer that you gave on line 28, did the Division have
14 in mind potential other accounts that would be affected
15 by this sort of policy?

16 THE WITNESS: When we first reviewed this
17 adjustment -- well, not first. In the surrebuttal we
18 did contact the Company. And they said maybe injuries
19 and damages would be another one that would be affected
20 by this. I'm not aware of any other ones.

21 CHAIRMAN BOYER: Just a couple questions, Ms.
22 Salter. Regarding averaging of these costs,
23 particularly the uncollectible costs, and not
24 withstanding what we might have said in other orders,
25 we've been through fairly and are currently undergoing

1 fairly unusual economic times at this point in time.
2 One would expect uncollectibles or bad debt expenses to
3 go up during these periods; is that correct?

4 THE WITNESS: I think you would, yes.

5 CHAIRMAN BOYER: What is the affect on
6 averaging then -- well, let me ask this question. What
7 do you foresee happening with uncollectibles, company
8 uncollectibles, during the rate effective period? Will
9 there be some amelioration? Will they continue at the
10 same level? Will they escalate?

11 THE WITNESS: It depends. Well, the
12 economy's --

13 CHAIRMAN BOYER: Yeah, who knows.

14 THE WITNESS: Yeah, who knows. But based on
15 different economist's studies that have said that it
16 looks like we're moving out of the recession, so from
17 my understanding this could reverse and get better as
18 we go along.

19 CHAIRMAN BOYER: So under these kinds of
20 economic conditions would you prefer an averaging of
21 these kinds of costs or not? I mean, does the economy
22 affect your opinion on whether or not averaging or not
23 averaging would be most appropriate?

24 THE WITNESS: I think any time when you have
25 a fluctuating cost an averaging is the best way to go,

1 and whether or not it's the economy.

2 CHAIRMAN BOYER: Thank you, Ms. Salter. Mr.
3 Ginsberg, any redirect?

4 MR. GINSBERG: No.

5 CHAIRMAN BOYER: Okay, thank you. Ms.
6 Salter, you are excused.

7 Are we going to hear from Ms. Zenger or Mr.
8 Peterson?

9 MR. GINSBERG: I guess Dr. Zenger. I guess
10 Dr. Zenger.

11 CHAIRMAN BOYER: Dr. Zenger, have you been
12 sworn in in this proceeding?

13 THE WITNESS: I have not.

14 CHAIRMAN BOYER: Would you please stand and
15 raise your right hand.

16 (Dr. Joni Zenger was duly sworn.)

17 CHAIRMAN BOYER: Thank you. Please be
18 seated.

19 JONI S. ZENGER,
20 called as a witness at the instance of the
21 Division, having been first duly sworn,
22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. GINSBERG:

25 Q. Would you state your name for the record?

1 A. Dr. Joni S. Zenger.

2 Q. If we could, let's first talk about the page
3 we handed out, which was DPU Exhibit-10.0 SR, your page
4 4; is that correct?

5 A. Yeah. This is a replacement page to my
6 surrebuttal inasmuch as after I filed the surrebuttal
7 there was a correction because request number 70.1 came
8 in. So on line 74 there will be a correction to that
9 number, which in turn led to an additional adding of
10 Glenrock I to line 77 and then an update to the
11 footnote.

12 Q. So before Glenrock I you had a zero there, is
13 that correct, for used?

14 A. Correct.

15 Q. And now you have the actual number that
16 was --

17 A. Yes.

18 Q. -- used and that's -- and that's all that was
19 changed on this, was that --

20 A. Yeah.

21 Q. -- adding that number in?

22 A. Yeah. Well, that and it affected the last
23 line. I had to add Glenrock I and change the footnote.

24 Q. Okay. And if you could, let's go through
25 your other testimonies or Exhibit-10.0. And you filed

1 both a confidential and a nonconfidential version; is
2 that right?

3 A. Yes.

4 Q. And then you have Exhibits-10.1 through ten
5 point -- 10.2; is that correct?

6 A. On the direct?

7 Q. Yes.

8 A. Let's see. Yes, that's right.

9 Q. And then you filed Exhibit-10 SR. Which also
10 includes both a proprietary and nonproprietary
11 version --

12 A. Correct.

13 Q. -- of those exhibits?

14 A. Correct.

15 Q. And do you have any other corrections you
16 wish to make?

17 A. No, just this one page.

18 MR. GINSBERG: And with that, could I ask
19 that those exhibits be admitted?

20 CHAIRMAN BOYER: Are there any objections to
21 the admission of Dr. Zenger's direct and surrebuttal
22 testimony as corrected by the page that's just been
23 handed out, page 4 of the surrebuttal?

24 MR. PROCTOR: No.

25 MR. HICKEY: No objections.

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

3 Q. (By Mr. Ginsberg) And do you have a summary
4 of your testimony?

5 A. Yes. Do we need to admit all my other
6 testimony?

7 CHAIRMAN BOYER: I just did.

8 A. Okay. Everything, okay. Just wanted to make
9 sure it wasn't that one page.

10 Thank you. I do have a brief summary. The
11 Division conducted a prudency review of the McFadden
12 Ridge I project and recommends that all associated
13 project costs, with the exception of the 1.1 million
14 contingency fee be in -- placed into rate base. This
15 amount totals 59.2 million, which results in a total
16 Utah revenue impact of \$42,631.

17 The Division finds that the McFadden Ridge I
18 project is a prudent investment and will benefit Utah
19 rate payers by providing zero incremental cost fuel as
20 well as a demonstrated source of renewable energy.

21 In this case, the McFadden Ridge project
22 happened to come into service during the pendency of
23 this case. Had it been scheduled to come on-line in
24 perhaps July 2010, we would not have known the
25 project's actual cost and the 1.1 million would have

1 been included in this rate case as a capital
2 expenditure for that project.

3 The Company has not demonstrated a valid
4 basis for determining or for when it does require the
5 use of contingency fee costs and includes them in line
6 items in the overall project cost.

7 Of the Company's seven wind projects reported
8 to the Division in this case, only three projects
9 required the use of a contingency fee. I thought I
10 heard something. Continue? The three projects that
11 did require contingency fees were built on the site of
12 a former coal mine.

13 Our analysis of the McFadden project led us
14 to also look at certain aspects of the Company's other
15 wind projects that were built during the base year that
16 falls in this rate case, as well as other Company wind
17 projects.

18 Through this work, we were able to identify
19 certain concerns that we bring to the Commission's
20 attention that are both pertinent to this docket and
21 that we believe need to be considered going forward as
22 the Company continues to aggressively acquire
23 additional wind resources.

24 First, the Company should consider looking at
25 diverse wind characteristics going forward in the

1 acquisition of its wind portfolio. The Company's 2008
2 IRP includes 100 megawatts of wind coming on-line each
3 year, with at least 1400 megawatts of cost-effective
4 renewable energy by the year 2015. A diverse mix of
5 wind reduces the likelihood that all wind resources
6 will be either generating or idle at the same time, and
7 reduces wind integration costs, as described in
8 appendix F of the Company's IRP.

9 Second, the Company should be required to
10 submit a notification letter to the Commission at the
11 time that each wind plant comes in service.

12 Third, the Commission should review the
13 Company's strategy of building 99 megawatt wind farms
14 adjacent to each other as separate projects in order to
15 avoid the solicitation process required in Oregon for
16 major resource additions.

17 We request that the Commission schedule a
18 technical conference addressing this, as well as an
19 explanation of how the Company includes diverse wind
20 characteristics in its procurement strategy.

21 Finally, the Company needs to report detailed
22 accounting of its capital wind projects rather lump sum
23 capital costs in order for the Division to complete the
24 full prudence review of future wind projects.

