

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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In the Matter of: The ) TRANSCRIPT OF HEARING  
Application of Rocky Mountain ) VOLUME II  
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 Schedule and Electric )  
Service Regulations )

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Tuesday, December 8, 2009 - 9:00 a.m.

Location: PUBLIC SERVICE COMMISSION  
160 East 300 South  
Fourth Floor, Room 403  
Salt Lake City, Utah 84111

Before: Chairman Ted Boyer  
Commissioner Ron Allen  
Commissioner Ric Campbell

Docket No. 09-035-23

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December 08, 2009; 9:00 a.m.

P R O C E E D I N G S

CHAIRMAN BOYER: I'm going on the record in Docket No. 09-035-23, the revenue requirement portion of hearings today.

Mr. Hickey, do you have something in mind?

MR. HICKEY: I do, Mr. Chairman. In follow-up to something we talked about yesterday afternoon, you will recall during my examination of DPU witness, Mr. Peterson, he had used one page of a report as an exhibit in his testimony. And I used an additional page or two in my cross-examination of him and offered to provide to the Commission and the parties the complete report.

I have it marked as RMP-RR Cross Exhibit 3. And it is the 2008 Department of Energy and Wind Technologies Market Report. And to complete our record, I'm going to offer it into the record at this time.

MR. GINSBURG: I see no reason why the entire report should go into the record even though it is a governmental document. The reference that is in the cross-examination is in the record. And the reference of Mr. Peterson is in the record. I don't see what it adds to the record by offering in the entire document.

CHAIRMAN BOYER: Are there any other objections to the admission of the report?

1           MR. PROCTOR: Yes, Mr. Chairman, I would have. Under  
2 the Commissions Rules of Evidence in the Rule 746110 and  
3 subsection F, the Commission certainly is not bound by the  
4 tentative rules of evidence, but non-probative, irrelevant and  
5 unduly repetitious evidence certainly may be excluded. Now  
6 this is irrelevant, I think, in its entirety. But certainly,  
7 the one page that Mr. Peterson referred to would be  
8 appropriate.

9           But if you'll recall, counsel pointed out that the  
10 report itself -- described himself as unreliable and using  
11 estimates and so forth. And so to the extent that it reflected  
12 that Mr. Peterson was using information that the source itself  
13 felt was not complete or are not reliable, that's on the  
14 record. There is no reason whatsoever to then, as counsel  
15 stated, put the balance of the record 50 pages -- some 50 pages  
16 to -- for what it's worth. That's not evidence. That's just  
17 loading up the Commission's records with miscellaneous  
18 non-probative information.

19           So I would agree with Mr. Ginsburg, it's there. But  
20 the balance of the record, the whole of the record, I just  
21 think that's absolutely inappropriate. It's irrelevant.

22           CHAIRMAN BOYER: Anyone else want to speak against  
23 it?

24           MR. HICKEY: I don't want to take much more time on  
25 it. We certainly appreciate Mr. Proctor's reinforcing the

1 points I hope were made during cross-examination about the  
2 unreliability of the report. But to the extent it has value to  
3 you as a Commission, is why I made the effort to have the  
4 copies made. I think as a matter evidence in general, if you  
5 are going to take pages out of a report, the responsible  
6 lawyering requires that you at least make it available. And  
7 that was what our goal was. It's clearly up to you,  
8 Mr. Chairman, on whether you want it in the record. If you do  
9 it's here and it's been offered. If you don't want it we  
10 understand and we'll take it back.

11 CHAIRMAN BOYER: Thank you, Mr. Hickey.

12 Well, in view of the fact that references were made  
13 to various portions of the report during cross-examination, we  
14 are going to admit it into evidence. And we'll give it  
15 appropriate weight.

16 MR. HICKEY: Thank you, Mr. Chairman.

17 I have one other brief item and I just -- occurs to  
18 us without the court reporter, I guess, it would occur anyway  
19 with this internet broadcast or live stream of the proceedings.  
20 I'm just wondering out loud how to handle the confidentiality  
21 issues that typically we would just see that everybody signed a  
22 nondisclosure agreement and seal portions of the transcript. I  
23 have never asked an administrative body how to handle a live  
24 stream of --

25 CHAIRMAN BOYER: It's sort case of first impression



1 for us, too. If you could give a hindsight when you come to  
2 confidential information we'll cease -- we'll interrupt this  
3 streaming for that portion of the time. What we have done in  
4 the past in the hearing is verify everyone has signed a  
5 protective order, if not, we excuse them from the room.

6 And that brings up another point that Mr. Campbell  
7 raised earlier. In as much as we don't have a reporter here  
8 and we are recording digitally, we would ask that everyone who  
9 is speaking in their due course, of course, to speak clearly  
10 and into the microphone so that we can pick up everything. And  
11 the reporter has promised that she will make the transcript  
12 from the recording.

13 MR. GINSBURG: I guess that's why I was thought it  
14 was important that the Commission have some of these documents  
15 in front of them so that -- and maybe when Mr. Lasich is on he  
16 can tell us what some of -- the entire document is in yellow,  
17 I'm sure not all parts of it are confidential.

18 CHAIRMAN BOYER: That's a good suggestion,  
19 Mr. Ginsburg.

20 MR. GINSBURG: We will be prepared to look at the  
21 prefiled testimony.

22 CHAIRMAN BOYER: Thank you for that suggestion,  
23 Mr. Ginsburg. With that shall we proceed with the matter at  
24 hand? Are we going to hear from Mr. Lasich?

25 MR. HICKEY: Rob Lasich is our next witness.

1 Rob, if you would please come forward and be sworn.

2 CHAIRMAN BOYER: Mr. Lasich, please raise your right  
3 hand.

4 (Whereupon Mr. Lasich was duly sworn.)

5 THE WITNESS: Good morning, Mr. Hickey.

6 \* \* \*

7 ANTHONY ROBERT LASICH JR,

8 Having been duly sworn,

9 is examined and testifies as follows:

10 \* \* \*

11 DIRECT EXAMINATION

12 BY MR. HICKEY:

13 Q. Can you please state your name, your business address  
14 and your current position with Rocky Mountain Power PacifiCorp  
15 Energy for the record?

16 A. My name is Anthony Robert Lasich Jr. My business  
17 address is 1407 West North Temple, Suite 320 in Salt Lake City,  
18 zip code 84116. I'm currently the president of the PacifiCorp.

19 Q. Mr. Lasich, have you had the opportunity to file  
20 direct rebuttal and surrebuttal testimony in this case?

21 A. Yes, I have.

22 Q. And is there attachment ARL-1 to your direct  
23 testimony and ARL-1R through ARL-3R to your rebuttal testimony?

24 A. Yes, there is.

25 Q. Do you have any additions or corrections that you

1 wish to make to any of those testimonies?

2 A. Yes, I do. I have one correction to make to my  
3 rebuttal testimony. As in response to Mr. McGarry's  
4 surrebuttal testimony, he correctly pointed out that I had  
5 incorrectly not calculated the value of the Electric Lake  
6 settlement. In my testimony I refer to the value of that  
7 settlement as \$21 million. The proper amount really should  
8 reflect \$13 million, which is the net of the carrying costs of  
9 the coal inventory.

10 Q. Could you please reference the page and line that  
11 you're changing as a result of that correction?

12 A. Yes. It is -- excuse me, page 5 line 95.

13 Q. And to share this correction in some detail with the  
14 parties in the case, do you know whether or not Rocky Mountain  
15 Power has prepared a revised response to DPU data 65.2?

16 A. Yes, we have.

17 Q. And is it your understanding that I have shared that  
18 with counsel for all the parties this morning?

19 A. Yes, I understand you have.

20 MR. HICKEY: And I apologize to Mr. Dodge, that I  
21 didn't get yours distributed before we began and I just missed  
22 you as you came in.

23 MR. DODGE: No problem.

24 Q. (BY MR. HICKEY) Are there any other additions or  
25 corrections that you have made to any of your prefiled

1 testimony, Mr. Lasich?

2 A. No, there are not.

3 Q. Have you had an opportunity to compare a summary of  
4 your testimony?

5 A. Yes, I have.

6 Q. Are you prepared to give it at this time?

7 A. Yes, I am.

8 CHAIRMAN BOYER: Mr. Hickey, do you move for the  
9 admission of Mr. Lasich's testimony at this time?

10 MR. HICKEY: I do, thank you. Mr. Chairman, at this  
11 time I move for the admission into evidence of the direct  
12 rebuttal and surrebuttal testimony of Mr. Robert Lasich,  
13 together with the core referenced attached exhibits.

14 CHAIRMAN BOYER: Are there any objections to the  
15 admission of Mr. Lasich's prefiled direct and rebuttal  
16 testimony of Mr. Lasich?

17 MR. GINSBURG: No, there are not.

18 Q. (BY MR. HICKEY) Have you had an opportunity to  
19 prepare a summary of your testimony?

20 A. Yes, I have.

21 Q. Are you prepared to give it at this time?

22 A. Yes, I am.

23 CHAIRMAN BOYER: Mr. Hickey, do you wish to move for  
24 admission of Mr. Lasich's testimony at this time?

25 MR. HICKEY: I do. Thank you, Mr. Chairman. At this

1 time I move for the admission into evidence of the direct,  
2 rebuttal, and surrebuttal testimony of Mr. Robert Lasich  
3 together with the before mentioned exhibits.

4 CHAIRMAN BOYER: Are there any objections to the  
5 admission of Mr. Lash's prefiled direct and rebuttal testimony  
6 being entered as exhibits?

7 Seeing none they are admitted.

8 MR. HICKEY: And surrebuttal.

9 CHAIRMAN BOYER: And surrebuttal.

10 Q. (BY MR. HICKEY) Mr. Lasich, I believe you can proceed  
11 with the summary.

12 A. Good morning, Chairman Boyer. Good morning  
13 commissioners Campbell and Allen. Thank you for the  
14 opportunity to appear to here this morning and to give a  
15 summary of my prefiled direct, rebuttal, and surrebuttal  
16 testimony.

17 The purpose of my prefiled direct testimony is to  
18 address the prudence of Rocky Mountain Power's \$57.3 million  
19 investment in the McFadden Ridge One Wind Power Generation  
20 Plant, which generation resource was developed consistent with  
21 the Company's generated resource plan. The parties to this  
22 case, as reflected in their respective testimony, agree with  
23 Rocky Mountain Power that the McFadden Ridge One Wind Plant is  
24 a prudent investment.

25 Wind power generation plant with a capacity of 28.5

1 megawatts will benefit Utah customers by providing zero  
2 incremental fuel costs source and provides a multi-shafted  
3 generational resource which diversifies the impact of  
4 individual generator outages. In addition to the inclusion of  
5 the 57.3 million in rates associated with the capital costs of  
6 the wind plant, the Company requests recovery of the associated  
7 operations and maintenance expense with wind plant in the  
8 approximate value of \$.5 billion.

9           The parties to this proceeding have not challenged  
10 the prudence of either of these expenditures. Furthermore, in  
11 my prefiled direct testimony I discussed four categories of  
12 additional capital investments in generation projects, which  
13 will be placed in service between the historical based period  
14 and the test period ending June 30th 2010.

15           Collectively, these projects total \$550,000,000 --  
16 excuse me, and fall under four major categories. Environmental  
17 plan projects, hydro relicensing implementation projects,  
18 turban upgrade projects, and repair and replacement projects.  
19 All of these capital expenditures are responsible and prudent  
20 and necessary for the Company to maintain the overall  
21 reliability of its aging generation fleet resources to serve  
22 our customers.

23           Because the Company generation resources produce  
24 energy at a lower cost than the market cost of replacement  
25 energy, customers are receiving the benefit of these

1 investments as evidenced by Rocky Mountain Power having some of  
2 the lowest retail electric service rates in the Western United  
3 States.

4 I would like to next proceed to summarize my rebuttal  
5 testimony. I know in doing so that there have been a number of  
6 areas of agreement between the Company's position and that of  
7 the other parties. Specifically, we are in agreement with  
8 Division of Public Information's witness, Dr. Zenger, that the  
9 McFadden Ridge One Wind Generation Power Plant is a prudent  
10 investment.

11 In addition, we agree with Dr. Zenger that the cost  
12 of approximately \$57.3 million should be used for rate making  
13 purposes for the McFadden Ridge One Wind Plant.

14 Additional agreements exist with the testimony of  
15 UAE intervention witness, Mr. Higgins, that the Company's  
16 forecast for the High Plains Wind Power Generation Plant of  
17 \$236.4 million should be used for rate making purposes. I  
18 would also note as a result of our surrebuttal testimony in  
19 response to the Division of Public Utilities' witness,  
20 Mr. Peterson, the Company and the Division of Public Utilities  
21 are in agreement that no disallowance should be taken either  
22 for the Rolling Hills Wind Power Generation Plant or the High  
23 Plains Wind Power Generation Plant, as both plants have been  
24 additionally proposed by Mr. Peterson to have a disallowance.

25 Having known of these areas of agreement, that are

1 areas of disagreement that I wish to focus upon and address in  
2 the remainder of my summary. I disagree with Dr. Zenger  
3 regarding the Division of Public Utilities' position that all  
4 future wind development projects should have disallowances  
5 associated with the estimated contingency costs. As is true in  
6 any substantial construction project, contingency costs are  
7 known to exist because of the inherent uncertainties associated  
8 with developing projects of the magnitude and scope of these  
9 types of blindside generation resources.

10 I note in my rebuttal testimony that industry  
11 standards and practice have long enforced the appropriateness  
12 of including such contingency funds. I also take issue with  
13 the Division of Public Utilities' witness, Mr. McGarry's  
14 proposed disallowance of company's fuel stocks. Mr. McGarry  
15 suggests that a disallowance of \$57.1 million of the Company's  
16 fuel stock should be taken, in part, based upon his  
17 interpretation of the Company's inventory policy.

18 Setting aside our disagreement over the issues  
19 associated with Mr. McGarry's calculation of the average  
20 inventory level and the use of the appropriate consumed coal  
21 data, the real issue regarding the fuel inventory judgment  
22 processed by Mr. McGarry, is whether or not the  
23 1.5 million tons of additional coal acquired by the Company  
24 from Arch Coal Inc. pursuant to the Electric Lake settlement  
25 was in the best interest of our customers.



1           The Company's position is that the accusation of this  
2 coal as part a legal settlement was reasonable and prudent at  
3 the time it was executed in February of 2008. I am very  
4 familiar with the terms of the Electric Lake settlement because  
5 I happened to be the general counsel for PacifiCorp Energy at  
6 the time and was directly involved in negotiating the  
7 settlement.

8           It was the right decision to settle the dispute at  
9 that time. And with the passage of the time, the value of that  
10 settlement and its reasonableness has only been highlighted.  
11 When you compare the carrying cost of the coal, which can be  
12 fairly quantified at \$8.6 million against the substantial  
13 discount relative to the market price of the coal, roughly  
14 \$21 million, the net benefit of \$13 million accruing to  
15 customers is apparent.

16           I end my summary by asking this Commission to approve  
17 the Company's request for \$53 million in prudent and reasonable  
18 costs. We need to recover these costs to continue to meet our  
19 customers' request for reliable electric service by making  
20 sound longterm investments like the McFadden Ridge One Wind  
21 Plant and reinvesting in our existing generation facilities so  
22 our customers and the Company are not subjected to increasingly  
23 risky market energy purchases.

24           For the Office of the Consumer Services to suggest  
25 that the rate should be reduced and for the Division of Public

1 Utilities to suggest that the Company should only recover  
2 one-third of the required revenue, is in my judgment,  
3 unjustified. As president of the PacifiCorp Energy and the  
4 person ultimately responsible to ensure that we have sufficient  
5 and reliable generation resources to serve our customers'  
6 needs, I am very familiar with the costs needed to develop and  
7 operate our generation facilities.

8 The Company cannot continue to provide longterm  
9 reliable power supply and costs to the ability to our customers  
10 without rate relief. Thank you, Mr. Chairman, members of the  
11 Commission, for your consideration. I will be glad to take any  
12 questions at this time.

13 CHAIRMAN BOYER: Thank you Mr. Lasich.

14 MR. HICKEY: Mr. Chairman, Mr. Lasich is available  
15 for cross-examination.

16 CHAIRMAN BOYER: Thank you. Let's begin with  
17 Mr. Ginsburg for cross-examination.

18 MR. GINSBURG: Thank you.

19 CROSS-EXAMINATION

20 BY MR. GINSBURG:

21 Q. Good morning, Mr. Lasich.

22 A. Good morning.

23 Q. When did you take over your responsibilities as  
24 president to the counsel?

25 A. February of '08, general counsel. I took over office

1 of the president in August of 2007.

2 Q. So when you said February of '08 the settlement was  
3 reached, you were already president?

4 A. Correct. I'm sorry, I misspoke. I believe the  
5 settlement was February 2007.

6 Q. So the Arch settlement was in February 2007. And  
7 when did the Company start the -- these additional supplies of  
8 coal at the Hunter Plant?

9 A. I'm sorry, Mr. Ginsburg, let me back up. I was  
10 president in August 2007. The actual execution date of the  
11 Arch Settlement, I believe I was correct, February 2007.

12 Q. February 2007?

13 A. Correct.

14 Q. And when --

15 A. And I'm sorry and you asked when did we start.

16 Q. When did the inventory start going up at these  
17 plants?

18 A. We started to receive supplies in March of 2008.

19 Q. It reached it's current level some time in 2008 or  
20 2009, you say a 1504 days. Is that confidential?

21 A. It is. And I'm not familiar when you say current  
22 so...

23 Q. Current as of which date? The other one that you  
24 mentioned is West Ridge. Can you describe what that is?

25 A. West Ridge -- my testimony I described additional

1 purchases that we have made from the West Ridge Mine, which is  
2 a mine operated by Murray Energy Cooperation.

3 Q. And how much of the -- those are additional supplies  
4 that are going to the -- which plant?

5 A. Those additional supplies go to serve our Hunter and  
6 Huntington facilities, particularly our Hunter facility.

7 Q. So if we look at your exhibit to your rebuttal  
8 testimony that has -- where you basically take Mr. McGarry's  
9 suggested -- his calculated coal inventory levels at the plants  
10 and making poor adjustments. Do you know which one I'm talking  
11 about?

12 A. Could you give me a specific reference?

13 Q. Unfortunately, it does not have an exhibit number on  
14 it. And it says "Table One Corrections to the DPU Fuel Stock  
15 Analysis."

16 A. That would be Rocky Mountain Power ARL-1R. Is that  
17 the correct exhibit?

18 Q. Yes, thank you. Is this exhibit confidential?

19 A. Yes, it is.

20 MR. HICKEY: Mr. Chairman, whatever you had suggested  
21 earlier seemed reasonable to us about how to protect the public  
22 aspects of this broadcast from this confidential information.

23 CHAIRMAN BOYER: It's been filed on white paper so  
24 I'm not sure that it is --

25 MR. HICKEY: I will stand corrected, if I need to be.

1 All right. I stand corrected, Mr. Chairman, it's not --

2 CHAIRMAN BOYER: Let's be diligent on this. I notice  
3 that Mr. Ginsburg's is on a yellow sheet.

4 MR. GINSBURG: It's on white, too. It wasn't marked  
5 confidential.

6 CHAIRMAN BOYER: We'll just try to be diligent then  
7 for confidential information. Then we'll take the appropriate  
8 steps at that point.