25 Through our analysis in this case, the

1 Division discovered an exorbitant amount paid out to
2 one contractor in change orders in the amount
3 referenced in the Company's confidential response to
4 DPU Data Request No. 49 point -- excuse me, 49.1,
5 which was funded from the contingency fees for that
6 project.

7 We also discovered millions of dollars in
8 change orders for wind turbine generator agreements
9 that went into earlier wind projects. The Division
10 requests that in future rate cases the Company file up
11 front a minimum filing of the project requisition and
12 wind approval documents in order to provide time for
13 parties to analyze this information and ask further
14 questions.

15 Q. Does that complete your summary?

16 A. Yes.

17 CHAIRMAN BOYER: Okay. Thank you, Dr.

18 Zenger.

19 Mr. Hickey, do you have cross-examination for
20 this witness?

21 MR. HICKEY: I do. Thank you, Mr. Chairman.

22 CROSS-EXAMINATION

23 BY MR. HICKEY:

24 Q. Good afternoon, Dr. Zenger. We haven't met
25 before.

1 A. Nice to meet you.

2 Q. I'm Paul Hickey with Rocky Mountain Power.
3 I'd like to just highlight very quickly the broad
4 issues of agreement that I believe you, on behalf of
5 the Division, and my client, the applicant, are in.
6 And the first of those would be you and Rocky Mountain
7 Power are in agreement that the Company's investment in
8 McFadden Ridge was prudent; isn't that true?

9 A. Yes.

10 Q. And as a result of the distilling of the case
11 through rebuttal and surrebuttal, isn't it also true,
12 Dr. Zenger, that you and Mr. McDougal are in agreement
13 that the proper amount to be recovered in rates
14 associated with McFadden Ridge I is \$57,320,153?

15 A. Well, the last number I had was 59.2.

16 Q. Well, and wasn't there a duplicate
17 transformer that was adjusted in Mr. DcDougal's
18 surrebuttal that actually took that figure from 59
19 to --

20 A. Oh, that may be the case, because I know Mr.
21 Lasich references the 50.1 million minus the 1 -- 1.1
22 McFadden Ridge contingency.

23 Q. Yes. And then subsequent to his testimony on
24 rebuttal, surrebuttal was filed that reflected that
25 further adjustment to 57 million; isn't that true? And

1 I have Mr. McDougal's surrebuttal.

2 A. Oh, McDougal's.

3 Q. Yes.

4 A. You know, I'm only looking at Mr. Lasich's
5 because that's where I got the fifty -- that's where we
6 agree on the dollar amount.

7 Q. The Division wouldn't have any trouble
8 accepting the 57 million figure, based upon Mr.
9 McDougal's representation, and my endorsement of it to
10 you, that there was an additional transformer that was
11 backed out of the \$59 million figure that results in
12 this lower figure to recover in the McFadden Ridge
13 investment category of 57,320,000?

14 A. No, not at all.

15 Q. Okay. Well, with that opportunity to maybe
16 just underscore what the correct figure is, we're in
17 agreement, then, on both the prudence of the investment
18 and the amount to be covered in rates; fair summary?

19 A. Yes.

20 Q. Now, the harder part, we do have some
21 disagreements between your position on behalf of the
22 Division and the Applicant on contingency costs,
23 agreed?

24 A. Agreed.

25 Q. And you've argued that contingency costs

1 should be excluded from the cost of wind projects when
2 using a forward test period, correct?

3 A. Correct.

4 Q. But you would agree, wouldn't you, that
5 there's a degree of uncertainty inherent in forecasting
6 the actual as-built cost of large construction projects
7 like wind farms?

8 A. That's a two-part question. I -- the first
9 part I would agree on, and like wind farms, not so much
10 so, because as Mr. Lasich states in his direct
11 testimony, the major components of a wind farm are
12 getting the wind turbine generators purchased, then
13 having to balance a plant constructor coming in. And
14 so in that regard they differ from other construction
15 projects.

16 Q. Okay. I'm trying to get my hands around our
17 agreement and disagreement. We're in agreement that
18 there's a degree of uncertainty that's inherent in
19 forecasting costs in large construction projects; we
20 can agree on that?

21 A. Oh, yeah, in forecasting. Forecasting is a
22 forecast, so definitely.

23 Q. Sure. But you want to argue with me that
24 wind projects have less degree of uncertainty in the
25 area of forecasting costs than say building downtown

1 office buildings or building feed lot facilities or
2 building any kind of commercial enterprise that either
3 of us might conceive of; is that what the distinction
4 seems to be?

5 A. No, I don't feel qualified as a cost engineer
6 or a risk assessment person that, you know, looks at
7 construction in general.

8 Q. I think --

9 A. -- I just --

10 Q. Go ahead.

11 A. Yeah.

12 Q. I didn't mean to interrupt.

13 A. So no, I couldn't say, you know, what the
14 construction industry uses and what, you know, other --
15 what, you know, a downtown building would use.

16 Q. I think that's fair. And I just would note,
17 though, that in the area of wind projects, your revised
18 page 4 to your surrebuttal now notes that the first
19 three of these projects had significant contingency
20 fees or contingency costs; isn't that true?

21 A. Yes, and I reference the reason in my
22 summary.

23 Q. And you also referenced in the summary what I
24 think you called, and I tried to make a quote of it,
25 and correct me if I didn't hear correctly, but I

1 thought you said they were exorbitant change orders
2 associated with those Converse County wind projects in
3 Wyoming.

4 A. Yes, because I couldn't put in the exact
5 number because it was confidential.

6 Q. But wouldn't that fact that there were change
7 orders reflect some of the inherent uncertainties that
8 result in contingency costs being incurred in the area
9 of wind projects?

10 A. It would in this particular instance, but I
11 think going forward the Company knows if they're going
12 to build a wind farm on a coal -- abandoned coal mine
13 they're going to have extra foundation design work
14 that's required.

15 So it's kind of based on experience. And I
16 think when you did the first early projects either, you
17 know, they didn't do adequate geotechnical work to let
18 you know that it was a -- there were coal spoils or
19 what, but we do -- we do know that now. So if you
20 notice on my replacement page, the last four wind
21 projects didn't use any contingency funds.

22 Q. Were you aware of the fact that the coal mine
23 that was there at the Glenrock site was actually a mine
24 of mouth, mouth mine, that served the Dave Johnston
25 Plant that was several miles down rail from where that

1 coal mine was, and both the plant, the generating
2 plant, and the coal mine were owned and operated by
3 PacifiCorp or subsidiaries of PacifiCorp?

4 A. I knew that the property was owned by
5 PacifiCorp, and I also read where they were -- there
6 was also a Glenrock Company Mining coal mine as well.

7 Q. But wouldn't that tell you, Dr. Zenger, that
8 even with the knowledge of the site that the Company
9 had there were other areas of unforeseen or contingent
10 costs that in fact materialized over the development of
11 the project?

12 A. I wouldn't argue that those costs
13 materialized, but in retrospect, I would think those
14 would have been foreseen.

15 Q. Well, let's move on, then, to some of what
16 Mr. Lasich has said and what your understanding of that
17 is. You've had a chance to read his rebuttal
18 testimony, I know.

19 A. Yes.

20 Q. And he has identified that there is an
21 Association for the Advancement of Cost Engineering and
22 Project Management Institute that has set standards
23 which support the inclusion of contingency costs in
24 making project cost estimates. Do you recall his
25 testimony in that regard?

1 A. Yes, I do, and I actually looked at that
2 agency because I was -- it's the first time I have seen
3 the reference to AACE.

4 Q. I'm going to hand you what I'll pass out as
5 RMP RR Cross Exhibit-2, and ask you if this --

6 A. I may already have that.

7 Q. But we're going to make this --

8 A. Okay, thanks.

9 Q. -- an exhibit, Dr. Zenger, so I'd like to use
10 it.

11 Mr. Chairman may I approach the bench?

12 CHAIRMAN BOYER: You may.

13 MR. HICKEY: Four, and then I do leave one
14 down here or just give you the full five?

15 CHAIRMAN BOYER: Three up here, one at that
16 desk, and one for the reporter, if you would, please.

17 MR. HICKEY: Sure.

18 (Exhibit RMP RR Cross-2 was marked.)

19 Q. (By Mr. Hickey) So Dr. Zenger, is RMP RR
20 Cross Exhibit-2 the same information that you found
21 when you reviewed Dr. -- or Mr. Lasich's testimony and
22 found out that there was in fact a group that does
23 endorse the concept of contingency costs in project
24 estimates?

25 A. Yes. I reviewed another document from the

1 same web page, but not the one that you handed me.

2 Q. On the third page of Cross Exhibit-2, and to
3 make sure we're all looking at the same document, on
4 the right-hand corner of this number 20 of 106, you'll
5 see that I've put brackets around the definition of
6 contingency. Do you see that definition, Dr. Zenger?

7 A. Yes.

8 Q. Could you take a minute and review that and
9 tell me if there's anything in that definition of
10 contingency that says wind projects should be excluded
11 from the concept of appropriately establishing as a
12 cost the contingent amount of money not known when a
13 project is initially engineered.

14 A. Okay. It says: Contingency, an amount added
15 to an estimate to allow for items, conditions, or
16 events for which the stated occurrence or effect is
17 uncertain and that experience shows will likely result
18 in aggregate additional costs, typically estimated
19 using statistical analysis or judgment based on past
20 asset or project specification, capacity building
21 sizes, and major location of asset or production,
22 extraordinary events, such as major strikes and natural
23 disasters. Management reserves an escalation
24 occurrence effect. Some of the items' conditions are
25 events for which the stated occurrence and/or effect is

1 uncertain, other than the general escalation, design
2 developments and changes within the scope, and
3 variations in market and environmental conditions.
4 Contingency is generally included in most estimates and
5 is expected to be expended.

6 Q. There is nothing that would suggest in this
7 definition you've just reviewed for us that wind
8 projects should be excluded from the concept of a
9 contingency fee, correct?

10 A. I looked at Dr. -- or Mr. Lasich's testimony
11 and I looked at this website, and I think this is for
12 construction projects in general. In fact, the federal
13 cite, federal code you cited, was Department of
14 Transportation, so I do have to think that a wind
15 project is different.

16 Q. I want to be fair to your areas of expertise,
17 Dr. Zenger, and certainly recognizing that you have
18 those, you would agree with me that you don't profess
19 to have expertise in the area of wind project
20 construction; isn't that true?

21 A. Yeah, especially what I stated was, it's a
22 cost engineer --

23 Q. And I --

24 A. -- who calculated that.

25 Q. Sure. I didn't mean to interrupt again as

1 you finished.

2 A. Oh, I was just going to say the cost -- it's
3 a cost engineer who calculates contingencies. I don't
4 have that expertise.

5 Q. Fair enough. You don't know, then, that
6 geotech is not typically done at the project approval
7 stage on a wind project?

8 A. I know through discovery you provided that it
9 was not done.

10 Q. And in fact, the industry typically does the
11 geotech phase on a wind project during the construction
12 phase; are you aware of that?

13 A. Yes.

14 Q. And did you have an opportunity in your
15 review of Mr. Lasich's testimony to see the reference
16 to 49 CFR part 80, which identifies construction
17 contingencies as eligible project costs under certain
18 federal construction projects?

19 A. Yeah, that's the one I just mentioned, and I
20 tried to pull it up and it was a guideline for the
21 Department of Transportation, I guess building roads.

22 Q. Yeah. But stands for the same general
23 proposition that inherent in construction projects of
24 any magnitude are the concept of contingency fees,
25 whether you're building railroads, whether you're

1 building transmission lines, or whether you're building
2 interstate highway systems; isn't that true?

3 A. Yeah, I would agree.

4 Q. And then just finally, Dr. Zenger, as to your
5 observations about the diversity of the wind resource
6 or other comments that you've made about the wind
7 resources that have been developed by PacifiCorp,
8 you're not asking for any disallowances, you're just
9 asking for opportunities to have either corroborative
10 processes or opportunities to share information between
11 the Division, interested parties, and the Company;
12 isn't that a fair takeaway of the balance of the
13 testimony?

14 A. Yes, that's fair. And the Company did, in
15 rebuttal, offer to do that.

16 MR. HICKEY: Thank you, Dr. Zenger, for your
17 testimony. If I haven't already moved for the
18 admission of RMP RR Cross Exhibit-2, I would do so now,
19 Mr. Chairman.

20 CHAIRMAN BOYER: Are there any objections to
21 the admission of RMP RR Cross Exhibit-2, which details
22 certain cost engineering terminology?

23 Seeing none, it will be admitted.

24 Anything further, Mr. Hickey?

25 MR. HICKEY: No, there isn't. Thank you, Mr.

1 Chairman.

2 CHAIRMAN BOYER: Thank you. Mr. Proctor, any
3 cross-examination for Dr. Zenger?

4 MR. PROCTOR: No, thank you.

5 CHAIRMAN BOYER: Mr. Dodge?

6 MR. DODGE: No questions.

7 CHAIRMAN BOYER: Or Mr. Reeder?

8 MR. REEDER: No questions.

9 CHAIRMAN BOYER: Commissioner Allen?
10 Commissioner Campbell?

11 COMMISSIONER CAMPBELL: Just one quick
12 question. Your surrebuttal position is -- is there any
13 dollar difference between your position and the
14 Company's position in your surrebuttal position?

15 THE WITNESS: There is not a dollar
16 difference. It's just as a result of this
17 investigation and the fact that ten wind plants came on
18 line during the '07 rate case. They are
19 recommendations that the Division wants the Commission
20 to consider that would be helpful in conducting further
21 prudence reviews.

22 CHAIRMAN BOYER: Okay. Mr. Ginsberg, any
23 redirect?

24 MR. GINSBERG: Just a couple questions.

25 //

1 REDIRECT EXAMINATION

2 BY MR. GINSBERG:

3 Q. These organizations that you were referred to
4 by Mr. Hickey in the Department of Transportation, do
5 either of those make any recommendations as to whether
6 or not contingency estimates should be included in the
7 forecast test year results for an estimate of project
8 costs?

9 A. Yeah, actually what they do is they give
10 scenarios whereby the organization supports estimating
11 contingency, such as Monte Carlo runs or a simulation
12 of doing a regression analysis. It's quite a science,
13 expected value theory. But there are definitive
14 methods that this organization recommends, not just
15 like well, we think this project is going to be one
16 percent, or this one will be three.

17 But without talking to Mr. Lasich tomorrow,
18 we won't know exactly how he comes up with those. But
19 the Division could -- they were totally random, the
20 one, and we could see no -- no way that they calculated
21 them, so we felt it was a harm to Utah rate payers
22 unless the Company could come in and provide a valid
23 reason for their calculation.

24 Q. And you didn't find any valid reason for the
25 numbers that were included in the contingencies?

1 A. No. No. Like I say, the three ones that had
2 gone through were because they were built on that
3 former coal mine.

4 Q. The question I asked you related to this
5 document and the Department of Transportation reference
6 that you referred to that allowed contingencies and
7 your general explanation that contingencies exist in
8 estimates. That doesn't address the question of when
9 you -- what should be included in a forecasted test
10 year where you don't actually know what the cost of the
11 project is; is that right?