9 Please proceed.

10 Q. (BY MR. GINSBURG) If we look at the day burn  
11 inventory, the last portion of the exhibit. Do you see that?

12 A. I'm sorry, sir, I did not hear you.

13 Q. If you -- I'm referring to the burn inventory that it  
14 lists the three plants.

15 A. Okay, the second from the bottom. Yes?

16 Q. Right. Day burn. If you show that the day burn  
17 inventory for Hunter Plant is 157 days; is that correct?

18 A. Correct.

19 Q. And you arrived at that number by four corrections  
20 that you have made to Mr. McGarry's day burned inventory  
21 (inaudible)?

22 A. Correct.

23 Q. Now, I would like to ask you about a couple of items.  
24 Well, first, is that date burn inventory made up of both the  
25 Arch Mine settlement and the West Ridge additional supplies?

1 A. Yes, that would be inclusive of all supplies.

2 Q. And in your testimony on line 114 of your rebuttal --  
3 are you there?

4 A. Yes.

5 Q. You made some indications that these inventory levels  
6 at these levels is -- tend to be permanent; is that correct?

7 A. I believe my testimony is, there are no plans to  
8 reduce Utah plants level below the test year levels.

9 Q. So does that mean that for the indefinite future  
10 these levels could be included to rate payers?

11 A. Indefinite is a long time. I can't make that  
12 commitment. But certainly, we do not with the Electric Lake  
13 Settlement receipts from Arch running through September 2010,  
14 we do not anticipate our current coal level inventories to be  
15 reduced through 2011.

16 Q. That's all the further out you carry this issue that  
17 those inventory levels will stay at the specific level?

18 A. No, I'm just saying that the Electric Lake settlement  
19 receipts run through the end of December 2010 and through --  
20 into 2011.

21 Q. You provided no direct testimony on the subject of  
22 the increased coal inventory levels, did you?

23 A. No, I filed rebuttal testimony in response to  
24 Mr. McGarry's raising the issue.

25 Q. In fact, the only testimony that even addressed the

1 increase in coal inventory level was a paragraph in  
2 Mr. McDougal's testimony?

3 A. Subject to check, I would accept that.

4 Q. If we could first turn to your -- the correction you  
5 made today -- in fact, why don't we make the data request an  
6 exhibit? Is this confidential?

7 A. It's marked that way. I don't know.

8 MR. GINSBURG: Let's get it marked. And then perhaps  
9 with respect to this exhibit -- it's marked confidential.

10 MR. PROCTOR: I understand it but it was handed out  
11 on white paper. So I'm not sure -- maybe some portion.

12 CHAIRMAN BOYER: If there is a question,  
13 Mr. Ginsburg, why don't you just refer to a line and a column.  
14 Thank you. How do you wish this to be marked?

15 MR. GINSBURG: Well, what number are -- DPU Cross  
16 Exhibit -- what would be next?

17 MR. HICKEY: Mr. Chairman, in response to  
18 Mr. Ginsburg, the information is confidential because there is  
19 price specific information regarding the coal and we will  
20 research this over the noon hour on this readvised data  
21 request.

22 CHAIRMAN BOYER: Very well. Thank you. And  
23 Mr. Ginsburg has just assured us that he will refer to the  
24 lines and columns without mentioning the numbers.

25 MR. GINSBURG: Without mentioning the numbers.

1           CHAIRMAN BOYER:  And without the reporter here I  
2  can't remember where we left off on the cross.

3           THE CLERK:  I believe it's two.  It's two.

4           CHAIRMAN BOYER:  Okay.  We are marking that as DPU  
5  Cross Exhibit 2.

6           MR. GINSBURG:  Thank you.

7           Q.  (BY MR. GINSBURG)  Mr. Lasich, do you have in front of  
8  you what is marked as DPU Exhibit 2?

9           A.  Yes, I do.

10          Q.  And is this the information that you referred to in  
11  your summary of a correction that made to -- at DPU data  
12  response 65.2?

13          A.  Yes, it is.

14          Q.  Now, maybe I'm -- this number of 8.6 million, you put  
15  that on the record because that number is are not confidential,  
16  is it, the carrying charge?

17          A.  Yes, I did.  And they are included as part of my  
18  summary.

19          Q.  So what on this exhibit is confidential?

20          A.  The contract price information would be confidential.

21          Q.  Okay.  The carrying charge number, so you calculated  
22  the carrying charge for three years; is that correct?

23          A.  Yes.  Approximately from March 2008 through December  
24  of 2010.

25          Q.  And does the carrying charge that you calculate



1 include the allowance that the carrying charge or the return on  
2 the investment of the amount that's rate based?

3 A. Yes. It reflects a 12-percent pretax return on the  
4 carrying costs on a monthly basis. I don't have my work papers  
5 in front of me, but that's generally how I come to it.

6 Q. So it includes working capital, the calculations?

7 A. No.

8 Q. Maybe at a break could you provide those back up  
9 calculations for those exhibits, if you have those with you?

10 A. I don't have them with me but we certainly can  
11 provide those to you.

12 Q. I have another exhibit and this is in yellow.

13 CHAIRMAN BOYER: Mr. Ginsburg, we'll mark this  
14 exhibit as DPU Cross Exhibit 3.

15 MR. GINSBURG: That would be fine.

16 Q. (BY MR. GINSBURG) And if we could also turn to  
17 Mr. McGarry's testimony so we have all of these documents in  
18 front of us. And it's the -- this attachment to DPU data  
19 request 65.1 is the yellow attachments that are within this  
20 testimony. Do you have that in front of you, Mr. Lasich?

21 A. If I can find it.

22 Q. It's in his rebuttal testimony. We ask the data  
23 request, did we not, of the testimony -- the one that I handed  
24 that's been marked as DPU Cross 3, is your most current -- we  
25 asked for copies of the Company's official coal inventory

1 policy statements; is that right?

2 A. Correct.

3 Q. And this one, DPU Cross 3, is the -- what you  
4 reported to be the most correct. Would we also -- is that  
5 correct?

6 A. I'm sorry, sir. I'm still trying to find Mr.  
7 McGarry's --

8 Q. Well, if you can answer it just for DPU Cross 3 so  
9 you can identify that one for us.

10 A. Yes, it is.

11 Q. And then we also asked you to provide the policy  
12 statements from basically -- since '06 and the three documents  
13 that are included in this --

14 MR. HICKEY: Mr. Ginsburg, could I ask that we just  
15 take a minute and let you and the witness get on same page in  
16 fairness to him and you --

17 MR. GINSBURG: May I approach the witness?

18 CHAIRMAN BOYER: Yes, please.

19 Q. (BY MR. GINSBURG) Now, things I would like to ask  
20 you. If you could look at the first one in there, Mr.  
21 McGarry's testimony in May 16th 2007. Do you have that?

22 A. Yes, I do.

23 Q. Now, you were not in charge at that time; is that  
24 right?

25 A. No, I was not.

1 Q. Who was? Would that have been -- would that have  
2 been Mr. Ferman?

3 A. Yes. Bill Ferman was president at that time.

4 Q. This report is called is preliminary draft?

5 A. Yes, it's stamped preliminary draft.

6 Q. So is that -- is there a final report?

7 A. I have no specific knowledge of that.

8 Q. And what happens to these -- this memo is it approved  
9 by Mr. Ferman or somebody within the Company?

10 A. Generally, that would be our practice that senior  
11 management would approve the memo or the directive, in this  
12 case the policy.

13 Q. And what are the purposes of these -- of this memo?  
14 Is it a form? Senior management of -- what the current coal  
15 inventory practices coal are, practices of the Company?

16 A. Well, sir, I can't speak to the specific intent or  
17 purpose that generated this document, as I was not a party to  
18 the conversation between Mr. Ferman, nor the offers. What I  
19 could opine is that I can surmise that generally we  
20 periodically were looking the coal inventories. At the time of  
21 this memo there were some significant structural changes going  
22 on in the Utah coal market that I would imagine properly  
23 precipitated a request for us to review how we were managing  
24 our coal stockpiles.

25 Q. The thing I would like to ask you about in

1 particular, if you could, and let's look at the first paragraph  
2 called "history."

3 A. Yes, sir.

4 Q. And this paragraph appears in almost all of these  
5 documents; is that right?

6 A. Yes.

7 Q. And what it's telling you is that -- that the  
8 interjurisdictional task force and the State hired Energy  
9 Ventures, and they did a coal study, did they not?

10 A. That is my understanding, yes.

11 Q. And as a result of that coal study, and we'll go to  
12 those in a minute, they came up with certain ranges of  
13 suggested coal inventory levels at each of the plants?

14 A. Yes, that is correct.

15 Q. And it says that the various states and the Company  
16 agreed to the coal inventory levels; is that right?

17 A. Generally, yes.

18 Q. What did you say?

19 A. I said generally, yes.

20 Q. What do you mean by "generally?" It's either yes or  
21 no.

22 A. I was not around in 1991, nor '95, so I can't say  
23 that the Company expressly said yes, I agree. I can assume we  
24 did follow these policies. So to the extent -- are you asking  
25 me did the Company expressly in some document say, yes, we

1 adhere to these, I can say that it's my understanding in  
2 discussions with members of our fuel team that we generally  
3 followed these guidelines.

4 Q. Do you happen to know where this -- so it's telling  
5 management that there are guidelines out there that you need to  
6 follow or consider in your fuel stockpile?

7 A. I would agree with the you need to consider aspect.

8 Q. Do you know whether this paragraph existed in  
9 multiple reports prior to this 2007 memo?

10 A. I have no specific knowledge of that, no.

11 Q. Do you happen to know which states are included? Is  
12 it all six PacifiCorp states?

13 A. I do not. I have no specific knowledge. I would  
14 assume that as we manage the fleet system that we would manage  
15 the fuel costs on a system wide basis, as well.

16 Q. And within this statement it says the Utah Division  
17 of Public Utilizes and the Committee of Consumer Services  
18 routinely reviews inventory levels. While both the Division  
19 and the committee have proposed adjustments at times, there  
20 have been no exclusive stockpile of coal costs disallowances  
21 over the last 10 years. Do you know why that statement is  
22 included in these --

23 A. Again, I would suggest maybe the DPU or OCS are  
24 better qualified. I was not with the organization back in 1991  
25 or '95.

1 Q. No. My question is: Why are you including the fact  
2 that there have been no adjustments in these reports?

3 A. Again, I can only surmise that we were trying to  
4 create kind of the historical background basis from which the  
5 existing discussion was to take place in this memo.

6 Q. Can you turn to the table that's called attachment A,  
7 Coal Stockpile Analysis By Plant. Do you have that?

8 A. Yes, I do, sir.

9 Q. Are the EDA recommendations that -- you can see what  
10 those are. The EDA recommendations, they give a recommended  
11 high and low burn level at each plant? Do you see that?

12 A. Yes, I do.

13 Q. Those are the ones that the Company and the various  
14 states have -- somewhat of the --

15 A. I'm sorry. Can you rephrase the questions, please?

16 Q. When we talked about this agreement that took place  
17 between the various interjurisdictional -- or jurisdictions and  
18 Rocky Mountain -- Utah Rocky Mountain Power, these are the  
19 inventory burn levels that we --

20 A. Again, sir, I'm not comfortable characterizing it as  
21 an agreement because I have no specific knowledge. What I have  
22 in front of me is a memo dated, you know, May of 2007. And I  
23 can read that it says EDA established targets in 1991 and '95.  
24 But as to any quotes specific agreement, I'm not qualified to  
25 talk about that.

1 Q. If we could, quickly look at the last memo. This one  
2 is dated March 13th 2008.

3 A. I'm sorry, sir. Give me just one minute, if you  
4 would, please.

5 Q. March 13th 2008, it's the memo from Neil Getzelman.  
6 Who you --

7 A. Yes, it is.

8 Q. You were then at this point in charge of Pacific  
9 Power --

10 A. I was present at Pacific --

11 Q. Pacific Energy, I'm sorry.

12 A. Yes.

13 Q. And the purpose of this memo was what?

14 A. In response to some structural changes going on in  
15 the Utah market I asked for an update about our coal inventory  
16 plants.

17 Q. And who is Mr. Getzelman?

18 A. Neil Getzelman at the time was president of our inner  
19 west mining and fuels group.

20 Q. So he is basically in charge of the Utah Plant's coal  
21 inventory levels?

22 A. He was at that time, yes.

23 Q. So, again, when he wrote you this memo, he thought it  
24 was important enough to include within the memo, "We need  
25 information about the Energy Ventures interjurisdictional for

1 legal." Is that right?

2 A. I'm sorry. Could you -- I'm not finding the line  
3 where you keep referring to this agreement. Could you point me  
4 to the specific line?

5 Q. "Since the recommended inventory part of the levels  
6 were made and accepted by both the Company the Regulatory  
7 Commission in 1997." The top of the Energy Venture analysis  
8 report that we have provided for your review.

9 A. Thank you.

10 Q. If I may, at this point in 2008, would these still  
11 (Inaudible.)

12 A. No, we -- at the time we were beginning to look at  
13 starting to stockpile additional inventories based on stock  
14 market opportunities related to West Ridge Mine and also  
15 expecting that as we're assessing what the -- or Deer Creek  
16 Mine was going to be at that time.

17 Q. When you entered into the Arch Settlement and the  
18 West Ridge, I believe it -- understanding the -- it occurred  
19 basically the time of this memo?

20 A. Yes.

21 Q. Did you feel you needed to, in any way, go to the  
22 regulatory Commission for various states and say, we have this  
23 settlement and we want to exceed the target level that we  
24 agreed to (Inaudible.)

25 A. No, we did not. It was our assessment, it was a



1 legal matter, a dispute, that we had with Arch Goal Company  
2 related to the Electric Lake issue. And in settling legal  
3 disputes in the normal course of our business did not pursue --  
4 feel it was necessary to come to get approval to enter into  
5 that legal settlement.

6 Q. I didn't think I asked you whether you needed to get  
7 approval to enter into a legal settlement. But whether or not  
8 the change of the inventory levels, which would exceed the  
9 targets that you had agreed to with Energy Ventures that you  
10 knew were going to be exceeded, did you seek any need to go to  
11 those various regulatory commissions and explain that to them?

12 A. Well, the fuel inventories change as a result of  
13 entering the legal settlement. So I guess, no, we did not feel  
14 we needed to get approval for the legal settlement. That  
15 resulted in the increase of fuel stockpiles.

16 Q. I guess you didn't feel there was any need to refile  
17 the direct testimony to point out that you were going to excess  
18 these targets that were set by Energy Ventures and agreed to by  
19 the Company?

20 A. No. In our judgment, this Commission expects us to  
21 run our business prudently and we believe we are doing so. I  
22 believe that's the proper thing we are doing today.

23 Q. You would agree that the increase of these fuel  
24 stockpiles levels has a impact on rate payers, does it not?

25 A. Yes, there has been a \$13 million benefit that's

1 accrued to rate payers as a result of this settlement.

2 Q. That assumption though is based on the coal prices  
3 and all of the assumptions there are in your exhibit, the DPU  
4 Cross 2; is that right?

5 A. The current market price, I think, yes.

6 Q. In the most recent -- DPU Cross 3, when was this  
7 report prepared?

8 A. I'm sorry. I'm not -- It's the nomenclature.

9 Q. I'm sorry. It's the PacifiCorp Energy coal inventory  
10 policy. And I don't actually see a date on it. It's the  
11 response to DPU 26.4.

12 MR. HICKEY: I'm holding it in my hands. I can it  
13 was passed.

14 MR. GINSBURG: I'm sorry about that. Thank you.

15 Q. (BY MR. GINSBURG) When was that one prepared?

16 A. Not in this year.

17 Q. I noticed though this statement -- historical  
18 statement talking about the Energy Venture a agreement with the  
19 very stages is no longer in the reports; is that correct? It  
20 is left out.

21 A. I can't say the specific intent of why that it would  
22 have or would have not been included but it is not.

23 Q. One of the corrections I think you made to  
24 Mr. McGarry's coal inventory estimate was the removing of the  
25 coal act; is that correct?

1           A.    Yes.  Could you refer me back to what exhibit you are  
2 looking at?

3           Q.    I'm at the one that we marked as -- it's table one  
4 corrections to DPU fuel stock analysis.  I think it is Exhibit  
5 1, ARL-1.

6           A.    Yes, I have it.  Thank you.

7           Q.    One of these was a -- to remove the ash -- there is  
8 high ash coal; is that correct?

9           A.    Correct.

10          Q.    That high ash coal was -- is that rate based?

11          A.    Yes, it would be.

12          Q.    So you were removing it from the estimate of the coal  
13 stockpile and Mr. McGarry calculated --

14          A.    Yes, to arrive at a rather readily burnable days of  
15 inventory.

16          Q.    So this coal has stockpiles that can't be burned?

17          A.    No, it can be burned.  We burn it by lending it with  
18 our existing stockpiles.

19          Q.    Has that coal stockpile been there for a quite a  
20 while?

21          A.    Yes, it has.

22          Q.    Would it have been included in these estimates, these  
23 coal ash coal stockpile levels that appear on the tables on  
24 your exhibit that we go through?  If we go to attachment A of  
25 the May 16th memo, would these amounts have been included or

1 excluded, do you know, in your coal inventory projected  
2 stockpiles?

3 A. I would assume given most of that high ash coal was  
4 generated when we went to the Mill Fork scene at our Deer Creek  
5 line that it's probably reflected in these numbers.

6 Q. So these numbers would -- if you took out the coal  
7 ash stockpile that couldn't be burned, these numbers would be  
8 below it?

9 A. I can't say for certain, but I would assume that they  
10 would be.

11 Q. I think I'm going to move to a different subject and  
12 then come back to this.

13 A. If I may, sir, I think as of now, looking over this  
14 attachment A, I do note that at the bottom of the inventory  
15 number we do single out some of the high ash coal located at  
16 Prep Plant and Rock Garden. I believe that would be the  
17 amounts that I would have been referring to in the other  
18 exhibits when I was making adjustments to Mr. McGarry's  
19 calculation.

20 Q. Let me try one other real quick exhibit, if I can,  
21 and then I'll move on to something else.

22 CHAIRMAN BOYER: Mr. Ginsburg, we are going to mark  
23 this as DPU Cross Exhibit 4.

24 MR. GINSBURG: Okay.

25 Q. (BY MR. GINSBURG) Mr. Lasich, do you have what's been

1 marked as DPU Cross 4 in front of you?

2 A. Yes, I do, sir.

3 Q. Are you familiar with the NERC -- some of the  
4 liability attachment?

5 A. I'm not familiar with this particular document, but I  
6 am familiar with NERC.

7 Q. Okay. Thank you. If you could turn to the next --  
8 the second page. I'm sorry, the third page. Do you see the  
9 chart there, the US box levels?

10 A. Yes, I do.

11 Q. And can you read the paragraph --

12 A. Yes.

13 Q. Read it to yourself, I guess. Of the section called  
14 coal?

15 A. Yes.

16 Q. Wouldn't you agree that they are referring to Eastern  
17 coal and also Powder River Basin coal, is that Wyoming coal?

18 A. Yes, it is.

19 Q. That coal stockpile levels are -- at least as  
20 reported, are no where near this 154 day coal stockpile levels;  
21 is that right?

22 A. I'm sorry, sir. I'm not understanding your question.

23 Q. Would you agree that your coal stockpile levels are  
24 way above what's reported by NERC for expected or reported coal  
25 (Inaudible.)



1           CHAIRMAN BOYER:  Let's do that now but let's go back  
2 on the record.

3           MR. GINSBURG:  And so the record reflects that what's  
4 transpiring, did you get this earlier or not?  Okay.  So the  
5 record accurately reflects what just transpired, we have  
6 substituted the white copy of DPU Cross Exhibit 2 with a yellow  
7 sheet indicating confidentiality.  And then backup work papers  
8 for the same had just been distributed on a form called the  
9 Electric Lake Carrying Charges and it's a three-page document.