12 MR. HICKEY: Object, asked and answered.
13 Object, asked and answered.

14 MR. GINSBERG: I asked it, but --

15 A. Yes.

16 MS. SCHMID: The answer was no. The answer
17 was no.

18 MR. GINSBERG: I think she just said yes.
19 But there is an objection pending and --

20 CHAIRMAN BOYER: Okay. Well, we'll let her
21 answer that question.

22 MR. GINSBERG: She just did.

23 CHAIRMAN BOYER: Yes. Retroactively
24 permitted.

25 MR. GINSBERG: Thank you.

1 CHAIRMAN BOYER: Okay. Thank you, Dr.
2 Zenger. You may be excused.

3 Where do you wish to go from here, Mr.
4 Ginsberg?

5 MR. GINSBERG: The only other one for today I
6 think is Mr. Peterson.

7 CHAIRMAN BOYER: Mr. Peterson, have you been
8 sworn in this proceeding already?

9 THE WITNESS: I believe so.

10 CHAIRMAN BOYER: Very well. You're still
11 under oath, then.

12 THE WITNESS: Very good.

13 MR. GINSBERG: What number are you? I'm
14 looking for your testimony.

15 THE WITNESS: 14.

16 MR. GINSBERG: Okay. Are we all set?

17 THE WITNESS: Pardon?

18 MR. GINSBERG: I was just seeing if everybody
19 is all set.

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CHARLES E. PETERSON,

called as a witness at the instance of the
Division, having been previously duly sworn,
was examined further and testified as follows:

DIRECT EXAMINATION

BY MR. GINSBERG:

Q. Would you state your name for the record?

A. Charles E. Peterson.

Q. And you've testified and re-retained, you are
back, filing testimony which has been marked as DPU
Exhibit-14, which had Exhibits-4.1 through 4.4; is that
correct?

A. Yes.

Q. And then you filed Exhibits-14 SR, with
Exhibit-4.1 SR through 4.3 SR?

A. Yes.

Q. And some of those are also confidential; is
that correct?

A. Yes.

Q. Do you have any corrections or additions you
wish to make to your testimony?

A. No.

Q. Do you have a summary?

A. Yes, very briefly.

CHAIRMAN BOYER: Mr. Ginsberg, do you want to

1 move admission of his prefiled testimony?

2 MR. GINSBERG: Yes, I would ask that these
3 exhibits as marked be admitted.

4 CHAIRMAN BOYER: Are the objections to the
5 admission of Mr. Peterson's testimony and exhibits
6 being admitted into evidence?

7 MR. PROCTOR: No.

8 CHAIRMAN BOYER: Seeing none, they are
9 admitted.

10 A. Do you want me to proceed then?

11 Q. Yes.

12 A. Okay. My Exhibit-14.0 addressed two basic
13 adjustments. The first adjustment that I want to speak
14 on relates to special contracts, particularly with
15 respect to the entity called Company B. Following
16 rebuttal testimony by Mr. McDougal where he made some
17 adjustments to my original testimony, the Division
18 determined to accept Mr. McDougal's adjustments, and so
19 we are -- the Division is accepting and sponsoring Mr.
20 McDougal's adjustments with respect to special
21 contracts.

22 The other adjustment that I made in Exhibit-
23 14.0 related to two wind farms in Wyoming where I
24 proposed rate base adjustments.

25 Following Mr. Lasich's rebuttal testimony and

1 further analysis on my part, I determined that I had
2 incorrectly specified the issue in my original
3 testimony and have determined to withdraw that
4 adjustment. And that basically summarizes my
5 testimony.

6 MR. GINSBERG: That's it. Thank you.

7 CHAIRMAN BOYER: Okay. Thank you, Mr.
8 Peterson. Mr. Hickey, any cross-examination for Mr.
9 Peterson?

10 MR. HICKEY: Yes. Thank you, Mr. Chairman.

11 CROSS-EXAMINATION

12 BY MR. HICKEY:

13 Q. Good afternoon, Mr. Peterson. We haven't met
14 before. Nice to meet you. And I just want to visit,
15 first of all, in an area that I think we now have
16 agreements, and that would be in the area of the
17 initial proposed adjustments you had to the cost of
18 High Plains and Rolling Hills. You are now in
19 agreement with the Company's position regarding those
20 costs; isn't that true?

21 A. Well, technically, the way I would look at it
22 is that I'm no longer disputing those costs at this
23 point.

24 Q. And that followed your review of Mr. Lasich's
25 rebuttal testimony; is that a fair observation?

1 A. Yes.

2 Q. Now, one area that I want to try to
3 understand, in your surrebuttal you cite some average
4 costs for wind projects in the Rocky Mountain area and
5 suggest that the average cost of Rocky Mountain Power's
6 projects exceeds the average for the area. Do you
7 recall making that representation?

8 A. Yes.

9 Q. And you cite an average of \$1750 per
10 kilowatt, with the highest cost of \$2100 per kW, and a
11 Rocky Mountain Power average of 2300. Do you remember
12 those figures?

13 A. Yes, I remember those figures. By the way, I
14 don't know -- those figures were considered
15 confidential, particularly the Rocky Mountain Power
16 figures. Are you considering those confidential at
17 this point?

18 MR. REEDER: They used to be. They aren't
19 now.

20 THE WITNESS: They used to be? Okay.

21 MR. REEDER: They're now published.

22 Q. (By Mr. Hickey) So those calculations are
23 not a result of any original work on your part, isn't
24 that correct, Mr. Peterson?

25 A. Which calculations are you referring to?

1 Q. The calculations that I had just read into
2 the record regarding what you cited as an average per
3 kW and a projection of what you believe the cost of
4 Rocky Mountain Power wind generated kW would be.

5 A. Well, the -- referring to the Mountain States
6 averages and high figure, those were derived from an
7 exhibit or a document published by the U.S. Department
8 of Energy. And the Rocky Mountain Power data
9 calculations were derived from information provided by
10 Rocky Mountain Power.

11 Q. Okay. And you're referring, when you say to
12 an exhibit, it's your DPU Exhibit-14-3, SR., which is
13 page 35 of a Department of Energy report issued in July
14 of 2009; is that correct?

15 A. Yes.

16 Q. And did you read all of this report, Mr.
17 Peterson?

18 A. Cover to cover, no. I read -- I believe I
19 did review the relevant portions, though, that I was
20 concerned with.

21 Q. But when you take from page 35 -- well, let
22 me just ask you, what did you take from page 35? What
23 was the purpose of your including this as an exhibit?

24 A. The purpose was simply to show relative costs
25 reported in this exhibit versus what I was calculating

1 for the Wyoming wind projects of Rocky Mountain Power.

2 Q. Are you aware of the fact that later in the
3 report it specifically puts a disclaimer to all readers
4 that the figures contained are not to be taken as exact
5 in this report?

6 A. I was aware of that, and that's why I'm not
7 offering to make any adjustments based upon this
8 exhibit.

9 Q. And to be fair and to make a record here,
10 isn't it true that on page 56 of that same report that
11 your page 35 came from, under a section entitled
12 "Installed Project in Turbine Costs" there's a
13 statement, and I'll read it and certainly give it to
14 you if you need it to verify, "Because the data sources
15 are not equally credible, little emphasis should be
16 placed on individual project level data. Instead, it
17 is the trends in those underlying data that offer
18 insight." Is that a fair reading of that sentence?

19 A. Could you cite more precisely where on page
20 56 you're reading from?

21 Q. Sure. If I may approach the witness, Mr.
22 Chairman, I'll just show him --

23 CHAIRMAN BOYER: You may.

24 Q. -- make sure we're all on the same page in
25 the same report. Under "Installed Project Turbine

1 Costs" and beginning with "Because."

2 A. Yes, I believe you accurately read that
3 statement. I would also point out that in the -- that
4 similar, or essentially similar ideas were expressed in
5 footnote 37 on page 34 and also on the second full
6 paragraph on page 35 that starts: Sources of
7 transaction price data vary. So those were similar
8 ideas, I think.

9 Q. Specifically on page 33 of that same report,
10 looking at the last sentence of the first full
11 paragraph, doesn't it provide the data sources are
12 diverse, however, and are not all of equal credibility,
13 so emphasis should be placed on overall trends in data
14 rather than on individual project level estimates.

15 Isn't that also a fair reading of an
16 additional disclaimer of relying upon project-specific
17 costs in the Department of Energy report that you cite
18 to?

19 A. Yes, it is. I think we've -- all of us agree
20 that there is -- the data is what it is. The data are
21 what they are. And I do not find them compelling, as I
22 said in my surrebuttal testimony, and I do not offer or
23 recommend to make any adjustment based on this data.

24 MR. HICKEY: Okay. Thank you, Mr. Peterson.
25 I have nothing further.

1 I would offer -- could I just have a second
2 on a potential exhibit?

3 CHAIRMAN BOYER: You may.

4 MR. HICKEY: The matter of what I'll offer to
5 the Chairman of the Commission of good evidence, since
6 there's been a discussion of now three pages out of a
7 several page report, I would be glad to take my copy
8 home tonight and get an unmarked copy and offer it
9 tomorrow morning into the record as RMP RR Exhibit --
10 Cross Exhibit-3. And then the entire report is in the
11 record for whatever value beyond what I've done in
12 cross-examination it may have for your purposes, Mr.
13 Chairman.

14 CHAIRMAN BOYER: Let's -- if you would be
15 kind enough to provide copies for all of the other
16 counsel present as well.

17 MR. HICKEY: Sure.

18 CHAIRMAN BOYER: And then you can make your
19 motion in the morning. Mr. Proctor?

20 MR. PROCTOR: I'll state my objection in the
21 morning then too.

22 CHAIRMAN BOYER: Okay. Thank you, Mr.
23 Hickey. Mr. Proctor, have you questions?

24 MR. PROCTOR: No, thank you.

25 CHAIRMAN BOYER: Okay. Mr. Dodge, questions

1 of Mr. Peterson?

2 MR. DODGE: No questions.

3 MR. REEDER: No questions.

4 CHAIRMAN BOYER: Commissioner Allen? Well,
5 you dressed up for a very short appearance.

6 THE WITNESS: It was worth it.

7 CHAIRMAN BOYER: Thank you, Mr. Peterson.

8 So I -- let's talk for a moment about what
9 we'll do tomorrow. Now, Mr. Peterson is your -- is the
10 last witness you have prepared today, and Mr. Lasich is
11 a time certain witness, we won't hear from him until
12 tomorrow.

13 I see Ms. Ramos is here, but probably we
14 wouldn't have time to take her testimony anyway, unless
15 you wanted to get started on it.

16 MR. PROCTOR: No.

17 CHAIRMAN BOYER: Yeah, I didn't think so.
18 Okay, now, in the event that we finish early tomorrow
19 with the revenue requirement witnesses, would it be
20 your intention to proceed on the net power cost portion
21 of the cost?

22 MR. GINSBERG: No. I think the intention was
23 to wait until next week to do that part on cost. We
24 purposely did the schedule this way to fit everyone's
25 time constraints.

1 MR. REEDER: Are there any of the witnesses
2 that we'd like to state minimal or no cross-examination
3 on?

4 MR. GINSBERG: No, that, I don't know.

5 MR. HICKEY: I would agree with Mr.
6 Ginsberg's comments. Mr. Chairman, we have, especially
7 the time of year it was, tried to give the witnesses
8 dates certain, and for instance Mr. DuVall is not in
9 Salt Lake.

10 MR. GINSBERG: Our witness will not be here
11 until next week. I also don't believe the Committee's
12 witnesses will be here until next week either. So if
13 there were other some -- did you have somebody in mind?

14 MR. REEDER: Well, I was looking at your
15 witnesses. I can see several sitting in the audience.

16 MR. GINSBERG: Like who?

17 MR. REEDER: Abbey.

18 MR. GINSBERG: Who? Oh, he's on -- he is not
19 on that part.

20 CHAIRMAN BOYER: He's on cost.

21 MR. GINSBERG: So I think we've gone pretty
22 speedy.

23 CHAIRMAN BOYER: That's okay. I mean, we're
24 happy to have a breather and read our inbox before the
25 day is over.

1 Let me, first of all, congratulate or tell
2 you how much we appreciate the professional manner in
3 which you've all conducted yourself. We'll be in
4 recess until --

5 MR. GINSBERG: I'm sorry, the only other
6 witness is McGarry, who, you know, is scheduled for
7 tomorrow also.

8 CHAIRMAN BOYER: Right. We'll hear from
9 Witness McGarry tomorrow, then, as well. So, all
10 right. I thank you for conducting yourselves in a
11 professional manner. We'll be in recess until five, at
12 which time we'll hear from members of the public, if
13 any appear. Thank you all.

14 (Recess from 4:13 - 5:00 p.m.)

15 CHAIRMAN BOYER: Okay. Let's go back on the
16 record in Docket No. 09-035-23. This is the time and
17 place duly noticed for the hearing of testimony from
18 members of the public in this case, the aforementioned
19 docket, which is sometimes referred to as the current
20 rate case, the '09 rate case.

21 We have a list of witnesses who indicated a
22 desire to speak to us. Has anyone called in, Sharon?

23 SHARON: No.

24 CHAIRMAN BOYER: Okay, good. Let me just
25 explain a little bit of the protocol for those of you

1 who have come to testify before us. Thank you, first
2 of all, for coming and taking time away from your busy
3 schedules to talk to us.

4 You can either give sworn or unsworn
5 testimony during this proceeding today. If you give
6 sworn testimony, you stand the risk of being cross-
7 examined by counsel. They have the right to cross-
8 examine you if you give sworn testimony.

9 On the other hand, if you wish us to consider
10 your testimony in coming to our decision, the testimony
11 has to be sworn. So you can give unsworn or sworn, but
12 if you -- if it's sworn, we can rely on it, but you may
13 be cross-examined.

14 With that introduction, if anyone -- unless
15 anyone here has any questions, why don't we just begin
16 with Mr. Hogan.

17 MR. GARDNER: Mr. Hogan will want to be
18 sworn, and he's brought written copies of his testimony
19 too.

20 CHAIRMAN BOYER: Great. Thank you. Mr.
21 Gardner, are you going to be here representing him
22 or --

23 MR. GARDNER: No, I'll just sit and watch.

24 CHAIRMAN BOYER: Sit in the audience and
25 watch?

1 MR. GARDNER: Yes.

2 CHAIRMAN BOYER: Mr. Hogan, could I -- before
3 you sit down, could I have you stand and raise your
4 right hand.

5 (Leland J. Hogan was duly sworn.)

6 CHAIRMAN BOYER: Thank you, Mr. Hogan. We're
7 here and we're at your service, so...

8 LELAND J. HOGAN,
9 having been first duly sworn,
10 testified as follows:

11 THE WITNESS: To make this, I thought I would
12 just go through what I've handed out and read that as
13 testimony. And then if you had any questions of me, I
14 could go ahead and answer those.

15 CHAIRMAN BOYER: Okay.

16 THE WITNESS: My name is Leland J. Hogan.
17 I'm a farmer from Stockton, Tooele County, involved in
18 alfalfa hay production and a cow-calf cattle operation.
19 I also serve as chairman of the Pumpers Committee and
20 serve as Vice Chair of the Governor's Agriculture
21 Advisory Board.

22 Agriculture continues to be an important part
23 of Utah's history and our culture, while today
24 contributing around four billion in economic activity.
25 Utah and American Farmers and ranchers produce the

1 safest, most affordable and abundant food available in
2 the world -- in the world today.