10          MR. REEDER:  How would you decide that be marked?

11          CHAIRMAN BOYER:  Are we going to mark that?  I mean,  
12 you provided it.

13          MR. GINSBURG:  Yeah, we just requested it so --

14          MR. HICKEY:  It's not our exhibit, Mr. Chairman.

15          CHAIRMAN BOYER:  All right.  You may proceed,  
16 Mr. Ginsburg.

17          MR. GINSBURG:  We're going to shift to a different  
18 subject for a bit.  And on a -- a few questions on the issue on  
19 contingency.

20          THE WITNESS:  Thank you.

21          Q.  (BY MR. GINSBURG)  Let me understand first how you --  
22 contingency.  Essentially, when you make an estimate of a cost  
23 of a project, you include in that all of the bids that you  
24 received for the turbine for any substations associated with  
25 it, and all of those are included, and at the end you add a

1 contingency; is that right?

2 A. Well, more specifically, we follow the association or  
3 the Association for Advancement of Cost Engineering Estimates.  
4 Our company follows those guidelines in developing project  
5 costs. I would agree that generally, as you described, you  
6 know, we try to identify specific contingencies related to  
7 various aspects of the construction projects.

8 Q. This was already an exhibit. Why don't I just give  
9 it to you and we can -- try to make it easier for you?

10 A. Thank you.

11 Q. This is from Ms. Zenger's testimony and it's already  
12 in the record. Just what is confidential in this exhibit? Is  
13 the amount of the contingency used and included actually  
14 confidential?

15 A. Yes, I believe the contingency hourly table there is  
16 confidential.

17 Q. Okay. Let's see if we -- so for each of those  
18 projects, as you have said, you developed the estimates and  
19 then you said you follow these guidelines for developing the  
20 contingencies?

21 A. For identifying contingency funds, yes.

22 Q. Identifying contingency funds. So that amount of a  
23 contingency for any particular project will vary?

24 A. Can vary, yes.

25 Q. It could be -- in other words, there was no set



1 percentage that you had to a project?

2 A. No, it is project specific.

3 Q. So in this particular case, your original estimate  
4 for this generating plant was a cost of \$70 million; is that  
5 correct, in direct testimony?

6 A. I'm sorry. Which project are you referring to?

7 Q. McFadden Ridge Wind Project.

8 A. Could you ask the question again, please?

9 Q. The original estimate for the project in your direct  
10 testimony was \$70 million?

11 A. Correct.

12 Q. And included in that \$70 million was this  
13 confidential contingency; is that correct?

14 A. Correct.

15 Q. Now, what's happening though is during the course of  
16 this test year, or this rate case, that McFadden Ridge Project  
17 actually came into service: is that right?

18 A. Yes, it did.

19 Q. We don't know the actual cost of that project?

20 A. Yes. And I believe I referenced roughly  
21 \$57.3 million.

22 Q. That's what is being included in rates; is that  
23 right?

24 A. Correct.

25 Q. So if that project was not coming into service until

1 maybe July -- June of 2010, we wouldn't know what the actual  
2 cost of that project is, would we?

3 A. Based on your hypothetical, I would still be under  
4 construction, correct?

5 Q. But what would be included in rates would be your  
6 estimate of the cost of the project, plus the contingency?

7 A. Well, if I may, I think you -- you know, we do what  
8 we call an engineered estimate where we internally estimate  
9 what the project costs would be. We then take the project as  
10 the scope of work as we have defined it necessarily and then we  
11 go to the marketplace, then to get vendors to bid on our  
12 contracts, either whether it's turbine permitting, met towers,  
13 balancing of plant contracting work.

14 Then based on that, we have further refinements. And  
15 once you have contract costs and you still have concern items  
16 that the contractors are not taking on the risk for, we  
17 estimate what some of those aspects are and then we apply  
18 contingent value to it.

19 So when you -- based on your hypothetical, we would  
20 be probably at the state where we have firm contract bids in  
21 hand, yet the project is not complete based on that. And based  
22 on the specific project in this case with McFadden Ridge One,  
23 we would have had an element of contingent funds for yet the  
24 unknown items that we might experience during the construction  
25 period.

1 Q. So your answer though, I think, and I could sum it  
2 up, would be that those unknown contingent funds, where we are  
3 today, would be included in rates today even though we don't  
4 know whether that contingency will actually be spent or not?

5 A. At the time that would be our best reasonable and  
6 prudent estimate as to what the project calls for then and we  
7 would have sought to include those contentions funds in rates.

8 Q. Do you happen to know if the -- we look at the page  
9 from Ms. Zenger's testimony, whether or not the four projects  
10 where essentially no contingency funds were ever used, whether  
11 the contingent amounts were included in rates?

12 A. I do not know specifically, no.

13 Q. Now, at some point we go through the hypothetical a  
14 little more with this contingency you say was included in  
15 rates, that project will get completed and we will actually  
16 know what was spent, will we not?

17 A. Correct.

18 Q. And I assume those amounts get trued up then with  
19 actuals that are actually in rates. So when the Company files  
20 it's next rate case, for example, this one would be in 2011,  
21 and you include in those your actual costs for various  
22 projects, if the contingency was never used then the cost of  
23 the project would be on your books would be lower than what was  
24 included in rates in the current rate case; is that correct?

25 A. I'm sorry, sir, you lost me completely with --

1 Q. So I think we agreed that as of today the contingency  
2 amount would be included in rates and then once the project is  
3 completed we'll know whether you needed that contingency or  
4 not.

5 A. Correct. We would know actual cost once the project  
6 is completed and commercial.

7 Q. And then the rate case what will be -- rates will be  
8 set off of the actual cost of the project?

9 A. I'm not a rate making expert. I will defer to our  
10 cost of service expert who could say how that gets treated in  
11 rates. My general understanding is once the project is  
12 completed it's an asset and it's based on actuals.

13 Q. So isn't the question whether or not in an estimate  
14 until we actually know the actuals, as we have just gone  
15 through, whether you should be able to earn on a contingency or  
16 wait until it actually comes in and we actually know whether it  
17 was used or not.

18 A. Well, I disagree with how you framed the question.  
19 If I may, I think what you're suggesting before this Commission  
20 is a fundamental policy question. From the Company's  
21 perspective we take prudent and reasonable steps consistent  
22 with industry practice as evidenced by my testimony to develop  
23 cost estimates. In a forward test year we would be utilizing  
24 our best of guess estimates based on the association for  
25 advancement cost engineering. They would include contingent

1 funds and that would be the amount that we would bring forward  
2 for this commission's consideration. I think that's the  
3 fundamental question.

4 Q. What's the difference between a change order and a  
5 contingency?

6 A. You can have change orders in the contract that don't  
7 necessarily result in use of contingent funds. Change in  
8 design. Change in a breaker setting. Change in your initial  
9 design was to run the cable that way and you now run it this  
10 way.

11 Q. And when does the change order use up the  
12 contingency?

13 A. Well, contingency funds, again, are outside the  
14 balance of scope of work of a contractor. So a contingent item  
15 when you negotiate a balance of plan contract as an exhibit,  
16 typically you would say the contractor is going to perform A,  
17 B, and C and deliver X, Y and Z. And when you look at the  
18 contract you say the contract it says, you know, that wasn't  
19 within my scope of work and it's not my responsibility to do  
20 that service or task or construct that in a certain manner.

21 Then we would say that's where you get into the  
22 contingency fund. It's not really a contractual item. If it's  
23 within the four corners of a contract then we would have the  
24 contractor perform that.

25 Q. Sounds like it's a fudge factor, sort of an unknown

1 possible expense above all of the various contracts.

2 A. Yes, I disagree with your characterization of fudge  
3 factor. I think the project management institute association  
4 for management of cost engineer would not say it's a fudge  
5 factor.

6 Q. Let me try one other exhibit than. I think we're  
7 done. I'm not actually sure if -- this one is marked as  
8 confidential. I'm not sure why it would be, but maybe we can  
9 talk about that.

10 MR. GINSBURG: Could I have marked what's in response  
11 to DPU Data Request 23.32? That will be marked DPU Cross  
12 Exhibit 5.

13 THE WITNESS: And is that confidential?

14 MR. GINSBURG: It's marked that way but --

15 A. Yeah, to be candid it wouldn't -- I wouldn't think  
16 so. You know, it references a dollar amount but there is --  
17 doesn't really have any prudent data you could tie to it.

18 Q. So it could be marked nonconfidential for everybody's  
19 eyes or --

20 A. I'm looking to my lawyer to guide me here.

21 Q. I thought you were a lawyer, too.

22 A. Trying to get a quick answer here.

23 MR. GINSBURG: While we are looking at that, I have  
24 marked the second document, which is entitled Risk Analysis and  
25 Contingency Determination using Excepted Value as DPU Cross

1 Exhibit 6.

2 CHAIRMAN BOYER: Okay. Thank you.

3 Q. (BY MR. GINSBURG) Do you have what's been marked as  
4 DPU Cross Exhibit 5 in front of you?

5 A. Yes, I do.

6 MR. GINSBURG: To complete the answer for you, Mr.  
7 Chairman, for you it's not considered confidential.

8 CHAIRMAN BOYER: Thank you.

9 Q. We ask you how the contingency was calculated for the  
10 7-mile project, the 7 mile 2 project, you can see our -- for  
11 exhibit that's what the \$487,500.

12 A. Okay. Subject to check I'll assume that's -- that is  
13 the case.

14 Q. So when I read the answer it doesn't tell us how you  
15 calculate that number. It just gives us a general statement.  
16 I assume from this that all it is is a judgment call on  
17 management's part?

18 A. Well, you don't tell us how you calculate it.

19 Q. The answer may not be responsive but I don't know  
20 that you can make that assumption, so we can just assume that  
21 you gave us an unresponsive answer.

22 A. Well, sir, I didn't prepare this answer but I'm not  
23 willing to concede that that's the assumption. I can tell you  
24 again under our company guidelines, we follow the Association  
25 for Advancement of Cost Engineering as part of when we develop

1 costs there is an actual identification of what the contingent  
2 dollars are meant to cover and from the amount, \$487,500, it's  
3 a rather specific amount. So we are not talking, you know,  
4 half a million or a million dollars which might suggest it was  
5 a -- how did you characterize it earlier? A fudge factor. So  
6 I would assume there was some consideration and thought given  
7 the specificity of the dollar amount.

8 Q. Is there a study that's done for each project that  
9 calculates this contingency?

10 A. The engineers put together the cost profile for the  
11 project, yes. And I wouldn't say study, but it's an engineered  
12 estimate and the capital approval document that includes the  
13 assessment.

14 Q. But we actually didn't see how in there the  
15 contingency is calculated is that primary --

16 A. I guess the question was please explain. It didn't  
17 say please provide.

18 Q. Do you have what's marked as DPU Cross 6?

19 A. Yes, I do.

20 Q. And I think this is the organization you referred to?

21 A. Yes, it is.

22 Q. And what is that organization? Can you describe it  
23 and tell us what it is?

24 A. I'm not very familiar with this organization other  
25 than they exist. And it's made for engineers run by engineers.



1 I understand generally that it's for engineers for the  
2 advancement of the science of cost estimating.

3 Q. If you look at the first page it talks about  
4 estimating contingencies. The second page, I'm sorry.

5 A. Yes.

6 Q. Is that the way the Company estimates contingencies?

7 A. Sir, I would defer to one of our engineers. You want  
8 me to take the time to review this. Again, I'm not --

9 Q. You don't know the answer to that?

10 A. Not as applicable to this particular page six of  
11 seven, no. I mean, you have just shown me this document this  
12 morning.

13 MR. GINSBURG: I think that's all I have, thank you.

14 CHAIRMAN BOYER: Mr. Ginsburg, do you wish to move  
15 admission of your Cross Exhibit 2, 3, 4, 5 and 6?

16 MR. GINSBURG: Yes.

17 CHAIRMAN BOYER: Are there any objections to the  
18 admission of DPU Cross Exhibits 2-6? Seeing none, they are  
19 admitted.

20 Let's turn now to Mr. Proctor and have you cross  
21 examine.

22 MR. PROCTOR: Can I take 30 seconds?

23 CHAIRMAN BOYER: Take 45.

24 CROSS-EXAMINATION

25 BY MR. PROCTOR:

1 Q. Mr. Lasich, I do have a couple of questions about the  
2 contingencies that you included in the wind plants that  
3 Ms. Zenger -- Dr. Zenger discussed. Do you include a similar  
4 contingency amount in really any project that the Company  
5 begins to construct from scratch?

6 A. I'm not familiar with the transmission or  
7 distribution side of the business. But I understand they  
8 follow similar guidelines of the AACE.

9 Q. You would have a contingency, for example, if you  
10 were to construct a power plant certainly?

11 A. Absolutely.

12 Q. And that would be something under your direction.

13 A. Yes, it would be.

14 Q. Do you calculate the contingencies prior to entering  
15 into the contract with the vendors or the contractors?

16 A. Yes.

17 Q. Do you seek in your negotiation of the contract to  
18 include some or all of those contingencies, the unknowns, I  
19 believe they have been referred to, to the contract with the  
20 vendor? In other words, you try to shift the risk to them?

21 A. Certainly, as part of the terms of the agreement we  
22 certainly try to find a balance of the risk profile and that  
23 would include trying to get the contractor to accept some of  
24 the risks associated with contracting. Certainly, there is a  
25 price to be paid for that risk allocation under an agreement.

1 Some risks we certainly are not able to have the contractor  
2 assume.

3 Q. Okay. Well, and for example, there is a price point  
4 at which you're simply not willing to pay that contractor  
5 because the risk, for example, is so uncertain?

6 A. Well, I would say, yes, I agree with that statement,  
7 but I would also say there is certain risks such as, you know,  
8 uncovering historical artifacts or Black-footed Ferret showing  
9 up on your wind project site that the contractor is not willing  
10 to accept that risk. If that were to occur and cause the delay  
11 to the project they would expect to be compensated for those  
12 delays.

13 Q. The two examples that you provided, are those  
14 examples of the contingencies that you value before you enter  
15 the contract, the Black-footed Ferret or the archeological  
16 site?

17 A. Again, contingency, those are general comments.  
18 Contingency is project specific, but those would be examples of  
19 contingencies, as well as, events of force majeure which is  
20 standard contracting. As counsel you are probably aware of  
21 that term.

22 Q. Well, I certainly am. And force majeure clauses  
23 usually go both ways. So there is -- and there is an  
24 enforcement in the event that it's not a force majeure event.  
25 So force majeure is really a contractual weighing of the risk

1 and it's a sharing of the risk, is it not?

2 A. Well, I guess, I look at the force majeure as usually  
3 the contractor gets a free pass in a weather delay or  
4 unforeseen labor strike or, you know, delays in equipment, you  
5 know, caused by labor strike. The force majeure is basically a  
6 clause that acknowledges a circumstance or event that neither  
7 party foresaw that could disrupt the schedule and cost of a  
8 construction project.

9 Q. And that may be true with a construction project  
10 generally but force majeure provision also protects the  
11 Company, does it not, in the event that the Company is subject  
12 to a force majeure event?

13 A. Yes, certainly. Certainly.

14 Q. Now, are any of the contingencies that you include  
15 within your contingency actual cash reserves or accounting  
16 reserves on the books of the Company?

17 A. No.

18 Q. So it's an estimate of what you may have to spend in  
19 the event that something uncertain or unknown happens. But you  
20 don't actually set aside funds either on the books or otherwise  
21 to pay for that?

22 A. I'm not an accountant but it is my general  
23 understanding that we don't set up -- unlike a loss reserve, we  
24 don't set up a specific account to identify contingency funds.

25 Q. Can you insure any of those contingencies?

1           A.    Generally, I would think most of those since they are  
2 specific to construction activities.  You might have some  
3 success trying to find and insure who is willing to underwrite  
4 some of that risk.  But that, again -- you know, depending on  
5 the nature of the risk you are trying to insure, the  
6 underwriting fees could be somewhat exorbitant.

7           Q.    The same issue -- it would be the same issue with  
8 respect to the negotiating of the contract.  There is a point  
9 at which you are not willing to pay for insurance, is that  
10 fair?

11          A.    Correct.  Yes.  It's a balance of risk reward.

12          Q.    Are any of those contingencies covered, to your  
13 knowledge, by the Company's general insurance program?

14          A.    To my knowledge, no.

15          Q.    Thank you, Mr. Lasich.

16          A.    Thank you.

17                CHAIRMAN BOYER:  Thank you, Mr. Proctor.

18                Mr. Dodge.

19                MR. DODGE:  Thank you, Mr. Chairman.

20          Q.    Good morning Mr. Lasich, just a brief question or two  
21 relating to your surrebuttal testimony.  If you look on page  
22 three of that if you have it in front of you.  I'll indicate  
23 you maybe don't need to look at it, but it's in response to  
24 Mr. Swenson's suggestion on the resale of wind capacity.  Do  
25 you recall that testimony?

1 A. Yes, I do.

2 Q. And I guess I would summarize your response as saying  
3 that you don't need to consider Mr. Swenson's suggestion  
4 because the Company already undertakes normal balancing sales  
5 and then you acknowledge that there is a distinction between  
6 the two products that Mr. Swenson is proposing longer term  
7 sales from a certain resource and that the Company is doing it  
8 on a balancing basis, a spot market basis, or day end basis,  
9 right?

10 A. Correct.

11 Q. So you acknowledge the distinction? What's the  
12 distinction in prices in today's market that one might get from  
13 the two different products? Let's start with a longterm five  
14 year say, sale from a specific wind resource sale into the  
15 Southern California market. Do you have an idea of that rough  
16 price?

17 A. Not offhand. I assume it's larger. But, again, it  
18 would depend on the nature of the product, whether you're  
19 saying on-peak or offpeak, seasonal product. Again, you know,  
20 normally what developers try to sell to us or power purchase  
21 agreements with what I would view as kind of a nominal  
22 levelized value of energy. You know, it's if they produced it,  
23 I paid for it; if they don't produce it, I don't pay for it.

24 Q. And I'm actually not talking about the price to you  
25 as a price taker but the price that you would receive as a

1 price seller into the California market. Are you familiar with  
2 the California reference price?

3 A. Yes, I am.

4 Q. And roughly what is that range?

5 A. I believe it's probably around \$95 to \$100 megawatt  
6 an hour.

7 Q. And then you indicate the distinction between what  
8 Mr. Swenson was proposing and what the Company does, is that  
9 the Company does sales as part of its normal balancing  
10 activities. Can you give me the rough price over the last year  
11 that you have received from the non -- let's say firm based  
12 load resources but on a spot market basis.

13 A. If I may, Mr. Dodge, I think what Mr. Swenson failed  
14 to understand is that we built these projects to provide energy  
15 that our customers are consuming. When I say system balancing,  
16 I'm selling energy during periods of time when we have excess  
17 energy and our customers don't need the energy.

18 During periods of time such as the summer, such as  
19 weather like this when there is extreme demands, winter load,  
20 those wind projects are there to serve our customers. They are  
21 not there to sell energy into the California market.

22 Q. Now, would you answer my question, please, sir?  
23 Which was: What was the price you received, say in the last  
24 year on average, for those balancing sales you're talking  
25 about?

1           A.    Again, it depends on what product you are asking  
2 about.  Are you talking about an hourly product?  Are you  
3 talking about a weekly product?  Are you talking about balance  
4 of month?

5           Q.    I'm saying the average of the system balancing sales  
6 that you reference in your testimony.

7           A.    I'm asking you to be more specific on what product  
8 you are asking me to comment about.  I mean system balancing  
9 activities encompass a wide variety of energy products, sir.

10          Q.    Okay.  Start with any one of the ones that you were  
11 referencing in your testimony.  Let's start with the base load  
12 week long sales.  What would be your average price.

13          A.    I don't think my testimony contained any reference to  
14 specific products sales or market prices.  I think my comment  
15 was just generally, we sell in system balancing transactions in  
16 periods of time we have excess energy we balance our system, as  
17 the name implies.  And if we have excess energy, we sell  
18 energy.  And during times when we were short energy we would  
19 purchase energy to serve our customers electric service needs.

20          Q.    And I understand that.  The fact that you didn't  
21 include the pricing information is why I'm asking the question.  
22 In your testimony, line 46, your surrebuttal, you say the  
23 Company is already making off system renewable sells as part of  
24 its normal system balancing activities.  Then you go on to say  
25 that therefore there is no need to consider the suggestions.



1 My question is: Can you give us a rough estimate of the price  
2 you got for those normal system balancing activities sales that  
3 you reference in your testimony?

4 A. Without more specificity as to term and product, no  
5 I'm unable to do that.

6 Q. No, I'm asking you for all that you sold as part of  
7 your system balancing activities. Isn't it roughly a \$30 to  
8 \$35 range or even lower than that?

9 A. Sir, I think what you are really referring to is  
10 renewable energy credit sales and not system balancing  
11 activities.

12 Q. No, I'm actually referring to system balancing sales  
13 that you reference in your testimony.

14 A. Did I? I am sorry. Can you show me where I said  
15 \$35?

16 Q. No. No. I'm asking you, isn't that, in fact -- I'm  
17 talking about the sales you are referencing on line 46 of your  
18 surrebuttal and over on to 47. If you read those two lines.

19 A. I'm sorry, Mr. Dodge, I need to get to that specific  
20 page.

21 Q. Again, for reference purposes, this is why you are  
22 saying that this Commission should disregard his suggestion  
23 because you are already making these sales and then you go on  
24 to acknowledge the distinction between the sales he's  
25 supporting and the ones you are I'm just trying to get an

1 understanding of the price differential between the two  
2 products. You have given us the price as you understand it for  
3 what he's proposing. And I'm asking for the rough price  
4 estimate for what you propose that the Company is now doing.

5 A. Well, again, as I understand Mr. Swenson's proposal,  
6 he wanted to make specific sales off specific projects.

7 Q. Yes.

8 A. And what I'm suggesting when we do system balancing  
9 activities we do not differentiate between electrons from the  
10 McFadden Ridge One Wind Project or Rolling Hills Wind Project.  
11 And furthermore, we don't differentiate between green electrons  
12 and, if you will, other colored electrons.

13 Q. Exactly my point. And the price for those non-green  
14 electrons is in the \$30 range, is it not, as compared to the  
15 \$100 range for the green electrons?

16 A. Again, I'm not in the position to agree or disagree  
17 with the price points you're suggesting.

18 Q. Can you give me your understanding of the price point  
19 for the non-differentiated, non-green electrons that you sell  
20 on an average basis over the course of a year for your  
21 balancing activities?

22 A. No, I cannot.

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

24 CHAIRMAN BOYER: Thank you, Mr. Dodge.

25 Mr. Reeder.

1 Q. I'm tempted to pursue that line of questioning by  
2 asking you what you sold power to Nevada Energy for? Did you  
3 or did you not enter into a contract to sell power to them?

4 A. Mr. Reeder, I'm not particular with the specific  
5 contract that you are referring to.

6 Q. Did you enter into a contract within the last 90 days  
7 to sell energy to Nevada Power from your company to Nevada  
8 Power?

9 A. I don't.

10 MR. GINSBURG: I object on relevance and beyond the  
11 scope of any direct-examination, Mr. Chairman.

12 CHAIRMAN BOYER: Well, I, for one, am sort of  
13 interested in pursuing this cost price differential issue. I  
14 think you can answer that one. He did testify in his  
15 surrebuttal testimony about the sales activity and now we are  
16 trying to focus on the kind of money we are talking about. So  
17 I'm going to overrule the objection and allow Mr. Lasich to  
18 answer, if you can.

19 A. I wish I could enlighten the answer, Mr. Chairman.  
20 I'm not familiar with the specific contract that Mr. Reeder is  
21 referencing.

22 Q. And unfortunately, you provided it to me but I didn't  
23 bring it with me this morning. I was hoping that you would  
24 recall. We'll come back to it. Let's ask you about acquiring  
25 coal. If I understand your testimony this morning, you were

1 acquiring coal whenever you can acquire coal at a price less  
2 than market, if it's a legal setting or a purchase or  
3 otherwise, if I understand your testimony correctly?

4 A. I would not say that price is the only determinant  
5 factor, it's the quality of the coal. And, you know, how it  
6 would blend with our existing facilities and effect our plant  
7 operation, you know, ash, fusion temperature, sulfur content  
8 are all factors we would consider as well.

9 Q. So if you can acquire compliant coal, compliant  
10 meaning coal that's consumable in your boilers at a price below  
11 market, you would take the opportunity to do so.

12 A. We would certainly look long and hard at the  
13 transaction.

14 Q. You testified a few minutes, maybe an hour ago that  
15 today there has been about a \$13 million benefit from those  
16 kinds of activities by the Company, did you not?

17 A. With respect to the specific Electric Lake  
18 Settlement, yes, I did say \$13 million, roughly.

19 Q. Is that a coal hedging practice the Company has  
20 entered into?

21 A. I guess I would agree that maybe to a certain extent  
22 it is a physical hedge, yes.

23 Q. It's also a pricing hedge, isn't it, that you have  
24 been buying coal at a price and putting it into your stock pile  
25 and protecting yourself against the movement upward in price at

1 a later point in time?

2 A. Yes, I would agree with that.

3 Q. How would you protect company your against the  
4 downward movement of price when you stock pile that coal?

5 A. Well, for us it's about the price stability and  
6 certainty and physical delivery. So if we're comfortable that  
7 we can deliver reasonably priced power which fuels an input to  
8 our customers; I'm not playing the commodity price game to that  
9 extent, I'm not, you know, solely focused on if the price below  
10 is the price, or where the market price is heading.

11 Q. Okay. Have you had occasion to discuss with  
12 regulators your hedging strategies for coal and other fuel  
13 commodities?

14 A. I believe the Commission has -- or I'm not exactly  
15 sure whether it was the Division or the Office of Consumer  
16 Advocates that have been looking at our commercial and trading  
17 hedging activities. I don't believe that included specifically  
18 our coal activity.

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

20 CHAIRMAN BOYER: Thank you, Mr. Reeder. Let's turn  
21 now to the commissioners. Commissioner Allen.

22 COMMISSIONER ALLEN: Thank you, Mr. Chairman. I just  
23 have a couple of quick questions to help me understand the  
24 nature of these issues from standing on top of the coal pile  
25 looking around. We get the EIA reports and the energy stock

1 fuels and what's going on in the nation. I'm just curious,  
2 it's my understanding aren't a significant number of coal mines  
3 shut down right now? Still shut down? Stuttered is that what  
4 they call them?

5 A. Yes, commissioner.

6 Q. And I think it was our last case maybe it was  
7 earlier. We had talked about issues with coal transportation  
8 and there were constraints in the railway system. And I assume  
9 that now those constraints are not at play because production  
10 is down. But did they ever resolve those in the long-term to  
11 your knowledge? Did they build new rail lines? Did they  
12 create new transportation sources or is that still a  
13 possibility in the future?

14 A. That is still a possibility in the future. They have  
15 not constructed any new rail lines. The softness is really  
16 related to the demand at this point.

17 Q. Okay. So then my understanding correct that coal  
18 production is generally still down, and many mines are still  
19 shut, and the transportation issue is still looming?

20 A. Correct.

21 Q. Great. That's what I wanted to know. Thank you.

22 CHAIRMAN BOYER: I have the same question as  
23 Commissioner Allen. There was discussion today, at least, of  
24 delivery interruption and that sort of thing. Does that play a  
25 role in increasing your coal stockpile inventories?

1           A.    Absolutely.  We are mindful of what we call the  
2 physical delivery risk and the production risk related to  
3 longwall mining in Southern Utah.  Certainly, the environment  
4 in mining in Southern Utah with the unfortunate Crandall Canyon  
5 Diaster, the closure of Murray Energies Tower Mine, and  
6 associated demands down in the Southern Utah Basin, have  
7 certainly factored into our decision to err on the side of  
8 insuring we have sufficient stockpile to insure our customers.

9           CHAIRMAN BOYER:  Thank you Mr. Lasich.

10          Any redirect, Mr. Hickey?

11          MR. GINSBURG:  Thank you, Mr. Chairman.  I do have  
12 some.

13          Q.    Mr. Lasich, I would like to go back to some of the  
14 area of examination that Mr. Ginsburg began the morning with.  
15 And specifically, the issue of the Company's coal policy, coal  
16 inventory policy.  Isn't it true that the 1991 and 1995 Energy  
17 Ventures analysis reports are recommendations and targets, not  
18 mandates?

19          A.    Certainly they are targets for us but not mandated  
20 levels.

21          Q.    If you look at Mr. McGarry's testimony, it was in  
22 front of you during your examination.  The May 16th Neil  
23 Getzelman, Brian Durning memo to Bill Thurman regarding coal  
24 stockpile levels, you were asked and answered questions by  
25 Mr. Ginsburg regarding attachment A to that series of exhibits.

1 And I will agree with you that it takes a while to find a page.  
2 Page 23 of 24 is the attachment I'm looking for.

3 MR. GINSBURG: Which memo are you in? It's the May  
4 16th?

5 MR. HICKEY: Well, it's behind the May 16th. And the  
6 May 16th starts the entire exhibit.

7 MR. GINSBURG: Okay.

8 Q. And this is attachment A. It's actually the  
9 attachment to the March 13th '08 memo at the end of that whole  
10 series of one.

11 A. Yes.

12 Q. Okay. And isn't there a portion of that attachment A  
13 that references the EVA reports?

14 A. Yes, there is.

15 Q. And what does it specifically say? Does it call it a  
16 recommendation?

17 A. Yes. It does.

18 Q. So has anyone other than possibly the inference of  
19 Mr. Ginsburg's cross examination, suggested that these EVA  
20 targets were anything other targets of recommendations?

21 A. No, the Company certainly has operated it as a policy  
22 and target, but certainly has not viewed it as a mandate. We  
23 certainly have always approached our fuel management  
24 inventories being opportunistic. If there was an opportunity  
25 to provide value to customers by doing transactions, either



1 with West Ridge Mine or either with Arch Coal that would help  
2 to stabilize our customers' fuel cost and thus their electric  
3 service rates, we would certainly take advantage of those  
4 opportunities.

5 Q. Let me ask it as directly as I can try to frame the  
6 question. Was the Electric Lake Settlement and the purchase of  
7 1.5 million tons of coal from Arch in any way inconsistent or  
8 violative of some mandate of the Company's coal policy?

9 A. No, it was not. Clearly, our policy called out that  
10 we would be opportunistic with any market purchases when the  
11 opportunity presented itself.

12 Q. Well, let's take a look at that and have a question  
13 that none of my colleagues from their perspectives chose to ask  
14 you about this May 16th 2007 memo. On that memo on page 3 of  
15 24, was there a specific endorsement of the practice of buying  
16 distressed or below market coal as an advantage or a desirable  
17 practice consistent with managing coal inventories?

18 A. Yes, there was. And if I may, reading from the  
19 policy of May 16th 2007, quoting "If there are opportunities in  
20 the future to procure Utah coal at below market (distressed)  
21 prices, the fuels department is prepared to pursue such  
22 purchases."

23 Q. Now, trying to put us in some perspective of the  
24 Electric Lake Settlement again, was this policy in existence  
25 prior to the Electric Lake Settlement?

1 A. Yes, it was.

2 Q. What was the date then of that Electric Lake  
3 Settlement?

4 A. I appreciate the opportunity to correct myself again.  
5 It was February of 2008 that we entered into the Electric Lake  
6 Settlement. This policy dated May 16th 2007 would have been in  
7 place before we executed the settlement with Arch Coal Company.

8 Q. Let me ask you if there was an opportunity today to  
9 buy Utah coal at 20 percent discount from current market and it  
10 was a coal compatible with the burn requirements of the boilers  
11 that exist in the Utah plants, would the Company pursue the  
12 purchase of that coal at a distressed price?

13 A. Absolutely.

14 Q. And why?

15 A. It brings value to our customers to do these  
16 opportunistic acquisitions. Again, our focus is to stabilize  
17 and minimize our customers net purchase cost to power. Fuel  
18 component is a primary input to, you know, developing electric  
19 service costs. So if there was an opportunity to stabilize and  
20 reduce those costs, we would actively pursue that opportunity.

21 Q. Is there a way that the Company could put in place a  
22 vehicle or mechanism that would allow a transparency in its  
23 fuel costs so that the parties to this proceeding and the  
24 Commission would have an easier ability to track fuel costs?

25 A. Certainly, if we had an energy cost adjustment

1 mechanism, such a mechanism would provide a clear advisability  
2 as to what fuel costs and amounts and so forth.

3 Q. We are not going to go very far down that road  
4 because that's next month's agenda, I think for the Commission,  
5 isn't it, Mr. Lasich?

6 A. That's my understanding, yes.

7 Q. But is there a transparency that exists as to the  
8 Company's cost of fuel by implementing such --

9 A. Yes, there would be.

10 Q. Let's take a minute and talk about contingency costs.  
11 And first of all, isn't it true that the Company has a project  
12 and cost engineers handbook?

13 A. That is correct.

14 Q. And what's the purpose of that project and cost  
15 engineers handbook, if you know?

16 A. It is to provide the backdrop by which our engineers  
17 prepare cost estimates for the supply side resources that we  
18 look to develop.

19 Q. And does that handbook have a specific provision that  
20 addresses contingencies?

21 A. Yes, it does.

22 Q. And is that policy consistent with the industry  
23 standards that Dr. Zenger was cross-examined on yesterday,  
24 there and that Mr. Ginsburg and Mr. Proctor had some additional  
25 questions for you about this morning?

1           A.     Although, I was not present for Dr. Sanger's  
2 examination yesterday, I understand that there was discussion  
3 had about the American -- or the AACE cost estimates.

4           Q.     Well, let me ask you:  Isn't it true that in  
5 attempting to establish contingency costs there are two  
6 approaches, if you will, one judgmental as to what -- based on  
7 one's judgment experience, common sense, the contingent cost of  
8 a project should be projected at and other would be based on a  
9 more analytical model of attempting to establish costs, would  
10 you agree?

11           MR. PROCTOR:  Objection as leading.

12           MR. GINSBURG:  I can rephrase it.

13           CHAIRMAN BOYER:  If you would, please.  Sustained.

14           Q.     What approaches are you aware of to establish in  
15 contingency costs?

16           A.     I'm generally aware that there is a more methodical  
17 engineered approach to that analysis.  There is also an element  
18 of judgment that needs to be made.

19           Q.     I'm going to hand what was received yesterday as RMP  
20 RR Cross Exhibit 2 and direct you to a paragraph that you were  
21 looking at with, I believe, Mr. Ginsburg; the definition of  
22 contingency.

23           A.     I believe Mr. Ginsburg give me page -- different  
24 pages, but this page identifies and defines contingency on page  
25 20 of 106.

1 Q. My specific question regarding that page, Mr. Lasich,  
2 is: Does that definition of contingency account for some level  
3 of judgment to be exercised in the process of estimating  
4 contingent costs for construction projects?

5 MR. PROCTOR: Well, objection again. It's leading.  
6 And at this point we have already provided the witness the  
7 answer through counsel's question. I think at that point it  
8 should be cut off as being repetitive.

9 CHAIRMAN BOYER: I'm going to sustain the objection  
10 as insofar it is a leading question. We can still pursue  
11 this --

12 MR. GINSBURG: Sure.

13 CHAIRMAN BOYER: Line of questioning.

14 MR. GINSBURG: I'll rephrase the question.

15 Q. Would you please read the first sentence or two of  
16 the definition of contingency that's in front of Mr. Lasich?

17 A. What the second sentence says, which I believe is  
18 more relevant to the discussion here, "Typically estimated  
19 using statistical analysis or judgment."

20 MR. GINSBURG: If I could have just a minute,  
21 Mr. Chairman, getting close --

22 CHAIRMAN BOYER: Take a minute if you would like.

23 Q. Finally, Mr. Lasich, Lasich could you share with us  
24 what you understand the general level of contingency estimates  
25 to be, the order of magnitude?

1           A.    Generally, the wind power plant projects that we have  
2 done, such as Dr. Sanger presented, they typically range in 1  
3 to 2 percent of the total project value.

4           MR. GINSBURG:  Thank you, Mr. Chairman.  I have no  
5 further redirect.

6           CHAIRMAN BOYER:  Again, I'm going to play through  
7 with my chairman prerogatives here.

8           Q.    In your experience, Mr. Lasich, has there been any  
9 increase in the -- in those levels of contingency planning in  
10 your experience over the past few years?

11          A.    With respect --

12          Q.    Let me -- you had testified that each contingency is  
13 fact specific and project specific, but when did you present --  
14 has that increased over time?

15          A.    No, it has not, Chairman.  You know, with respect to  
16 wind projects, you have unique geologic issues such as we had  
17 at the Glenrock, Rolling Hills, which were developed on a  
18 reclaimed coal mine.  So I would say it varies depending on  
19 project, but our wind projects are in that 1 to 2 percent  
20 range.

21          CHAIRMAN BOYER:  Thank you.

22                    Any other questions?

23                    Thank you, Mr. Lasich.  You may be excused.

24          THE WITNESS:  Thank you.

25          CHAIRMAN BOYER:  Let me check with our reporter.

1 Are you okay?

2 THE COURT REPORTER: Yes.

3 CHAIRMAN BOYER: Let's continue on then until the  
4 lunch hour.

5 Would our next witness be McGarry?

6 MR. HICKEY: Yes.

7 MR. GINSBURG: And I provided you some corrections to  
8 some exhibits that you might have up there earlier today.  
9 There are two single pages of correction to 3.2SR and his  
10 corrections are 3.51. I think I handed them out. Does  
11 everybody have them?

12 CHAIRMAN BOYER: Mr. McGarry, you have not been sworn  
13 in this proceeding?

14 THE WITNESS: I have not.

15 (Mr. McGarry was duly sworn.)

16 CHAIRMAN BOYER: Thank you. Please be seated.

17 THE WITNESS: Thank you.

18 CHAIRMAN BOYER: Mr. Ginsburg.

19 MR. GINSBURG: Thank you.

20 \* \* \*

21 MICHAEL J. MCGARRY SENIOR,  
22 having been first duly sworn,  
23 was examined and testified as follows:

24 \* \* \*

25 DIRECT EXAMINATION

1 BY MR. GINSBURG:

2 Q. Welcome to Utah.

3 A. Thank you. Thank you for the lovely weather.

4 Q. Can you state your full name for the record?

5 A. Michael J. McGarry Senior.

6 Q. And I'm going to go through your exhibits real  
7 quickly. You prepared direct testimony, which was marked as  
8 DPU 3.0 and -- Exhibit 3.0 - 3.8 and one of them is -- a number  
9 of them confidential. They are both redacted and confidential  
10 versions?