3 Nationally, it is estimated about 16 percent
4 of jobs are tied back to production agriculture. Those
5 forward and backward linkages in transportation,
6 chemical processing, manufacturing, sales and so forth
7 are the catalyst of more than ten -- a hundred thousand
8 jobs in Utah.

9 With 89 percent of Utah identified as urban
10 residents and only 11 percent rural, those jobs related
11 to farming and ranching are vitally important to Utah's
12 rural communities for taxes, roads, schools, and other
13 infrastructure, and ultimately our overall quality of
14 life.

15 Unlike most sectors of the economy,
16 agriculture has historically, and continues to be,
17 unable to effectively pass along increased costs of
18 production to the consumer. Utah's agricultural
19 commodities are greatly influenced by prices sets in
20 national commodity markets.

21 This inability to effectively pass along
22 production costs is related to what the economists
23 refer to as ohgollobe (phonetically), a marketplace
24 where many sellers but few buyers.

25 Utah farmers and ranchers have found

1 themselves in a cost price squeeze, especially painful
2 in recent years as energy prices skyrocketed. Last
3 year's diesel prices hitting nearly \$5 per gallon
4 exacerbated the situation. Declining farm prices and
5 continuing high production input costs have the U.S.
6 Department of Agriculture estimating net farm income
7 will be down 20 percent in 2009.

8 Creditors and industries tied closely to
9 agriculture are running into difficulties. Most
10 analysts express concerns this financial crisis may
11 adversely impact America's future feed security.

12 Utah alfalfa growers are especially hard hit.
13 Demand for Utah's high-quality alfalfa hay has been
14 reduced by dairy farmers' milk prices that have
15 plummeted from more than \$20 per hundred weight in 2008
16 to around \$9 per hundred weight in 2009.

17 Utah, a state that understands the importance
18 of self-sufficiency, a decade ago had over 700
19 commercial dairy farms while today that number has
20 declined to around 250. Inability to recover costs of
21 production is responsible for much of the decline.

22 The general difficult economic conditions
23 have also contributed to reduced demand for alfalfa hay
24 and other small grains grown for livestock feeds.

25 Historically, the high-end horse market has helped prop

1 up livestock feed prices. Alfalfa prices in 2008
2 averaged 180 to \$200 per ton for high-quality Utah hay.
3 During 2009, reduced alfalfa hay demand, driven by cash
4 flow issues for Utah dairy farmers, has reduced alfalfa
5 hay prices as much as 50 percent, selling for 80 to
6 \$100 per ton.

7 Rocky Mountain Power Schedule 10 agricultural
8 pumpers are a very small part of the overall revenue
9 generated by the Company's service rates. Population
10 growth, economics, and regulatory challenges for
11 agriculture have challenged the dynamics of Utah -- of
12 the Utah marketplace for our limited natural resources,
13 land and water. The continued movement of these
14 resources from agriculture to municipal and industrial
15 use will challenge even maintaining Schedule 10 power
16 needs.

17 Looking at the higher -- at the larger
18 picture, it would be difficult to argue that farmers
19 and ranchers using Rocky Mountain Power electricity for
20 pumping has increased Rocky Mountain Power's generating
21 requirements and therefore demand for more power
22 plants. Agricultural power needs to produce food and
23 fiber does coincide with the Company's seasonal high
24 power demands, but pumpers are working with Rocky
25 Mountain Power to include interruptible service to help

1 ease demand during peak periods.

2 As we have been involved in this Rocky
3 Mountain Power in previous rate cases requests in
4 recent years, the issue for determining average power
5 load requirements for Schedule 10 irrigation pumpers is
6 difficult to asses. Farmers and ranchers face the
7 stress of the marketplace, the stresses of mother
8 nature. The issues of the marketplace have been
9 discussed.

10 For soil health, farmers have periodically
11 fallowed, or idled, their fields, providing -- provides
12 little, if any, demand for electricity. Cropping
13 choices affect pumping.

14 Small grains with lower water demand require
15 less power, while higher water demands -- demand crops
16 like corn and alfalfa requires more power. Thus,
17 inconsistency in commodities from a pumper power
18 requirement standpoint is further complicated by the
19 fact each summer is climatically different.
20 Temperature, wind, and moisture will be a large -- to a
21 large extent drive a pumper's water needs and therefore
22 demand for electricity.

23 Thanks for this opportunity to talk to you
24 today and -- relative to this case.

25 CHAIRMAN BOYER: Thank you, Mr. Hogan. We'll

1 ask the lawyers in the room if they wish to cross-
2 examine you. Ms. Hogle, have you any questions for Mr.
3 Hogan?

4 MS. HOGLE: I do not.

5 CHAIRMAN BOYER: Mr. Ginsberg?

6 MR. GINSBERG: No, sir.

7 CHAIRMAN BOYER: Mr. Proctor?

8 MR. PROCTOR: No.

9 CHAIRMAN BOYER: Commissioner Allen?
10 Commissioner Campbell?

11 Do you irrigate with circles, set line
12 irrigation, wheel line?

13 THE WITNESS: For many, many years we
14 irrigated with hand-moved lines. Now we irrigate with
15 circles to try and stretch our water and lower our
16 pumping costs, actually.

17 CHAIRMAN BOYER: And how many cuttings do you
18 get out there in Stockton?

19 THE WITNESS: We get -- we're colder than
20 Tooele and so we miss a crop because of that. We miss
21 two weeks in the spring and two weeks in the fall. So
22 we get about two-and-a-half crops, where in the Tooele
23 area they get about three-and-a-half crops.

24 CHAIRMAN BOYER: What proportion of your
25 expenses relate to electrical power?

1 THE WITNESS: At this point in time, probably
2 about 30 to 40 percent.

3 CHAIRMAN BOYER: With the rest being
4 equipment, fuel, fertilizer, seed, and all that stuff?

5 THE WITNESS: Yeah, all those other things.

6 CHAIRMAN BOYER: So it's a fairly big chunk
7 of your budget?

8 THE WITNESS: Yes, it is.

9 CHAIRMAN BOYER: Okay, great. Thank you very
10 much for coming, Mr. Hogan, appreciate it.

11 THE WITNESS: And thank you for your
12 consideration.

13 CHAIRMAN BOYER: You may be excused.

14 Jeff Edwards. Mr. Edwards, would you like to
15 give sworn testimony or --

16 THE WITNESS: I would like to give sworn
17 testimony, yes.

18 CHAIRMAN BOYER: Great. Well, please raise
19 your right hand.

20 (Jeff Edwards was duly sworn.)

21 CHAIRMAN BOYER: Thank you. Please be seated
22 and make your statement, if you'd like.

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JEFF EDWARDS,

having been first duly sworn,
testified as follows:

THE WITNESS: Thank you. Thank you for the opportunity to speak with the Commission this afternoon. As I stated, my name is Jeff Edwards. I'm president and CEO of Economic Development Corporation of Utah. And I'm here this afternoon to speak regarding economic development grants which are given by Rocky Mountain Power to our organization and what the benefits of those have been to our organization, as well as to the economy of Utah.

As I stated, I'll refer to ourselves as EDCU, if that's -- and our purpose, that we're a nonprofit corporation started more than 20 years ago with the express purpose of trying to create new jobs and new capital investment in the state.

And we do that through a very unique model of partnership. We were created in 1987 by five founding private entities as well as quite a number of cities and counties around the state with the purpose of having a unified effort, nongovernment effort, that could be applied to economic development over the long term, so as governors come and go, as mayors and city councils come and go, there's one organization that

1 represents and speaks on behalf of the State that is a
2 professional economic development organization. And
3 we've tried to live up to that partnership from the
4 beginning.