11 A. That's correct.

12 Q. And you also filed rebuttal testimony marked as 3.0  
13 filed from supplemental direct 3.0SV with Exhibit 3.71 and  
14 3.723 and 3.5SE; is that correct?

15 A. That is correct.

16 Q. And surrebuttal Testimony Exhibit 3.0SR with Exhibits  
17 3.2, 3.5, 3.8, 3.9, 3.11?

18 A. That is correct.

19 Q. And then you go through to the exhibits that I have  
20 made these corrections on, which numbers they are?

21 A. Yes.

22 Q. What was corrected?

23 A. The few corrections have to do with -- I'm trying to  
24 get set up. Can I take a moment just to get the paperwork out?  
25 It first has to do with exhibit -- readvised Exhibit 3.5.1,



1 which I checked, is listed on the website as Exhibit C to my  
2 surrebuttal testimony, I believe. In that the length when  
3 they -- was uploaded, it was uploaded with all of the working  
4 formula links within it, so that the numbers do not show on the  
5 website. I'm just providing this document because it is being  
6 revised and one part of it is being withdrawn so it's clear as  
7 exactly what's on the record and what was originally filed  
8 versus what is readvised. So that's been provided to you.  
9 Again, on the website it doesn't show up that way; you can't  
10 see the numbers.

11 The second has to do with Exhibit 3.2SR, which is a  
12 copy of an Excel spreadsheet as Excel downloaded from the EIA  
13 website. And I noticed in reviewing my testimony in preparing  
14 for today, that the headings on the columns for the costs and  
15 dollars per MMBtu were missing. So that -- I've added that to  
16 the columns. The first column is the Appalachia region. The  
17 second column is the west region. The third column is the  
18 interior region. And then lastly, the average of both -- of  
19 all of them. I just noted that obviously for the purposes of  
20 this testimony, I am dealing with the costs as they were  
21 identified in the west region and that is -- that is it.

22 Q. Any other corrections that you wanted to make to your  
23 testimony?

24 A. Other than the withdrawal of certain exhibits --  
25 certain parts of my testimony which I'll mention in my summary

1 statement I -- that's all the corrections that I have.

2 MR. GINSBURG: I would like to have those exhibits as  
3 identified be admitted.

4 CHAIRMAN BOYER: Any objections to the admission of  
5 Mr. McGarry's Supplemental Direct and surrebuttal testimony  
6 with exhibits?

7 They are admitted then.

8 Q. (BY MR. GINSBURG) Can you go ahead and provide your  
9 summary of your testimony?

10 A. I will.

11 Good morning, Chairman, Commissioners Campbell and  
12 Allen. I'm testifying today on behalf of the State of Utah  
13 Division of Public Utilities in this docket, 0903523, Rocky  
14 Mountain Power's application to increase its base rates.

15 My firm, Blue Ridge Consulting Services, was retained  
16 after a competitive bid process to provide assistance and  
17 expert advice in evaluating the revenue requirements portion of  
18 the Company's application, which originally requested a  
19 approval for a \$66.9 million rate increase. This amount was  
20 later reduced by the Company based on a number of adjustments  
21 and agreements to 53.3 million as, shown on the joint issue  
22 list and testified yesterday to by the Company.

23 In addition, as part of a second competitive bid  
24 process, Blue Ridge was also retained to provide expert  
25 assistance in evaluating the net power course portion of the

1 Company's application. Mr. George Evans, who works with us and  
2 is of Slater Consulting, and I assisted the Division with the  
3 Company's proposed net power costs in this proceeding,  
4 including the generation cost included in this filing. I  
5 specifically provided a high level assessment of the Company's  
6 hedging program and that report to the Division was submitted  
7 in this proceeding to my direct testimony.

8 I am supporting several adjustments to the Company's  
9 revenue requirement, including several rate based and  
10 operating and maintenance expense adjustments. However, as a  
11 result of the testimony and DR processes, as well my own  
12 review, I have modified my original position on several of the  
13 issues.

14 In concert with other Division witnesses, my proposed  
15 adjustments reduce the Company's rate -- requested rate  
16 increase to 16.7, or 25 percent, of your company's original  
17 request of 6.9 million. The areas where I have proposed  
18 adjustments include rate base, the deferred transmission  
19 project, quick write-offs, replacement assets and service,  
20 change in the thirteen month average, and coal inventory.

21 On the expense side I have proposed related O&M  
22 adjustments for the quick write-offs, SERP, SERP pension 401K  
23 administration expense, property insurance, injuries and  
24 damages. Based on the Company's rebuttal testimony, I am  
25 withdrawing my adjustments associated with the 401K

1 administration part of 3.5.1, the \$470,000 credit number.

2 In addition, I am also withdrawing my adjustment  
3 related to the property insurance, 3.6.1, as the Company did  
4 not propose an adjustment in this case despite indicating it  
5 would do so in response to data request OSC5.4.

6 I would just like to take a moment to reinforce two  
7 of my proposed adjustments, serps and coal inventory. With  
8 respect to SERP, this issue is clearly a policy issue for the  
9 Commission to consider. While I understand that the Commission  
10 has previously approved this SERP in company's rates more than  
11 a decade ago, as a way to encourage and to attract and retain  
12 high quality executives. I strongly encourage the Commission  
13 to review this issue in the context of this case and the  
14 circumstances surrounding the Company's current case, not the  
15 least of which is the current economic climate.

16 Both OSC and the Division agree that serps should be  
17 a below the item expense borne by shareholders. I state in my  
18 testimonies, shareholders are the first in line to benefit  
19 because SERP is directly linked to financial performance of the  
20 Company.

21 In addition, a number of other jurisdictions,  
22 including Oregon, do no law serps and rates. I specifically  
23 mention that the district of Columbia also does not allow SERP  
24 and rates, but there are many others. Asking rate payers to  
25 bear the cost of an extra benefit, which in my opinion is

1 excessive, to mostly those beneficiaries who do not work for  
2 the Company any longer is inappropriate, especially in this  
3 economy.

4           With respect to coal inventory, I ask that the  
5 Commission consider my testimony on this issue and specifically  
6 pay particular attention to the lack of substantive analysis  
7 behind the Company's claims to be its so-called policy. I  
8 believe I have demonstrated that this policy is nothing of the  
9 sort. At the very least, these documents do not include, or  
10 they do now based on what has transpired this morning in  
11 testimony, what would be considered a cost benefit analysis.  
12 It's to show and back up the increasing inventories where --  
13 and they were only mentioned briefly in Mr. McDougal's  
14 testimony.

15           I want to also emphasis that I did not pass any  
16 judgment on the Arch Lake, Electric Lake Settlement.

17           I firmly believe that the Company has not met its  
18 burden of proof that increasing levels of inventory to the  
19 levels it has done so at the Utah plants is A: Necessary, for  
20 the safe and reliant operation of the plant. Or B: Cost  
21 beneficial to rate payers.

22           From my assessment and the documentation it appears  
23 that the Company's strategy is to build the highest level  
24 possible at these plants, regardless of what it costs rate  
25 payers to carry the cost of that inventory.

1           Finally, with respect to the net power costs, and  
2 specifically the hedging review report I provided to the DPU  
3 and is filed here for your consideration, I believe that the  
4 Company hedging program has a solid foundation but it could be  
5 enhanced through those few recommendations, such as completing  
6 the benchmark assessment with the committee on chief risk  
7 officers white paper manual.

8           However, the bigger recommendation of developing a  
9 policy and a plan for pre-implementation review and/or approval  
10 carries this review to another docket for your consideration.  
11 I believe that I have given you enough comparative information  
12 just to show at least on some level there are sufficient  
13 benefits to be had by at least reviewing whether the Company's  
14 plan should be A: reviewed by the parties, at least for  
15 comment. And/or B: in termination from the Commission of the  
16 Company hedging plan should be approved before implementation.  
17 Both of these I feel will tell to mitigate the second guessing  
18 that is inherent with the hedging strategy.

19           With that, I thank you for your time and  
20 consideration.

21           MR. GINSBURG: He is available for questions.

22           CHAIRMAN BOYER: Okay. Thank you, Mr. McGarry.

23           Let's begun with Mr. Hickey.

24           MR. HICKEY: Thank you, Mr. Chairman.

25           Good morning, Mr. McGarry.

1 THE WITNESS: Good morning.

2 CROSS-EXAMINATION

3 BY MR. HICKEY:

4 Q. Mr. McGarry, I want to talk to you first of all about  
5 the area of coal inventory. You furnished in response to a  
6 data request all of the information that you have attached as a  
7 24-page exhibit to your testimony beginning with the May 16,  
8 2007 memo, correct?

9 A. That is correct.

10 Q. And it was your position and, apparently on the  
11 summary still, is that there wasn't a coal inventory policy, is  
12 that what you're attempting to persuade this Commission to  
13 believe?

14 A. Yes.

15 Q. But you don't disagree, do you, that in 1991 the  
16 Company at the benefit of an energy ventures analysis that was  
17 a result of the interjurisdictional task force review of coal  
18 procurement policy, isn't that a fact?

19 A. It's a fact that it's reported in your -- in this  
20 policy statement. But I would note that I did not get these  
21 policy statements until right before the hearings and right  
22 before surrebuttal, as were part of that interim process. So I  
23 was not able to issue any more data requests and actually get  
24 that study or that recommendation or anything because we were  
25 out of time in preparation for surrebuttal.

1 Q. Well, I think the goal here is to get the best  
2 information to this Commission today and with the best  
3 information to this Commission that you have today, isn't it a  
4 fact that the Company has had and continues to have an  
5 inventory coal policy?

6 A. I would disagree.

7 Q. Well, let's go through it as I had begun. In 1991  
8 based upon the energy ventures analysis there were  
9 recommendations about coal stockpile inventory that set targets  
10 or recommendations for the Company to strive towards or  
11 consider in its coal acquisition policy, isn't that true?

12 A. That is true.

13 Q. And in the 1995 energy ventures analysis, again,  
14 pursuant to the interjurisdictional task force directed to  
15 produce an updated report and that, indeed, produced updated  
16 recommendations for a more -- for a current review of those  
17 facts and another body of information and goal for the Company  
18 to aspire to, isn't that a fact?

19 A. That is correct.

20 Q. And in 2005 the Company, not the interjurisdictional  
21 task force but the Company, retained a firm of Pincock Allen  
22 and Holt Mining Industry Consultants to assist in determining  
23 appropriate inventory levels for selected plants, isn't that  
24 true?

25 A. If you could point me to the document that we're



1 referring.

2 Q. That was provided in response to DPU 65 on page one  
3 of that answer.

4 A. Sixty-five.

5 MR. GINSBURG: Do you have that?

6 THE WITNESS: I have the attachment. I do not have  
7 the actual response.

8 Q. (BY MR. HICKEY) Well, subject to check, Mr. McGarry,  
9 do you have any reason to dispute in 2005 the Company did  
10 retain that firm for the state of purpose of determining prone  
11 inventory levels for selected points.

12 A. I believe that I recall reading that, yes.

13 Q. And then you do have as your attachment the May 16,  
14 2007 memo to Mr. Ferman, then the president of PacifiCorp  
15 Energy, don't you?

16 A. I do.

17 Q. And you don't dispute that page three of that exhibit  
18 specifically embraces or includes as part of the management of  
19 the Company's coal inventory the opportunity to buy distressed  
20 market coal for the operation of its Utah plants, do you?

21 A. No, I don't.

22 Q. And the reason you don't dispute that that is part of  
23 the coal policy inventory policy of the Company is it's been  
24 provided to you, it's attached as an exhibit and we both agree  
25 it exists?

1           A.    That is correct.

2           Q.    And beyond that, I think we both can agree that it  
3 makes sense for this operating utility or any other electric  
4 utility that runs coal fired generation facilities to buy below  
5 market when those opportunities and other relevant facts and  
6 circumstances suggest that below market purchase is in the  
7 interest of its rate payers, wouldn't you agree?

8           A.    All of the things being equal, yes.

9           Q.    And your point in the directive -- in your directive  
10 testimony has been that the Company wasn't giving the full  
11 picture of the savings to rate payers because there hadn't been  
12 an adjustment for the so-called carrying charge or the fact  
13 that money was expended even though it was below market-priced  
14 coal to acquire it and to add it to inventory, that was your  
15 criticism of whether or not in the nettings of these  
16 opportunities a true benefit existed, isn't that true?

17          A.    Yes, but, to the extent that the benefits that the --  
18 netting of the benefits, the carrying costs have now been  
19 presented already. The other point of this is: Where is the  
20 benefit of maintaining that level? Understand that the Arch  
21 Lake Settlement required the additional buying of this  
22 distressed coal.

23                   And as I mentioned, in my summary -- mentioned -- and  
24 briefly mentioned in my testimony, I took no position on  
25 whether that was a good thing or a bad thing. Point was, there

1 is no indication of the Company's strategy to bring down those  
2 inventory levels back to what would be target levels as  
3 identified by both EVA and the original company policy, which  
4 was provided in response to 26.1. There was no continuation,  
5 no idea, when -- it was going to continue on even beyond the  
6 rate effected area.

7 Q. Let me get back to my question. You criticized the  
8 Company because there had not been a netting of the \$21 million  
9 figure Mr. Lasich endorsed in his testimony as the saving that  
10 occurred because of buying coal below market for Utah clients.  
11 And the criticism was that it costs something to buy that coal  
12 and the carrying costs should be netted. We have now done  
13 that, correct?

14 A. That's correct.

15 Q. You have no reason based upon the opportunity to  
16 review the exhibits introduced this morning to refute the  
17 \$8 million approximately of carrying charge that was then  
18 netted or deducted from the \$21 million, do you?

19 A. Subject to check and without reviewing the work  
20 papers behind it, no, I do not have that.

21 Q. I think that's fair. We tried to get it to you as  
22 early in the day as we could, but if you have criticism of that  
23 we want hear them. Subject to your check, the \$13 million is  
24 as best you know today, a fair representation of what the  
25 savings the Company achieved as a result of that Electric Lake

1 Settlement, isn't that true?

2 A. Only to the end of December of 2010.

3 Q. Okay. Let's talk about something else that you have  
4 taken issue with in this area of the coal inventory policy and  
5 the resulting discussion of how the inventory was enlarged  
6 because of a savings that the Company believed it achieved for  
7 it's rate bearers as acquiring the large coal from the -- in  
8 the Electric Lake Settlement. You dispute the pricing that  
9 Mr. Lasich represented was market for the coal that was  
10 acquired, isn't that true?

11 A. To the extent that the savings may be overstated. I  
12 question the veracity of those numbers. I question the  
13 veracity of the numbers of whether or not that [STRICKEN  
14 TESTIMONY BY AGREEMENT OF PARTIES.] excuse me. That's  
15 confidential information.

16 MR. GINSBURG: That is confidential.

17 CHAIRMAN BOYER: Okay. Let's just be careful and  
18 advance and I guess we'll strike the number from the record,  
19 the dollar figure from the record.

20 MR. PROCTOR: Mr. Chairman, I think it would only be  
21 confidential if it was generated by some analysis of what the  
22 Company's market is. But this is referred to -- pardon me for  
23 interrupting. It is referred to as current market per ton and  
24 that may be from publicly available sources. I don't know.  
25 It's the DPU data request 65.2, the revision that Mr. Lasich

1 discussed so --

2 CHAIRMAN BOYER: Well, at the risk of highlighting  
3 what may be confidential, could you rethink that in your  
4 opinion? Would this be a confidential number?

5 THE WITNESS: Again, we are delving into an area  
6 where I could step on it very easily. I could step on a  
7 confidential information piece here, including that number  
8 versus what the number they used, you know, the derivation of  
9 the math between the savings -- to get to the \$21 million  
10 number, which is not confidential. The math that generates it  
11 is based on two confidential numbers and the tonnage. I  
12 believe the tonnage is not confidential but the numbers clearly  
13 are. The differential between the two is what gets you there.  
14 So it's easy to back into it if we allow it on the record.

15 CHAIRMAN BOYER: All right. We will strike the  
16 number. We will be careful in the future. If you can simply  
17 refer to a line or a page or a --

18 THE WITNESS: I will do redacted numbers.

19 CHAIRMAN BOYER: That would be helpful. Thank you.

20 Q. (BY MR. HICKEY) Can you tell us what you believe the  
21 mark price for Utah coal at that time of the Electric Lake  
22 Settlement was?

23 A. That I cannot do. I do not profess to be an expert  
24 in fuel costs -- fuel procurement strategies. My -- the point  
25 and gist of my testimony was that the Company was relying on

1 this -- increasing the inventories without substantive analysis  
2 to back up the benefits to Ray Harris. They did a surrebuttal  
3 in part subject to check. But the still -- what remains is the  
4 issue of the strategy to bring the levels back down so that the  
5 carrying cost returned back to normal for the levels that --  
6 when they don't need the coal.

7           There has been no justification of ramping up the  
8 inventories to the levels where they are at 157 days, if I  
9 accept Mr. Lass's corrected number. I'm not sure that I do  
10 because, as I said in my surrebuttal, he didn't get those out  
11 of rate base as -- because he intends --

12           Q. I think we are going to get through this a lot  
13 quicker if you stay with the question.

14           A. I understand.

15           Q. First of all, in the area of your qualifications you  
16 never have bought coal for a coal fire powered plant?

17           A. That is correct.

18           Q. You have never had the responsibility of managing the  
19 need of bringing coal to a plant in order to continue to meet  
20 customer needs, have you?

21           A. That is correct. Since I --

22           Q. So this is in the category of expert testimony that  
23 is analytical as opposed to any real world experiences you have  
24 ever had either operating coal plants or buying coal as a fuel  
25 for a plant?

1           A.    That is correct.  With the limitation that my  
2   experience does include having conducted a series of  
3   operational audits on coal procurement strategies for -- in  
4   several New York utilities, including Naniwa, NYSEG and having  
5   done basically the same thing, evaluating their coal  
6   procurement strategies.

7           Q.    Duly noted, but you never bought the coal to operate  
8   the plant?

9           A.    That is correct.

10          Q.    Now, wouldn't you agree there are industry  
11   publications that produce prices for what different fuels sell  
12   for and the markets that they trade in?

13          A.    Absolutely.

14          Q.    And wouldn't you agree that those industry  
15   publications that state the prices at relevant times are relied  
16   upon by those who do operate in the real world of purchasing  
17   fuel?  In this instance, coal to operate coal-fired plants?

18          A.    I'm sorry.  Say that again.

19          Q.    Sure.  Aren't there tools for the people that operate  
20   in these industries to know whether or not contracts they are  
21   negotiating or trends in the fuel that they need to purchase in  
22   the markets, it gives them knowledge and through that resource  
23   to make informed intelligent decisions about the fuels that  
24   they are about to purchase.

25          A.    That is correct.

1 Q. Have you ever heard of Coal Cast Report Service as  
2 part of Energy Ventures Analysis?

3 A. I have. I am aware of it, yes.

4 Q. And have you ever heard of Argus? A-R-G-U-S. Coal  
5 Daily US coal market prices as well as news and analysis?

6 A. It sounds familiar, yes.

7 Q. What price do you recall Mr. Lasich having  
8 represented was the market price for coal as of the time of the  
9 acquisition of the coal through the Electric Lake Settlement?

10 A. Now, I know we're going into something confidential  
11 but it's also in the exhibit that he provided in the back of  
12 his rebuttal.