5 Because we're a public-private partnership,
6 we've funded by a blend of all of those entities, so
7 cities and counties all across the state provide
8 funding, and the funding is based on the size of the
9 communities, so it's based on population and tax
10 revenues, so cities -- the largest is Salt Lake County,
11 the smallest right now is Daggett County, so you can
12 imagine the span, but we ask for a proportional annual
13 contribution from each of those groups that provide
14 funding for what we do.

15 We do the same on the private side. So we've
16 got a collection -- and there are about 50 public
17 entities that support us, about 200 private entities
18 support us. And this ranges from the banks, law firms,
19 construction companies, the two major utilities, as
20 well as small businesses of all different varieties,
21 and we have about 200 of those, and so it's a very
22 interesting model of having a blended support base for
23 this whole operation.

24 In 2004, the State made the decision to
25 disband their national business office inside the DCD

1 at the time and create the GOED, Governor's Office of
2 Economic Development today. And funding was taken
3 from that model and given to the EDCU. That's also a
4 contribution of what we do. So now we do represent
5 both state, local, and private entities altogether
6 working in economic development.

7 So our day-to-day tasks are to try to go out
8 and recruit new businesses to the State, and much of
9 our effort is around that. In addition to that, we
10 also help with retention to keep the jobs that we
11 already have here in the State and help companies
12 expand and to grow here.

13 We've worked very closely with GOED in that
14 process, who administers the incentive programs, and we
15 really do believe in the idea that a project that
16 arrives here in Salt Lake County eventually benefits
17 everybody in the state, just as a project in St. George
18 benefits Logan and so on. If you take that large view
19 of the State's economy, in our vernacular we talk about
20 a rising tide floats all boats. That's the model that
21 we really ascribe to. And all the companies that
22 provide support for what we do follow that model as
23 well.

24 We're very fortunate that Utah Power, the
25 predecessor to Rocky Mountain Power, was a founding

1 member of our organization in 1987 and has remained a
2 very active and very strong contributor to what we are
3 doing. And in fact, in recent years they've provided
4 some economic development grants that have -- and they
5 have offered us office space in the One Utah Center
6 building, which they have a specific leasehold in, and
7 they provide a subsidy of about \$80,000 per year for
8 the office space that we actually share with Utah
9 Sports Commission, and my colleague, Jeff Robbins, from
10 the Utah Sports Commission is going to speak after me
11 to talk about the same.

12 But our total budget of about \$2 million,
13 with a 16-person staff, these development -- economic
14 development grants are a tremendous assistance to us as
15 we go about doing our business, and this, essentially
16 an in-kind contribution, from our perspective, has been
17 very important to us.

18 Part of that reason is that our job is, as
19 you can imagine, we are out looking and talking to
20 companies from all over the country, many times that
21 are coming to Utah when we can persuade them to come
22 out for a site visit who have never been to Utah
23 before, and having some premium, class A space, as we
24 have available in Utah One Center, I have to tell you
25 is a tremendously powerful recruiting tool. You can

1 walk in and get the view of the Salt Lake valley and
2 really get a sense for what we are as a community.
3 That's been a very important part of what we do.

4 Downtown access to downtown locations has
5 been very important, to be close to the governor's
6 office, to Rocky Mountain Power, for the Chamber, and
7 for the legal and financial community that we work with
8 all the time has also been very important.

9 Just to give you a feel for the impact that
10 our organization has had on the State's economy over
11 the last three years, if you can look back on the last
12 three years, we can attribute about 18,000 new jobs in
13 the State are directly attributable to our efforts,
14 along with an additional \$6 billion in capital
15 expenditures.

16 Just in the last year, 4,000 new jobs came in
17 in the last year through our efforts. If you think
18 about the national economy since last September,
19 everyone's aware of what's happened. We feel very
20 fortunate to have been in a position to help bring
21 these new jobs with an additional 1.6 billion in
22 capital investment.

23 Microsoft, Cephalon, eBay, there's quite a --
24 there are 27 new companies that arrived here last year
25 as part of our efforts.

1 So far this year since July 1, 1,200 new jobs
2 have already come into -- been announced, come to the
3 State, and that includes Edwards Life Sciences, which
4 is a new heart valve manufacturing operation which is
5 going to Draper City; Quality Bicycle Products, a very
6 well-known and well-respected recreational provider
7 building a new warehouse in Ogden; and O'Reilly Auto
8 Parts coming to Salt Lake City to deliver 250 new jobs
9 to Salt Lake City with auto parts distribution. And
10 these are the nature of the projects that we get
11 involved with many times that adds net new payroll to
12 the State.

13 So I guess looking at it through the lens of
14 the Public Service Commission, I would say that in
15 terms of benefits to rate payers about what the subsidy
16 that -- the grants that Economic -- that Rocky Mountain
17 Power provides to us, we're about creating new jobs
18 and about creating new jobs for the people of Utah.
19 And in addition to that, one of our stated goals is
20 also to try to raise the wages in the State. Utah, as
21 you may know, for many years ranked in the bottom
22 portion of the country in terms of net wages to
23 families. One of our goals is to bring in not just
24 jobs but high-paying jobs that can provide living wage
25 for communities, so that's been an important part of

1 that as well.

2 And frankly, too, we're all about trying to
3 bring in new industry to the State, which helps us to
4 expand the rate base and helps us move that forward and
5 helps to -- help grow the utility, and I think in a
6 healthy way over, or we come to that perspective, so...

7 That concludes my prepared remarks. I'd be
8 happy to take any questions or comments.

9 CHAIRMAN BOYER: Thank you, Mr. Edwards. Ms.
10 Hogle, have you questions for Mr. Edwards?

11 MS. HOGLE: I do not.

12 CHAIRMAN BOYER: Mr. Ginsberg?

13 MR. GINSBERG: No.

14 CHAIRMAN BOYER: Mr. Proctor?

15 MR. PROCTOR: No.

16 CHAIRMAN BOYER: Commissioner Allen?
17 Commissioner Campbell?

18 COMMISSIONER CAMPBELL: I'll just ask one. I
19 think it's -- the issue before us clearly is not the
20 value that your organization provides this state. The
21 issue is one of fairness. And I guess the question is
22 do -- well, Rocky Mountain Power provides about 75
23 percent of the power in the State, and so the question
24 is do you receive monies also from municipal power
25 agencies, like Murray City Power, Provo City Power, and

1 so forth?

2 THE WITNESS: We do. The UMP organization is
3 a very active and a financially contributing member of
4 our organization that provides, I guess I'd say a
5 proportionate level of support for Rocky Mountain
6 Power, yes.

7 CHAIRMAN BOYER: I just have a question or
8 two, Mr. Edwards.

9 THE WITNESS: Sure.

10 CHAIRMAN BOYER: Based on your experience and
11 expertise, what role does the fact that Utah has
12 relatively low utility rates play into your activities
13 in retaining and attracting new business? Is that a
14 factor?

15 THE WITNESS: It certainly is, and especially
16 for industrial users, as you -- as you can imagine,
17 that's a very attractive part of what we have to offer.
18 And I recognize the efforts of this Commission over
19 many years to work consistently on reducing the retail
20 and wholesale cost of electricity to users because
21 that's certainly been an economic benefit for the
22 State.

23 On the converse of that, though, I do believe
24 there are some items, and this is a relatively small
25 one, of course, in the big picture of things, but

1 something that does provide a very widespread benefit
2 to all citizens of the State equally -- I wouldn't say
3 equally, but certainly in a fair way to you,
4 Commissioner, about that. We service both Wasatch
5 Front, rural communities, every place across the State
6 we work and try to bring the right kind of opportunity,
7 and sustainable. And by that, I mean economic projects
8 that could land in a rural community and that could be
9 sustained over a long time and create new jobs and so
10 on. That's really what we're trying to do.

11 Sorry, I'm going on too long.

12 CHAIRMAN BOYER: No, that's fine. Thank you
13 for that answer and for your testimony. Thank you for
14 coming today.

15 THE WITNESS: You're welcome.

16 CHAIRMAN BOYER: We appreciate it very much.

17 THE WITNESS: You're welcome. Thank you.

18 CHAIRMAN BOYER: You're excused.

19 Mr. Robbins, spelled with two Bs, correct?

20 THE WITNESS: Two Bs, correct.

21 CHAIRMAN BOYER: His name is Jeff Robbins.

22 Mr. Robbins, do you wish to give sworn or unsworn
23 testimony?

24 THE WITNESS: It can be sworn, that's great.

25 (Jeff Robbins was duly sworn.)

1 CHAIRMAN BOYER: Thank you. Please be seated
2 and...

3 JEFF ROBBINS,
4 having been first duly sworn,
5 testified as follows:

6 THE WITNESS: Thank you. I apologize, I have
7 a little bit of a cold. I assure you it's not H1N1
8 type, but I'm almost over it, so I'm a little bit
9 hoarse.

10 Like Jeff Edwards, my colleague, we receive
11 approximately \$18,000 in support at the Utah One Center
12 for our office space. We share contiguous space with
13 the Economic Development Corporation of Utah, and
14 they've been terrific partners.

15 And a little bit about the Utah Sports
16 Commission. If I'm able to, I'd like to just provide
17 you one document that will give you a little more
18 information in case you might not have that
19 information.

20 CHAIRMAN BOYER: Yes, thank you.

21 THE WITNESS: We were created by Governor
22 Leavitt prior to the Olympics back in about 2000, and
23 the purpose was to continue on with our Olympic legacy
24 and also create the Olympic legacy and use it for sport
25 development. We currently have a board of directors

1 that is made up of community loaders. The Governor is
2 on our executive people, people like Mr. Eccles and
3 Sorenson. And the express purpose is to take sports
4 and enhance the economy of the State of Utah and the
5 image of Utah, again to enhance our economic vitality.

6 So this is something we prepared to take to
7 some of the Olympic activities last year and it gives
8 you an overview of the some of the things that we've
9 been involved in since the Olympics. And of course the
10 Olympics, because of the infrastructure, all of the
11 funding that went into the Olympics and infrastructure
12 that was created we wanted to leverage that. There are
13 significant assets that remain here from the Olympics.
14 But also, take new assets that have been created. Many
15 people don't know Miller Motor Sports Park is a hundred
16 thousand dollar sports park, having world-class
17 facilities, the University's Energy Solutions arena.
18 We have events that we've held in 26 cities. We've
19 been involved in over 350 sporting events. The
20 economic impact of those sporting events, from our
21 estimates at the University of Utah, is approaching a
22 billion dollars. We've had about a hundred million
23 dollars in image building that we've used those
24 sporting events for. And we've been involved in
25 projects that have created over 40,000 jobs. It's

1 brought in about 50 million in tax revenue to the State
2 of Utah, according to the estimates we had from the
3 University of Utah through the efforts we've been
4 involved in.

5 And of course at all of these major sporting
6 events partnerships are key, and partnerships like
7 PacifiCorp, Zions Bank, I mean, there are a number of
8 groups that have been participating with us to try to
9 help us in this endeavor. So the partnership we have
10 with PacifiCorp, Rocky Mountain Power, Utah Power back
11 when we started this relationship, have been key to
12 allowing us to leverage resources.

13 Most of the major events we're involved in
14 are events that you have to go out and attract, not
15 unlike the major businesses that Mr. Edwards is
16 attracting. And so from World Cup events you'll see on
17 TV to major action sports events that you'll see, motor
18 sports events going on at Miller Motor Sports Park,
19 Ironman that you may have seen announced, those kinds
20 of events we're involved in.

21 And certainly this enhancement to the tax
22 revenue base of the State of Utah, helping us create
23 jobs and helping us brand our state to those outside
24 that want to have -- relocate I think has been a
25 tremendous effort by many, so we call it Team Utah.

1 But again, my testimony is the importance of
2 these partnerships. While 18,000 a year in helping us
3 offset some of our subsidy doesn't sound like a lot,
4 when we go out and get a major event, there's some of
5 the events that we bring in that are 15, \$20,000 in
6 funding we have to provide to get that event, so that's
7 the amount that some of these events will cost us.

8 But again, the partnership we've had with
9 Rocky Mountain Power, Utah Power, has been tremendous
10 over the years. It's been helpful to us at the state
11 of Utah, and we continue to do a lot of great things in
12 the sport development. And I think many that you would
13 talk to outside the State of Utah view Utah as --
14 probably as successful as anyone in the world that's
15 hosted the Olympics at doing things post Olympics, and
16 it's a story that perhaps we haven't told as much
17 locally as we should, but I think nationally and
18 internationally you'll see that.

19 So again, on behalf of the Sports Commission,
20 we certainly appreciate the partnership that we've had
21 and the small subsidy we do get for office space, that
22 has been very, very important to us.

23 CHAIRMAN BOYER: Great. Thank you, Mr.
24 Roberts. Ms. Hogan, have you -- Hogle, do you have any
25 questions

1 MS. HOGLE: I have no questions.

2 CHAIRMAN BOYER: -- for this witness? No?
3 Mr. Ginsberg?

4 MR. GINSBERG: No.

5 CHAIRMAN BOYER: Mr. Proctor, no?

6 MR. PROCTOR: No.

7 CHAIRMAN BOYER: No questions, okay.

8 Do you have any involvement in Real, in
9 attracting Real?

10 THE WITNESS: Well, we did actually after the
11 Olympics, probably a story we should have told more, we
12 were actually involved in bringing major league soccer
13 to Utah, before Mr. Checketts was involved, with the
14 prior owner. And -- and so we brought the
15 commission in, introduced them to back then Governor
16 Walker and worked -- there were some meetings and some
17 caucuses where in the initial stages those discussions
18 were had and studies done, which confirmed they felt
19 this was a great place. And then Mr. Checketts came in
20 about a year later. So we have a strategic plan, and
21 that was one of the -- one of the things that we felt
22 was important for the State of Utah to expand into
23 because there's only so many world events you can hold,
24 so to expand into these other opportunities we felt was
25 a growth opportunity for the State.

1 CHAIRMAN BOYER: They've certainly done a
2 great job, had a great year this year. Well, thank you
3 very much, Mr. Robbins, for coming and for the
4 information you've given us.

5 THE WITNESS: Thank you.

6 CHAIRMAN BOYER: Okay. We have no other
7 members of the public who wish to testify, so -- but we
8 have committed to keep the one hour open, so we'll be
9 in recess until the earlier of, somebody from the
10 public coming in and wanting to speak to us, or six
11 o'clock, at which time we'll come in and conclude the
12 hearing for today.

13 Thank you all for participating, and
14 particularly you, Mr. Edwards, and Mr. Robbins.

15 (Recess from 5:26 - 6:00 p.m.)

16 (The hearing adjourned at 6:00 p.m.)

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REPORTER'S HEARING CERTIFICATE

State of Utah)
 : ss.
County of Salt Lake)

I, Angela L. Kirk, a Registered Professional Reporter and Certified Court Reporter in and for the State of Utah, do hereby certify:

That prior to being examined the witnesses were duly sworn to tell the truth, the whole truth, and nothing but the truth;

That said proceedings were taken down by me in stenotype on December 7, 2009, at the place herein named, and was thereafter transcribed, and that a true and correct transcription of said testimony is set forth in the preceding pages.

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 at Salt Lake City, Utah
this 11th day of December, 2009.

Angela L. Kirk, RPR, CCR