13 Q. All right. Before we go there, do you have an  
14 opinion as to what the current price of coal is for Utah coal?

15 A. I think in -- I'm -- that's why I was flipping  
16 through my surrebuttal. The gist of my argument was to --

17 Q. If I could, Mr. McGarry, that really was a pretty  
18 tight question.

19 A. I understand.

20 Q. Do you have an opinion -- do you know what the  
21 current market price for Utah coal would be?

22 A. As of today, I do not.

23 Q. Okay. Well, then let's take a look at -- first of  
24 all, the surrebuttal exhibit that Mr. Lasich provided. There  
25 is publically available information, as Mr. Lasich did provide



1 in his surrebuttal testimony, as to some spot mark prices of  
2 coal; isn't that true?

3 A. Yes.

4 Q. And, in fact, the exhibit to Mr. Lasich's surrebuttal  
5 testimony recollects regional coal spot prices as gathered by  
6 the Federal Energy Regulatory Commission; isn't that true?

7 A. I'd have to see the document you're looking at.

8 Q. Fair enough.

9 MR. HICKEY: First, if I just lay a foundational  
10 question here, Mr. Chairman. Can we agree that that's the  
11 exhibit that Mr. Lasich had attached to his surrebuttal?

12 A. I have no reason to doubt it. I mean, I believe I  
13 have seen this before.

14 Q. Do you want to verify that?

15 A. I looked at my attorneys to -- whether or not this  
16 is.

17 MR. GINSBURG: Do you have the surrebuttal with you?

18 THE WITNESS: I do -- I don't have I believe I have  
19 the -- I don't know that I have all the exhibits. I have the  
20 surrebuttal.

21 MR. HICKEY: I'm all about trying to be efficient,  
22 Mr. Chairman, I'll be glad to be corrected.

23 Q. (BY MR. HICKEY) But subject to check, Mr. McGarry,  
24 would you agree that I'm attempting to show you the exhibit  
25 that was attached to Mr. Lasich's surrebuttal?

1 A. I will accept that.

2 Q. Okay. This chart is publicly available information,  
3 correct?

4 A. That is correct.

5 Q. And what do you understand the price for  
6 Utah/Colorado coal from that chart to be as of -- and let's go  
7 to current or the end of the chart, October of 2009?

8 A. Well, it's hard to follow the red line but it's  
9 showing it's somewhere -- October of 2009, it looks to me to be  
10 less than \$40 a ton.

11 Q. I would agree with you that chart is at best busy  
12 with all the colors. It seems to converge around that area of  
13 the chart. But fair point made, it's somewhere around \$40  
14 based upon a fair look at this chart, correct?

15 A. Yes, somewhere plus or minus.

16 Q. Now, would you agree that Utah coal is priced more  
17 favorably than Colorado coal, wouldn't you?

18 A. Well, because the red line is Colorado and Utah, I  
19 don't know that I can distinguish that.

20 Q. So then you don't know that there are inherent  
21 qualities in Utah coal that the market has valued greater than  
22 coal produced from the state of Colorado, is that what you are  
23 telling us?

24 A. I didn't say that.

25 Q. Well, would it be knowledge to you to know that Utah

1 coal is considered more valuable because of fundamental  
2 qualities that exist within -- do not exist with Colorado coal?

3 A. I am aware that as you move throughout various  
4 regions of this country the value of the coal changes based on  
5 its characteristics.

6 Q. So is that a yes, that Utah coal is priced more  
7 favorably than Colorado coal?

8 A. I do not know that from this exhibit that you have  
9 shown me.

10 Q. And you don't know it from any other source?

11 A. In fact, the exhibit that I redistributed this  
12 morning shows no difference either. It just shows west coal.

13 MR. HICKEY: Mr. Chairman, I have two exhibits that I  
14 would like to circulate at this time. The first of these would  
15 be RMP-RR -- I believe we are up to -- on the Rocky Mountain  
16 Exhibits 5, I believe that that's something --

17 The Argus Coal Daily exhibit would be Cross Exhibit 6  
18 and the Whole Cast Exhibit would be Exhibit 5.

19 Q. (BY MR. HICKEY) So directing you first to Cross  
20 Exhibit No. 4, would you please look at the second page of that  
21 exhibit, Mr. McGarry. And it has in the middle of that lower  
22 selection of the left-hand column Uintah Basin Utah; isn't that  
23 true?

24 A. Yes, I see that.

25 Q. And it provides on a quarterly basis the price of

1 coal from the first quarter of 2010 here in another couple of  
2 weeks through 2011; isn't that true?

3 A. That is correct.

4 Q. And that price for the first quarter of 2010 is based  
5 upon this Argus Coal Daily Report?

6 MR. GINSBURG: And at this point I need to say into  
7 the record, Mr. Chairman, that there are some copyright issues  
8 with these publications and because I don't have authority -- I  
9 don't believe I do at this point. I don't have any authority  
10 from either Energy Ventures Inc. or Argus to have them waive  
11 their copyright protections over these publications. Because  
12 of that, I think we need to ask that this portion of the record  
13 be sealed.

14

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12

13 Q. (BY MR. HICKEY) Okay. Let's talk about some of the  
14 other points that you are attempting to make in your testimony.  
15 Isn't it true that you did not account for all of the  
16 consumption of the Hunter coal?

17 A. As pointed out in Mr. Lasich's testimony, he makes  
18 that criticism. I addressed it in surrebuttal and provided the  
19 Commission the source of my documentation, which was the FERC  
20 Form 1 Report. That was my -- I had no other way of knowing  
21 that I was understating that -- that I could be understating  
22 that information.

23 Q. Well, I have in front of me the entire FERC form one  
24 that your pages -- that the Commission could find as the first  
25 attachment to your testimony.



1 A. Uh-huh.

2 Q. I am correct that those FERC forms are the first  
3 attachments, Mr. McGarry? I believe they are to your  
4 surrebuttal testimony.

5 A. I'm not sure it's the first, but I have it.

6 Q. Yeah. Well, anyway, so the record is clear for those  
7 that want to find these forms, they are out of the FERC Form 1  
8 and for the carbon plant. It's page 402, for the Craig Plant  
9 403. And they continue in some sequence and include the Hunter  
10 plants in Utah; isn't that true?

11 A. Yes.

12 Q. And what's relevant here, are that you took four Utah  
13 plants and you looked at what the consumption of coal at those  
14 plants was in order to make adjustments to the coal inventory,  
15 correct?

16 A. Right, to establish the burn rate.

17 Q. Yeah. And if other entities own some of the Hunter  
18 Plant and thereby consume coal that isn't reflected in these  
19 FERC forms, that would be an adjustment that you would agree in  
20 fairness needs to be made to your calculations; isn't that  
21 true?

22 A. Only to the extent that the inventory numbers that --  
23 and I believe I asked this in a data response. Only to the  
24 extent that the inventory numbers are the total, including the  
25 joint owners, then, yes, I would agree. But as I recall, I

1 asked a data response and they said it was only the PacifiCorp  
2 share, if I recall that data response.

3 Q. Okay. I'm going to hand you what I will mark as  
4 Rocky Mountain Power Cross Exhibit No. 6. While I'm passing  
5 those out, Mr. McGarry, have you ever seen that form before?

6 A. I cannot specifically say I have seen it. Although,  
7 I have been through just about every page of the FERC Form 1.

8 MR. GINSBURG: Could we identify it a little bit  
9 more?

10 Q. (BY MR. HICKEY) I'll represent to you, Mr. McGarry,  
11 that this is, in fact, out of Rocky Mountain Power's FERC Form  
12 Number one of the financial report, annual report of a major  
13 electrical utility that was filed with the FERC for the period  
14 of the report, 4th quarter of '08.

15 And in the sequencing of the pages that you attached  
16 as exhibits attempting to show the coal consumed at plants,  
17 isn't page 4150.1 simply another part of that report further  
18 in. And if you want to look through the whole report to verify  
19 that I have it for you.

20 I guess the simple question, Mr. McGarry, can we  
21 agree that this page of additional footnotes is a part of the  
22 FERC Form 1?

23 A. I have no reason to doubt that.

24 Q. And isn't it true, had you reviewed this, it would  
25 have documented to you that as it relates to the Hunter Plant



1 there are, in fact, other owners? And their coal was not  
2 accounted for the consumption of their percentage of the coal  
3 was not accounted for by you in your calculations?

4 A. You would have to point to me on this document where  
5 it says that.

6 Q. Well, let's --

7 A. Because I don't even see Hunter or any of the Utah  
8 plants mentioned here.

9 MR. REEDER: Counsel, I need the same note. I can't  
10 find the word "Hunter" on the page.

11 MR. HICKEY: Mr. Chairman, I need to apologize to you  
12 and to the parties. The page that we hurriedly reproduced last  
13 night is, in fact, not the page with Hunter on it. We will  
14 have that shortly after you let us come back from lunch. And  
15 we can break at this point or I can -- I do have more for  
16 Mr. McGarry if you want to continue. Whatever your preference  
17 is Mr. Chairman.

18 THE WITNESS: I can short case this whole part of it.  
19 I will accept, subject to check, that the adjustment down to a  
20 154 days I think is roughly of what Mr. Lasich pointed to in  
21 his testimony. I can accept that adjustment subject to check,  
22 so long as the Company's response to the inventory question of  
23 whether the inventory stockpiles were only their portion of it.

24 If I had only done my analysis based on the  
25 inventory -- their inventory levels, and I have used their burn

1 rate, then I have got it right. However, if the inventory  
2 numbers that I used were total company and total pile of the  
3 station and includes the joint owner, then I accept their  
4 adjustment subject to check.

5 CHAIRMAN BOYER: Is that the fact, Mr. Hickey?

6 MR. HICKEY: Yes, the stockpile does include the  
7 entire -- the entire volume of coal.

8 THE WITNESS: Now, I would just like the opportunity  
9 to --

10 MR. HICKEY: Both the Company's coal, as well as  
11 these other joint owners that I can now show the witness are  
12 reflected upon this page. And for the record, it is still page  
13 450.1. If you would look to that highlighted portion of the  
14 page you'll find the information.

15 THE WITNESS: As I said, Mr. Chairman, the only thing  
16 I would like to do is check the data response where I asked  
17 what the levels were in the inventory and I did ask that data  
18 request.

19 CHAIRMAN BOYER: Okay. Thank you, Mr. McGarry.

20 How much more cross-examination do you have,  
21 Mr. Hickey?

22 MR. HICKEY: Oh, upwards of half an hour.

23 CHAIRMAN BOYER: Let's take an hour and a half recess  
24 right now. We'll resume and that will give Mr. McGarry time to  
25 verify what that form or page for the FERC line is. We'll

1 reconvene here then at 1:30.

2 (Whereupon a break was taken from 11:58 a.m. to 1:34 p.m.)

3 CHAIRMAN BOYER: Let's go back on the record. We had  
4 suspended Mr. Hickey's cross-examination of Mr. McGarry.

5 And you know, we're not going to restrict your time,  
6 specifically, but the Commission would not be displeased if we  
7 finished around 4:30 or 5:00 today. Just for informational  
8 purposes. We'll take whatever time is necessary.

9 MR. GINSBURG: For everybody not just him, right?

10 CHAIRMAN BOYER: Exactly.

11 Okay. Mr. Hickey.

12 MR. HICKEY: Mr. Chairman, thank you. And that  
13 timeframe certainly appears more than feasible from my  
14 perspective.

15 Q. (BY MR. HICKEY) Mr. McGarry, I'll go ahead and, I  
16 guess, for the purposes of trying to clean up some of our  
17 earlier discussion. You had asked if you could have an  
18 opportunity to review the Company's response to DPU data  
19 request 26.2 to address the issue of whether or not the amount  
20 of coal at the Hunter Plant had been accurately reported by you  
21 or accounted for by you. And am I correct, sir, that with the  
22 opportunity to review this data request you have now concluded  
23 that Hunter coal is not correctly reported by you?

24 A. That is correct. I have gone through and found where  
25 I did ask about the ownership and it does clearly except for

1 the Hunter Plant. And the response, I'll read it into the  
2 record just for everybody's sake.

3 Q. Sure.

4 A. "With the exception of the Hunter Plant, the  
5 information represents the Company's ownership interest at each  
6 plant and information referring to the inventory. While the  
7 Company maintains ownership of the Hunter Plant, the coal  
8 stockpile is dedicated for the entire plant. The joint owner  
9 is making a cash working capitol for their respective share of  
10 the Hunter Plant's carrying charges."

11 So in doing my calculation, I have understated that  
12 fuel burn because I have only used the Rocky Mountain part of  
13 that equation, which overstated the inventory date -- the  
14 inventory days at the plant.

15 Q. Okay. Thank you, Mr. McGarry. So just another  
16 hopefully equally quick revisit to some of the discussion we  
17 had about coal inventory policies. Are you aware of the fact  
18 that there have been discussions in the past with the  
19 Commission by the Division regarding the Company's coal  
20 inventory policy?

21 A. Only to the extent that it was identified in the  
22 Rebuttal Exhibits 651 -- of the data responses that 651, I  
23 think the exhibit is now marked, the policy that was -- which  
24 we mentioned, the EVA and the agreement with the Commission  
25 that in terms of current discussions with current Division

1 personnel, I'm unaware of any agreement.

2 Q. I have got a tighter question that I think will help  
3 get us through this. Are you aware that in the 1999 Report and  
4 Order in Docket No. 99-035-10, the Division had taken a  
5 position regarding the Company's coal inventory policy and that  
6 that is a paragraph within that order that addresses the issue  
7 of excess coal inventory? Did you review that in preparing for  
8 your assignment on this case on behalf of the Commission?

9 A. I went back a ways on the orders. Whether or not I  
10 looked at '99 I can't say for sure.

11 Q. If I showed you the paragraph of the order, would it  
12 help refresh your recollection as to whether or not you have  
13 seen it?

14 A. It might. I went back a ways. I don't know that I  
15 went back into '99.

16 Q. For purposes of the record, I'm showing you that I  
17 have the complete order. And in the interest of meeting that  
18 4:30 commitment that I have just made, I need to quickly get to  
19 that page, if you will.

20 A. Now, I'm reading -- this is the commission's order?

21 Q. Yes. And I think at that point we are trying to  
22 refresh your recollection. And by looking at the order is your  
23 recollection refreshed that you have or have not reviewed that  
24 order in preparation for your assignment in this case?

25 A. I can honestly say I don't recall seeing this.

1 Q. Fair enough. So is it true than that you are not  
2 aware of the fact that there have been these previous  
3 discussions where the inventory policy was under some level of  
4 consideration or review by both the Division and by the  
5 Commission?

6 MR. GINSBURG: I would object. I think the order  
7 speaks for itself and he's already said that he's not familiar  
8 with it. The order can only say what it says.

9 CHAIRMAN BOYER: Any response to that, Mr. Hickey?

10 MR. HICKEY: I don't. I just ask that the Commission  
11 take judicial notice of the order. And Mr. McGarry, if you  
12 would be kind enough to go back to page 39 and just for the  
13 convenience of everyone that might want to note as to where  
14 that was in the order, state the page and I'm ready to move on  
15 to another area.

16 THE WITNESS: Mr. Chairman, it's page 39 of Docket  
17 No. 99-035-10 paragraph four. I guess it's under the  
18 subheading of -- I don't know it's way back here -- no, it  
19 can't be right.

20 MR. HICKEY: No, well that -- there one that's -- you  
21 don't write them, Mr. McGarry, you just read them.

22 THE WITNESS: Excess coal inventory, it's number  
23 four. You don't want me to read this?

24 Q. (BY MR. HICKEY) That's fine. Thanks for doing that.  
25 Another area. Another area within coal inventory. I would

1 like you to refer to the exhibit that was attached to  
2 Mr. Lass's testimony that was marked as ARL1-R. Do you  
3 remember that exhibit?

4 A. I have it in front of me. We are talking -- to make  
5 sure, table one corrections to the DPU?

6 Q. Yes. On that exhibit -- and, again, it's RMPARL1-R.  
7 And looking under the first column DPU adjustment, are you with  
8 me there?

9 A. Uh-huh.

10 Q. These are your figures, aren't they, Mr. McGarry,  
11 that were in 2008 coal consumed tonnage, the third category of  
12 figures? You have shown the four Utah plants and have tonnages  
13 assigned to them, correct?

14 A. Correct.

15 Q. And my question is: Where did you get those figures?

16 A. Those are from the form one.

17 Q. Well, let's keep that exhibit handy. And then if you  
18 would, would you go to your testimony and it's your rebuttal, I  
19 believe, where you attached those FERC Form 1 pages. Do you  
20 remember that?

21 A. I have them.

22 Q. And let's start with Carbon. And for Carbon you show  
23 a tonnage of 640,585 tons, correct, that's your figure?

24 A. That's -- let me -- that's what Mr. Lasich shows  
25 from, I'm assuming, my schedule. I have not verified

1 Mr. Lasich's schedule to my schedule.

2 Q. Okay. Well, let's just go directly to your schedule  
3 and do that as quickly as possible as you can. I want you to  
4 be able to say that those are your figures if indeed they are.

5 A. Oh, they are up in the original.

6 MR. GINSBURG: Where specifically are you going?

7 THE WITNESS: To the direct testimony.

8 MR. GINSBURG: Okay.

9 THE WITNESS: To the coal inventory, which would be  
10 3.3, which are confidential.

11 A. 3.3 is the exhibits, yes, he's transposed that  
12 correctly.

13 Q. Now, on the FERC form --

14 A. I've got to go back to it. Hang on.

15 Q. Let me suggest if you want to just take those form  
16 pages out of the notebook it make might this easier.

17 A. I understand.

18 Q. You need to go to line 38, don't you, on the FERC  
19 Form 1 for carbon under a line entitled "Quantity or Units of  
20 Fuels Burned" to find what was reported to the FERC?

21 A. That's correct.

22 Q. And it's not the figure that you had from your  
23 Exhibit but rather --

24 A. I see that.

25 Q. -- the figure that Mr. Lasich had of \$576,654; now is



1 that correct?

2 A. Now, are you going to ask me why?

3 Q. Well, I think that would be only fair. Why?

4 A. And forgive me. I don't have the answer. I don't  
5 know. I have to check the source documentation against what I  
6 have --

7 Q. The source there was supposed to be the FERC Form 1?

8 A. That is correct.

9 Q. And we can agree that any conscious effort to review  
10 your exhibits, FERC Form 1, against what was -- we'll say, my  
11 words and not yours, incorrectly represented to be Form 1 data  
12 doesn't jive with tailing back to the FERC Form 1?

13 A. And now I am recalling why. In working with  
14 Mr. Evans on this -- in this project, I asked Mr. Evans to  
15 provide me the coal burn because he was working on the net  
16 power costs. He sent me a schedule, which was just a typed up  
17 Excel spreadsheet.

18 He then asked -- he said -- I then asked what was the  
19 source of the information and he said that FERC form. I asked  
20 him to provide me the specific pages. And forgive me, I did  
21 not go back and doublecheck from -- I just doublechecked  
22 against from what Mr. Evans had sent me.

23 Q. I appreciate your candor and your honesty, sir. I'm  
24 on the next FERC Form 1 page related to Huntington. I'm on  
25 line 38. I show on line 38 that the quantity or units of fuel

1 burned reported to the FTRC was 3,004,101 tons and your exhibit  
2 represents the Huntington tonnage at 800 -- or excuse --

3 A. Huntington 3771.

4 Q. Yeah, you show at 3,221,777 dollars -- or are tons.

5 A. That is what is in my schedule, yes.

6 Q. Okay. And then finally -- what was the FERC form  
7 what is that again? The FERC is on 38. There is several couple  
8 of plants per page. And I'm on what is called 402.2 of that  
9 same last quarter, FERC Form 1 at line 38. And, yeah, on  
10 Huntington. Yeah. And then to make this correct on Hunter.  
11 The Hunter figure that comes off the FERC form is --

12 The FERC Form 1 that is your Exhibit for Hunter is  
13 4,711,054. And based on our exchange regarding the data  
14 request and acknowledging that that did not correctly account  
15 for all of the coal, we have to add the joint owners tonnage to  
16 that figure, correct?

17 A. That's correct.

18 Q. And do you have those figures to offer?

19 A. I -- well, I -- a more simplified way that I tried  
20 during lunch to arrive at what we should do here, at least  
21 initially, was look at ARL1. I would be willing, to subject to  
22 this rule, that is of identifying the source of the data and  
23 going back and making a linkage between what was provided to me  
24 from Mr. Evans and this stuff that's in the exhibit, absent  
25 that correction, which I don't think is going to be all that

1 much, I would be willing to work out a calculation that is  
2 based, in part, on correction column No. 2 in ARL1.

3           So long as we can all accept that the correction for  
4 what he called Correction No. 1, the difference between my  
5 average -- his use of the beginning and ending balance versus  
6 my use of the 130-month rolling average is very deminimus at a  
7 \$100,000. I'm willing, to subject to check of -- to make sure  
8 the columns are right except Column No. 2.

9           Q. We'll certainly take that offer from you.

10           MR. HICKEY: I would like to make the record complete  
11 on this area, Mr. Chairman, and I'm going to offer RMP-RR Cross  
12 Exhibit 6 and can quickly provide those figures of what the  
13 other owners of Hunter's tonnage would be that would complete  
14 the calculation that Mr. McGarry and I were about to make  
15 together.

16           I could approach the witness, Mr. Chairman, in the  
17 interest of time, Mr. Chairman.

18           CHAIRMAN BOYER: Yes, you may.

19           Q. And if you would go to page 23 called the Fuel  
20 Consumed Report. And for the record while you are there, could  
21 you just identify what you're looking at for us, Mr. McGarry?

22           A. Yes. I'm looking at the PacifiCorp document entitled  
23 Coal Mine Operating Report, December 2008.

24           Q. And on line 16 of that report do you find Hunter Unit  
25 No. 1?

1 A. I do.

2 Q. And there is an acronym next to it called UMPA.

3 A. U-M-P-A, yes, sir.

4 Q. Do you know what the UMPA is?

5 A. I haven't -- I think I'm supposed to know but I don't  
6 recall.

7 Q. Well, I'm sure there are lots of folks in the room  
8 that do, especially the Commission. But I think it's the Utah  
9 Municipal Power Authority, something like that. Okay.

10 Then if you and -- there is tonnage and under the  
11 quality -- quantity consumed attributed to line 16, correct?

12 A. That is correct.

13 Q. And then if we go next to line 18 it shows the other  
14 two joint owners of Hunter No. 2 as DPEC and UAMPS, correct?

15 A. That is correct.

16 Q. And a quantity associated to them?

17 A. That's correct.

18 Q. And subject to check, would you see if adding the  
19 FERC form -- the correct number of tons consumed from the FERC  
20 for Hunter with those additional tonnages is producing the  
21 figure represented by Mr. Lasich on column two on ARL-1?

22 A. Yes, that's correct.

23 Q. Thank you, very much. Finally, the last area that I  
24 want to visit with you about is the SERP, or so-called SERP  
25 expense. Mr. McGarry, you, in your summary and in prefile

1 testimony, are proposing to move expenses related to the  
2 Company Supplemental Executive Retirement Plan, aren't you?

3 A. That is correct.

4 Q. But do you agree that in general, retirement expenses  
5 is a legitimate element of employee compensation and therefore  
6 properly recovered in rates, isn't that true?

7 A. To the extent that it has been -- can be shown in  
8 rates, yes.

9 Q. And you would say generally that retirement benefits  
10 by their inherent nature provide compensation to employees  
11 whose employment has been terminated and who are no longer  
12 providing any direct service to rate payers; isn't that a fact?

13 A. That is correct.

14 Q. You recognize that this Commission has previously  
15 addressed the issue of the SERP, provided to a limited number  
16 of executives and it was approved in a prior order; in fact,  
17 that same 1999 order that we discussed a minute ago in the  
18 context of coal inventory, correct?

19 A. Correct.

20 Q. You are aware that going forward, the SERP program  
21 will have no participants and it won't be expanded, isn't that  
22 true?

23 A. From everything I understand, that is true.

24 Q. And isn't the issue here whether or not this company  
25 meets its commitment, its obligations to not only the current

1 workforce but those that it hired and solicited to work for  
2 them in the past?

3 A. That statement assumes that the Company would not  
4 honor that commitment if it were not getting rate recovery and  
5 I don't believe that to be the case.

6 Q. Well, at the higher level though, you would agree  
7 that any of us would want to work for a company that honor its  
8 commitments to employees?

9 A. Of course.

10 Q. And would that be a lofty goal, especially in this  
11 kind of economy?

12 A. Of course, but I don't -- as I said, I don't believe  
13 that the Company would not honor its commitments to its  
14 retirees either executive or nonexecutive whether it got rate  
15 recovery or not. That's not the issue.

16 Q. But you have no study or any data for that matter on  
17 executive pay that shows that SERP is an excessive retirement  
18 plan, do you, Mr. McGarry, at least that you provided to us?

19 A. I did not, no.

20 MR. HICKEY: I have no further questions,  
21 Mr. Chairman.

22 CHAIRMAN BOYER: Okay. Thank you, Mr. Hickey.

23 Mr. Proctor, any questions for Mr. McGarry?

24 MR. PROCTOR: No, thank you.

25 CHAIRMAN BOYER: Mr. Dodge?

1 MR. DODGE: No questions, thank you.

2 CHAIRMAN BOYER: Mr. Reeder?

3 MR. REEDER: Just a couple of questions here, some  
4 things that I'm confused about.

5 CROSS-EXAMINATION

6 BY MR. REEDER:

7 Q. In the publication it's been directed to the  
8 publication and the --

9 CHAIRMAN BOYER: Mr. Reeder, would you please bring  
10 your mic a little closer? Thank you.

11 Q. In the public you have been directed to, the Argus  
12 publication, OCATS publication, have you had occasion to review  
13 those in times past?

14 A. As I said during Mr. Hickey's cross-examination, I'm  
15 aware of these documents, I know they exist, on occasion, but  
16 not frequently.

17 Q. Do they typically report the spot with the contract  
18 price?

19 A. My understanding is that these are spot prices.

20 Q. Do they usually come with the kind of disclaimer that  
21 was read at length into the record yesterday about don't  
22 anybody rely on these, don't anybody quote these, don't anybody  
23 trust these because they are from sources that we don't know  
24 whether or not they are reliable?

25 A. I can't say for sure, I don't know the -- I'm looking

1 quickly at those two documents to see.

2 Q. You said the disclaimer did exist but he didn't give  
3 it to us, did he?

4 A. I can't answer that question.

5 Q. Can you compare without disclosing confidential  
6 information spot price information that he's given to us to  
7 compare to show there was some advantage in this hedging  
8 program with what you understand the contract price to be?

9 A. I'm sorry, rephrase that again.

10 Q. Let's start it simply. Are contract prices and spot  
11 prices different?

12 A. Typically, yes.

13 Q. Which is the lower?

14 A. Usually contract.

15 Q. Do you have any indication in this record what the  
16 contract price is that would have been available for coal had  
17 it just been purchased under the ordinary business with this  
18 counter party might have been?

19 A. I don't know the answer to that. I don't know.

20 Q. Look at the document that's just been handed to you,  
21 RMP-RR 6, page 23, column 3, unit cost.

22 A. What page again?

23 Q. Page 23, same page you were looking at for Mr. Hickey  
24 a minute ago. Do you see the contract price or the unit price?

25 A. I see the unit price but I would not say it's the



1 contract price. That's the price that the accounting records  
2 for consumption of the coal which is a blend of whatever the  
3 price is on the pile.

4 Q. Okay. Would you expect that that would be a fair  
5 reflection of the contract price?

6 A. It depends on what the level of contract versus spot  
7 is in this company. And I can't tell you that I know that  
8 answer.

9 Q. If you were to make a comparison about the saving  
10 that this company has enjoyed as a result of this co-hedging  
11 strategy, what numbers would you compare?

12 A. Well, okay, if I were doing a full-blown analysis I  
13 would look at what -- I would find out -- first determining  
14 what the mix-up contract versus spot coal is. That the Company  
15 buys at these three plants. Then I would use a publically  
16 available source, something like Argus or the Coal Venture to  
17 get a similar weighted coal price, recognizing the  
18 transportation limitations of the plants and then compare that  
19 price with the transportation charges built in to what the --  
20 what the contract price was that they were going to get from  
21 the settlement.

22 Q. Do you find that detail anywhere on this record?

23 A. I do not.

24 Q. Absent that detail on the record, would you use the  
25 coal price pile to determine whether or not there was an

1 advantage in this transaction in the price in the coal pile?

2 A. You could use it as a very loose proxy, yes.

3 Q. If we use that, was there any advantage in terms of  
4 price hedge on this transaction?

5 A. I don't have enough data here in front of me to make  
6 that qualification. If I had -- I'm looking at the other --  
7 and I can't even do it from the two data points that are on  
8 here. It's tough to say.

9 Let me say this: That the two numbers at the end of  
10 year end and this is probably a reflection of the fact that  
11 they had the settlement, part of the settlement is already --  
12 the coal that is being delivered off the settlement is already  
13 reflected in these numbers. In part, because they executed the  
14 contract in February of '08 so they had started taking --  
15 assuming they started already taking deliveries. So part of  
16 this number is already reflecting that Arch settlements. It's  
17 kind of blended in there. I would have to have more data in  
18 order to make that full-blown assessment.

19 Q. Looking at these numbers, do you have a judgment as  
20 to whether or not the \$13 million savings number that has been  
21 presented on this record is reasonable or not?

22 A. I believe it's overstated. And I think I have said  
23 that even with the corrections that we have made. If for any  
24 other reason that it's a point in time savings.

25 Q. Would the alternative have been to have taken, just

1 purportedly, discounted coal prices in settlement of this  
2 contract then -- or would this dispute have been to your  
3 information?

4 A. Well, you know, the only other alternative would be  
5 some other settlement that they would have arrived at, some  
6 financial statement, could have been cash.

7 Q. Could have been cash. Would it be fair to compare  
8 the advantage the rate payers of having received cash as  
9 opposed to receiving this reportedly discounted coal?

10 A. It certainly is one of the options.

11 Q. Have you undertaken that analysis?

12 A. I have not.

13 Q. Is that an analysis that should be taken before one  
14 concludes that the increase in coal inventory is in the best  
15 interest of the rate payers?

16 A. It would be one factor, one variable that could be  
17 considered certainly.

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

19 CHAIRMAN BOYER: Thank you, Mr. Reeder.

20 Before we go to Commission questions, Mr. Hickey, I'm  
21 wondering if you wish to offer RMP-RR Cross Exhibits 4, 5, and  
22 6?

23 MR. HICKEY: Thank you, I do, Mr. Chairman.

24 CHAIRMAN BOYER: Are there any objections to the  
25 admission of those exhibits?

1           They are admitted.

2           Commissioner Allen.

3           COMMISSIONER ALLEN: And I have no questions either.

4           CHAIRMAN BOYER: Mr. Ginsburg, any redirect for  
5 Mr. McGarry?

6           MR. GINSBURG: I do have a few questions.

7                               REDIRECT EXAMINATION

8           BY MR. GINSBURG:

9           Q. Mr. McGarry, if we first go to the Company Exhibit  
10 ARSCC1, what was the impact of the change, if you know, for the  
11 change that you made in the coal stockpile in the joint  
12 ownership? What effect does that have?

13          A. The commissioner is only looking at ARL1, the exhibit  
14 that they have talked about. If you take the difference  
15 between my Utah allocated 23 -- at the very bottom 23.4 million  
16 that I originally calculated and that of column two, the 21546.  
17 The rate base number that I'm -- the difference between the two  
18 numbers is 1.8 million or 1836572, 1,836,500,072. That's a  
19 rate base number that would flow through the materials and fuel  
20 stock account of the Company.

21          Q. You were given some FERC Form 1 numbers where you  
22 have -- the numbers were and it looks, like, were incorrectly  
23 stated on your exhibits, do you recall that?

24          A. I do.

25          Q. What are the -- what's the impact of those changes?

1           A.    I have to -- because I was made aware of that just  
2 now I have to go back and check it.  But let me offer this,  
3 that the number -- the source of the numbers, was from another  
4 colleague who gave me the schedules.  I'm not sure that the  
5 pages that I have from the FERC One match up.  I need to know  
6 where he got his numbers before I can say for sure that the  
7 numbers that are on here are correct or mine are incorrect.  I  
8 want to take that opportunity to check that.

9           Q.    What would change on this Exhibit as a result of  
10 those numbers he gave you?

11          A.    As far as I know, nothing would change on his  
12 exhibit.  What would change would be my exhibits.  Because he  
13 has reported the ones that he has that he has off his fuel burn  
14 report which I believe is in this number, in this specific one.

15          Q.    We would like an opportunity to provide corrected  
16 exhibits with the corrected numbers, if that's not a problem  
17 for you.

18          A.    Again, with the caveat that I'm not sure.

19          Q.    I understand.

20          A.    I need to research this to figure out what's wrong.

21          Q.    Let me ask you a couple questions about --

22               MR. HICKEY:  Mr. Chairman, just so the record would  
23 reflect the Company's position, we think they've had ample time  
24 to understand the information.  And I don't know why additional  
25 exhibits at that point would be appropriate.

1           The exhibits that the case is tried on is what's been  
2 the subject matter of discussion. And I don't, for one, and on  
3 behalf of the applicant, wouldn't agree that we need or want  
4 late filed exhibits. But it's up to you, Mr. Chairman.

5           CHAIRMAN BOYER: Well, I think what Mr. Ginsburg is  
6 suggesting is that he corrected his exhibits to conform to his  
7 oral testimony. Is that what you are saying?

8           MR. GINSBURG: To correct the exhibits to conform to  
9 his -- as his oral testimony with what those numbers that he  
10 believes would apply in his exhibits.

11          MR. HICKEY: I know, I just realized why I think it  
12 is a valid concern here. He's, I think, asking you to let him  
13 do more than that. He is asking that he then visit with  
14 another colleague and that another colleague provide him  
15 information that I don't have the right to cross-examine  
16 because none of that is going to be in this hearing. And  
17 that's why, I think, you win -- or you at least try your case  
18 on what's in front of the body the day that you are in front of  
19 the Commission and not what you can create after the fact.

20          CHAIRMAN BOYER: I think that's a legitimate  
21 objection. I'm going to sustain it. We have in the record  
22 Mr. McGarry's testimony today and so we know and our staff  
23 knows what those areas of disagreement have been and are.

24          So let's move on, Mr. Ginsburg.

25          Q. A couple questions about the benefit number,

1 \$13 million that you have been asked about and Mr. Reeder  
2 questioned you about. You said you continue to have problems  
3 with this schedule. The Company has indicated they have no  
4 plans on bringing down the inventories, is that a fair  
5 statement?

6 A. That's what my understanding is. I believe that's in  
7 testimony.

8 Q. And so the carrying charge that would occur on the  
9 inventories would continue beyond the 2010 period?

10 A. That's correct.

11 Q. What would be the impact on that exhibit if you carry  
12 this out further?

13 A. Eventually it eats the savings up. And it probably  
14 wouldn't take anymore than three years of additionally  
15 maintaining the inventory at 1.5 at the additional tonnages  
16 before the carrying charges eat up the savings and then it  
17 starts to go the other way and starts to impact rate payers the  
18 other way.

19 Q. Why do companies choose to carry large inventories?

20 A. Usually in anticipation of supply disruptions,  
21 contract negotiations, problems with the railroads, certainly  
22 mining conditions in a captive mine situation. There are any  
23 number of reasons why they will build inventories.

24 Q. Was that -- any of that present that you are aware  
25 of?

1           A.    I think in -- certainly, in surrebuttal Mr. Lasich  
2 mentioned some of this.  But in terms of arriving at that  
3 decision early on, there is no indication that even in the  
4 early documents that they talk about in their exhibits where  
5 they mentioned, you know, the need to increase the inventory  
6 beyond that for major supply disruptions, especially in the  
7 early -- what they call policy statements.

8           MR. GINSBURG:  Thank you.

9           CHAIRMAN BOYER:  Thank you, Mr. McGarry.  You may be  
10 excused.

11          THE WITNESS:  Thank you.

12          MR. HICKEY:  Mr. Chairman, I have one other  
13 housekeeping item while we are --

14          CHAIRMAN BOYER:  This would be a good time to take  
15 care of that.

16          MR. HICKEY:  And it relates to the FERC Form of notes  
17 that I believe was represented by me to be part of the FERC  
18 Form 1 and would address the issue of joint ownership of the  
19 Hunter Plant.  I have the correct page copied and would like to  
20 have it received as RMP-RR Cross Exhibit 7 and would ask the  
21 parties to just throw away the earlier circulated page.

22          CHAIRMAN BOYER:  Are there any objections to the  
23 substitutions of this page with the earlier page?

24          MR. DODGE:  No objection.

25          CHAIRMAN BOYER:  RMP RR Cross 7 is admitted.



1 MR. HICKEY: Thank you.

2 CHAIRMAN BOYER: Ms. Ramas, have you been sworn in  
3 this proceeding?

4 THE WITNESS: No, I have not.

5 CHAIRMAN BOYER: Shall we do that right now? Please  
6 rise your right hand.

7 (Whereupon Ms. Ramas was duly sworn.)

8 CHAIRMAN BOYER: And I must ask before we begin, are  
9 congratulations in order? Your surname has changed since we  
10 last --

11 THE WITNESS: Yes, I married in last November.

12 CHAIRMAN BOYER: Congratulations.

13 THE WITNESS: Thank you.

14 CHAIRMAN BOYER: And welcome.

15 MR. HICKEY: Could I have just one second?

16 CHAIRMAN BOYER: You may.

17 MR. PROCTOR: Your surname has changed.

18 Thank you, Mr. Chairman. May I go ahead?

19 CHAIRMAN BOYER: Please proceed.

20 \* \* \*

21 DONNA RAMAS,

22 Having been duly sworn,

23 is examined and testifies as follows:

24 \* \* \*

25 DIRECT EXAMINATION

1 BY MR. PROCTOR:

2 Q. Ms. Ramas, could you state your name and your  
3 business address, please?

4 A. Yes. My name is Donna Ramas and I'm with the firm  
5 Larkin & Associates. And our address 15728 Farmington Road  
6 Livonia, Michigan. Zip code is 48154.

7 Q. Ms. Ramas, you have before you a pleading entitled  
8 Exhibit List of the Utah Office of Consumer Services?

9 MR. PROCTOR: And, Mr. Chairman, I believe that the  
10 copy was provided to you.

11 CHAIRMAN BOYER: Yes, we have that.

12 MR. PROCTOR: Thank you.

13 Q. Does this exhibit list comprise the testimony that  
14 you filed in this particular case and the manner in which it is  
15 marked both direct and rebuttal testimony?

16 A. Yes, it does.

17 Q. Do you have any changes or corrections that you would  
18 be making to any of the testimony or exhibits that have been  
19 filed?

20 A. I have a few minor typographic errors I would like to  
21 correct.

22 Q. Thank you. If you would.

23 A. The first one, if you go to my direct testimony that  
24 was identified as OSC2D. On that Exhibit at page 65 line 1476,  
25 I referenced OCS data request 16.2A. That should be changed to

1 16.12A.

2           The next typographic correction I have is on my  
3 rebuttal testimony, which was been identified as OCS2R. If you  
4 turn to page one of that testimony on line 19, when I refer to  
5 Dave Thomson, I inadvertently put the "P" in his name and that  
6 "P" should be removed. I believe the remaining places  
7 throughout my testimony I spelled his name correctly.

8           And that's all the changes I have.

9           Q. Thank you. If I were to ask you the same questions  
10 today that are of past view in the written prefiled testimony,  
11 would your answers remain the same?

12          A. Yes, they would.

13           MR. PROCTOR: Commissioners, I would move for the  
14 admission of the exhibits noted on the Exhibit List for the  
15 Utah Office of Consumer Services.

16           CHAIRMAN BOYER: Is there any objection to the  
17 admission of Ms. Ramas' prefiled written testimony, direct  
18 testimony, rebuttal testimony, and exhibits?

19           They are admitted.

20          Q. (BY MR. PROCTOR) Ms. Ramas, have you prepared a  
21 summary of the testimony that has been prefiled?

22          A. I would like to give a brief summary of my testimony.

23          Q. Thank you, go ahead.

24          A. In this case I present the Office of Consumer  
25 Services overall recommended revenue requirement in this case.

1 And in determining that amount, it incorporates the impact of  
2 the adjudgments I'm recommending in this case. In addition to  
3 the adjustments recommended by office witnesses, Randall  
4 Falkenburg and Phil Hiatt, with regards to power costs, and it  
5 also incorporates the recommended rate of return of office  
6 witness Daniel Lotten. He recommended an overall rate of  
7 return of 8.028 percent, which incorporates a return equity of  
8 10 percent.

9           Flowing through those, all the various adjustments in  
10 addition to the tax stipulation in this case that's been agreed  
11 to by the parties and the DSM stipulation as it pertains to the  
12 agreed upon smut adjustment in this case, the committee's  
13 overall recommended revenue requirement is a reduction in rates  
14 of \$10,993,344, and that number is sited in my surrebuttal  
15 testimony. That number includes, in addition to the  
16 adjustments I'm recommending in surrebuttal testimony, I  
17 identify several adjustments brought forward in the Company's  
18 rebuttal position that I have agreed to and adopted also.

19           Throughout the case the Company has agreed with many  
20 of my originally recommended adjustments in the rebuttal phase.  
21 And I have also accepted some additional adjustments the  
22 Company made in the rebuttal phase in which it adopted some of  
23 the department's adjustments in that \$10.9 million approximate  
24 deduction incorporates all those adjustments.

25           As of this point in the phase, due to the items in

1 which the Company and I are in agreement on, there are eight  
2 issues remaining in dispute between my recommendations and  
3 those offered by the Company. And I would like to briefly go  
4 through each of those eight items where there is still a  
5 dispute between my recommendation and what the Company is  
6 requesting. The first item pertains to a bonus that was paid  
7 by the Company during the based period in this case associated  
8 with Chehalis due diligence efforts.

9           During 2008 the Company made, in addition to the  
10 bonuses it typically makes to its employees, incremental  
11 bonuses associated that Chehalis accusation. I recommended  
12 that those be removed. I left the remaining bonus cost  
13 requests in the filing as requested by the Company, but  
14 recommended that the amount in the test year for those Chehalis  
15 bonuses, which are slightly in excess of \$200,000 on a total  
16 company basis, be disallowed or removed from the test year.

17           The next item where me and the Company disagree  
18 pertains to the generation overhaul expense in this case. The  
19 Commission may recall that in a past docket, Docket 0703593,  
20 the office in that case had recommended that the four-year  
21 historic cost used to determine the average or normalized level  
22 of overhaul cost, we recommended that those not be escalated.  
23 And in that case, the Commission agreed with the committee's  
24 recommendation.

25           The Company continues to contend in this case that

1 those costs should be escalated. Escalated And as of the time  
2 the department filed it's surrebuttal and the surrebuttal  
3 testimony of Dr. Powell, I believe that the department is now  
4 agreeing with the Company's escalation.

5           However, I do not agree with Dr. Powell's analysis  
6 and I continue to recommend that those costs not be escalated.  
7 These are costs that fluctuate from year to year. And it is my  
8 opinion that in driving the average you should not escalate  
9 historic costs in doing that. The impact of that adjustment  
10 alone is approximately a \$1 million impact on a Utah revenue  
11 requirement basis.

12           The next area where I have -- take issue with the  
13 Company pertains to the supplemental executive retirement plan  
14 costs. It's my recommendation that they not -- no longer be  
15 recovered from customers. I think this issue needs to be  
16 relooked at. I know the Commission did address this issue back  
17 in the '99 docket. However, circumstances have changed  
18 significantly since that time. At that point the Commission  
19 sighted as some of the reasons for allowing those costs was so  
20 the Company could attract and retain certain executive level  
21 positions.

22           Since that time, that plant has been closed to new  
23 employees. There is only one active employee at the Company  
24 now, the current president, that even participates in that  
25 plan. And the remaining costs in the test year are for 63

1 prior employees, many of those of which left the Company employ  
2 a lot of years ago. Many of them left as part of the MECH  
3 merger and accepted the various severance payments as a result  
4 of that merger. However, we still have costs in this case  
5 associated with those prior executives, many of which have left  
6 the Company many, many years ago, prior to when I started  
7 working on these cases.

8           The Company's cost in the test year in this case is  
9 approximately 2.4 million. The majority of which pertains to  
10 the prior employees that no longer provide any service to rate  
11 payers. The Company's argument back in the '99 docket that  
12 those costs were necessary to attract and retain executives,  
13 that's no longer the case. They don't offer this to new  
14 executives anymore. And there is only one executive that  
15 currently receives that benefit at PacifiCorp. The impact in  
16 expenses in the filing are approximately \$1.7 million at the  
17 expense level on a total company basis and approximately  
18 \$690,000 on the Utah basis for this item.

19           And that kind of ties into the next area of where I  
20 have recommended adjustment and that pertains to the  
21 MidAmerican Energy Holding Co. management fees that are charged  
22 to PacifiCorp. Included in those management fees are \$355,000  
23 of cost associated with the MidAmerican Energy Holding Co.  
24 supplemental exclusive retirement plan. That is also a closed  
25 plan that's not open to new employees based on the Company's

1 2008 annual report. And based on -- same report there were  
2 three executives at that time and the rest of the costs would  
3 be associated with past executives.

4 Also included in the management fees I've recommended  
5 not being passed on to Pacificorp's Utah rate payers are \$1.8  
6 million of MidAmerican Energy Holding Co. bonuses that are  
7 being passed down to PacifiCorp and \$130,000 of MEC bonuses  
8 that are being passed down PacifiCorp.

9 Throughout this case I had a data request to try to  
10 find out what is included in those bonuses and how they are  
11 triggered and what the goals and targets are. The Company  
12 never did provide the base year goals, the 2008 goals that  
13 would be included in this \$1.8 million as being allocated to  
14 PacifiCorp. I was able to obtain from the Company the 2009 MEHC  
15 goals. And I have slated some of those in the confidential  
16 section of my direct testimony so I won't repeat them here.  
17 But my view is those are costs that shouldn't be passed on to  
18 the Utah rate payers.

19 The next item we're in closer agreement than we were  
20 initially, but still my recommendation differs from the  
21 Company's and it has to do with settlement costs. In my direct  
22 testimony I recommended that costs associated with restitution  
23 payments paid by the Company in what's been called an aviation  
24 matter, which pertains to eagle related issues, that that be  
25 removed from the test year. And the Company has agreed with



1 that and has took it out of costs in their rebuttal testimony.

2           However, the other item I removed are coal strip  
3 settlement costs related to the coal strip plant. Within my  
4 testimony I explained the information the Company provided  
5 describing those costs, which had to do with leakage of ponds  
6 and waste water ponds on the coal strip plants. The  
7 \$1.2 million is Pacificorp's allocated portion of the  
8 \$25 million settlement in that case. It's my position those  
9 costs should not be passed on to rate payers. They are not  
10 appropriate for inclusion in rates. And I know in surrebuttal  
11 the Company has -- in rebuttal rather, Mr. McDougal has made  
12 the offer to amortize those costs to customers over a  
13 three-year period.

14           I disagree with this approach. First of all, based  
15 on documents that are available online from other filings from  
16 other joint owners of the coal strip plant, there is a good  
17 chance there will be insurance recoveries to recover a portion  
18 of that cost. Second of all, even once you have completely  
19 removed those nonrecurring coal strip settlement payments and  
20 the aviation restitution matter, the test year still includes  
21 approximately \$825,000 worth of settlement related costs. In  
22 my opinion that's a reasonable reflective level going forward.

23           So, I would disagree with the amortization proposed  
24 by the Company in this issue. The next two areas where I'm in  
25 disagreement with the Company have to do with pension costs and

1 other -- close retirement benefits costs other than pension  
2 costs. At the time the Company submitted its initial filing  
3 the projections it included for the test period for pension  
4 costs and these other post-employment benefits costs, those  
5 projections included in the Company initial filing were already  
6 known to be wrong and already obsolete and outdated as of the  
7 time they filed their case. Therefore, I pursued through  
8 discovery first in response to a master data request the  
9 Company provided further detail of the assumptions it had  
10 included in those originals projections. And then when we  
11 questioned those we got more information on the assumptions.

12           So in my testimony I recommended the pension and  
13 other post-employment benefit costs included in the Company's  
14 filing be replaced with the known 2009 actuarial costs. It's  
15 significantly less than the Company had projected for that same  
16 period in its initial filing and it uses the actual discount  
17 rate that would have been earned by the -- or that would have  
18 been used by the Company in the 2009 plans and it takes into  
19 consideration the full effect of the actual losses that would  
20 have occurred in 2008 from the low earnings or actually the  
21 loss in the pension plans during that period.

22           And then the final area where I'm still in  
23 disagreement with the Company pertains to the Utah Distribution  
24 Corrective and Preventative Maintenance expense. In its filing  
25 the Company increased Utah Distribution Corrective and

1 Preventative Maintenance expense by approximately \$3.45  
2 million, so almost 3 and a half million dollars. In driving  
3 the adjustment, what -- all the Company did is it took certain  
4 FERC accounts and subaccounts within those accounts and  
5 compared them to what it had budgeted for the same period and  
6 just did a blanket adjustment where it took the difference  
7 between the budget amount for those account and the actual  
8 amount for these accounts.

9           This issue ties back to the Company's dissatisfaction  
10 with the commissions decision in the 2007 rate case. The  
11 Company contends that during the period September 2008 through  
12 December 2008 that they -- shall we say, put forth less  
13 preventive and corrective maintenance efforts. And this  
14 adjustment brings it back to what they say is a normal level.  
15 The problem is -- I extensively questioned them on this and  
16 asked them, tell us what you did differently. We asked them to  
17 show in detail how they derived their adjustment. And all  
18 their adjustment does is take the difference between the  
19 budgeted amount and the actual account -- in actual amounts in  
20 these subaccounts. There is no specific analysis or tied in --  
21 any tie-ins to any specific items or what exactly they did --  
22 didn't do or they otherwise would do.

23           During the period that they were supposedly cutting  
24 back the services they provided to the State of Utah due to  
25 their dissatisfaction, they should have been fully aware of the

1 fact that this would be scrutinized in the future by the  
2 Commission. They -- I'm sure they had to have known that the  
3 Commission would have taken notice on their press releases in  
4 the billing --

5 MR. HICKEY: Mr. Chairman, this attempt of a summary  
6 at this point is well beyond any of prefiled testimony, to  
7 making these specific points as to what the Commission should  
8 or shouldn't do regarding an order of some years ago. And I  
9 would object that's advocacy beyond the summary.

10 CHAIRMAN BOYER: Any response, Mr. Proctor?

11 MR. PROCTOR: Well, the Commission has traditionally  
12 allowed certain leeway in such summaries. And while I suppose  
13 someone might complain about its brevity, I don't believe the  
14 content is something that traditionally anyone has ever  
15 complained about. It certainly arises from the testimony and  
16 does provide a summary of it, including the recommendations  
17 with respect to specific items. So I think the Commission  
18 should give the time that it believes is appropriate, but the  
19 content is entirely appropriate.

20 CHAIRMAN BOYER: Well, I think I will sustain the  
21 objection to the extent you're editorializing or guessing what  
22 the Company's motives might have been in doing what they have  
23 done. If you would just stick to what your recommendation is  
24 that would be helpful. Thank you.

25 THE WITNESS: Yes, I will. Thank you. I was trying

1 to stick to information that was my direct and surrebuttal  
2 testimony, so I'll do that.

3 So to sum up that issue, it's my opinion the Company  
4 has not fully supported its adjustment in this area.  
5 Additionally, a substantial portion of those costs are labor  
6 related costs and as pointed out in my direct and surrebuttal  
7 testimony, those labor costs, the Company still kept those  
8 employees throughout that entire four-month period. No  
9 employees were let go as a result of that. And those labor  
10 costs are still in the filing, they are just in other  
11 subaccounts now.

12 So the Company is still fully recovering the labor  
13 that it would have otherwise changed in its -- or had planned  
14 to change in its budget to these subaccounts, they are still in  
15 the case. So if you accept the Company's adjustments, in my  
16 opinion you will have a significant double counting of labor  
17 cost in this case.

18 And that completes my summary. Thank you.

19 CHAIRMAN BOYER: Thank you, Ms. Ramas.

20 MR. PROCTOR: Mr. Chairman, Ms. Ramas, of course is  
21 available for cross-examination, but I have two matters that if  
22 I could just raise real quickly?

23 CHAIRMAN BOYER: Let's do that now.

24 MR. PROCTOR: In admitting the testimony you  
25 mentioned that direct and rebuttal but did not mention the

1 surrebuttal. I assume that the Commission did intend to admit  
2 the surrebuttal testimony, as well?

3 CHAIRMAN BOYER: Yes, I'm sorry I did not say  
4 surrebuttal. Are there any objections to Ms. Ramas'  
5 surrebuttal? I'm pronouncing her name with a Spanish accent.

6 THE WITNESS: It's Ramas.

7 CHAIRMAN BOYER: It's Ramas. Ramas. I know how to  
8 say it. I apologize for saying that.

9 MR. PROCTOR: This was just a technicality. I wanted  
10 to make sure for the record.

11 CHAIRMAN BOYER: There appear to be no objections to  
12 that, so the surrebuttal is also admitted.

13 The other matter, I think, is Ms. Ramas has referred  
14 to the "Department" and I believe the intent -- it was intended  
15 to refer to the "Division" so that that's clear. Ms. Ramas  
16 works in a number of areas where they have departments. This  
17 one has a Division.

18 THE WITNESS: Yes. Thank you.

19 MR. PROCTOR: She is available for cross. Thank you.

20 CHAIRMAN BOYER: Thank you. Let's begin then with  
21 Mr. Hickey. It will be our intention to take a recess at about  
22 3:00 to give our reporter a short break.

23 MR. HICKEY: Very good. Thank you, Mr. Chairman.

24 CROSS-EXAMINATION

25 BY MR. HICKEY:

1 Q. Good afternoon, Ms. Ramas.

2 A. Good afternoon, Mr. Hickey.

3 Q. I want to start with this issue that you ended on of  
4 the Utah Distribution expense. And as you summarize, you have  
5 opposed the Company's normalizing adjustments for Utah  
6 Distribution expense based upon the expense related to  
7 preventative and corrective maintenance. That's the issue,  
8 right?

9 A. Yes, I have opposed the Company's -- I guess, you can  
10 call it a normalization adjustment. I don't consider the  
11 Company's adjustment to result in a normalized level, but I do  
12 disagree with the Company adjustment.

13 Q. But you don't take any issue that an operating  
14 utility should have a preventative and corrective maintenance  
15 program, do you?

16 A. Oh, they absolutely should have one, yes.

17 Q. In fact, Mr. McDougal went to some effort to define  
18 preventative and corrective maintenance in his direct  
19 testimony -- excuse me. It was actually rebuttal testimony on  
20 page 47. Do you recall seeing what Mr. McDougal defined  
21 preventive and corrective maintenance to be?

22 A. Yes. I don't have it up here with me but I do recall  
23 reading that.

24 Q. I think it's an area we are going to have agreement  
25 in Ms. Ramas. I will represent to you that he said in line 23

1 "Preventative maintenance includes substation and inspection  
2 programs, planned overhauls of major equipment, coal test and  
3 treat programs, line patrol, and inspection programs. Its  
4 major focus is to inspect equipment and identify abnormal  
5 conditions. Corrective maintenance is primarily intended to  
6 correct abnormal conditions found during the inspection  
7 process. It may include repairs to major equipment, repairs to  
8 structures and bus work, repair to switches and insulators and  
9 overhead and underground line maintenance."

10 In your experience as a consultant in these areas, do  
11 you think that's a fair statement of what preventative  
12 corrective maintenance is?

13 A. Yes, I have no issue with the Company's preventative  
14 and corrective maintenance program. What I have issue with is  
15 the fact they haven't supported the adjustment in their filing.  
16 And they haven't demonstrated or said what of those items that  
17 you just listed they specifically reduced, or did not do and  
18 could not tie a dollar amount to specific items that it cut  
19 back or did not do out of what you just listed during the  
20 four-month period incorporated in their adjustment.

21 Q. So I think the question wasn't that. It was whether  
22 or not you agree Mr. McDougal fairly summarized what  
23 preventative and corrective maintenance is? I guess you did  
24 say yes to that, didn't you?

25 A. Yes. I agree that he provides a summary of what the



1 Company does within his testimony. I don't know that I take  
2 issue with that.

3 Q. Thank you. So let's drill down a little deeper to  
4 what you want to get to these issues. Would you agree with me,  
5 Ms. Ramas, that in order to perform this function of  
6 preventative and corrective maintenance that company has both  
7 paid employees, so-called hourly employees, and it can go to  
8 the market and hire contractors? Those are the two sources of  
9 the labor pool to perform the work that Mr. McDougal  
10 summarized, correct?

11 A. Correct. And within my surrebuttal testimony I  
12 provide a break out of what the Company considers its normal  
13 level broken out between the internal labor and the external  
14 contract.

15 Q. And, in fact, that figure was that the breakdown was  
16 roughly 75 percent hourly and 24 percent contract labor, wasn't  
17 that your analysis?

18 A. Actually, it was 67 percent labor, 24 contract labor.  
19 And this is in what the Company contends is it's normal  
20 budgeted costs within these subaccounts. And in addition, to  
21 total hundred percent, there is some other costs too.

22 Q. Okay. So at least I'm on the same page with you when  
23 I say 24 percent labor -- or contract labor?

24 A. In what the Company contended in its adjustment is  
25 the normal amount of contract labor costs for these subaccounts

1 during that four-month period, it would be 24 percent.

2 Q. And you have come to conclusions based upon your  
3 interpretation of this information and your analysis of this  
4 information and have concluded the adjustment requested by the  
5 Company should not be allowed, isn't that true?

6 A. I've concluded it's unsupported because those -- and  
7 I point out all the reasons in my surrebuttal and direct  
8 testimony. Four million of what the Company calls those normal  
9 level of costs for that four-month period for those specific  
10 subaccounts that it is adjusting, pertain to labor costs.  
11 Those labor costs are still in the filing elsewhere. I have  
12 not removed them. I have accepted the Company's wage and labor  
13 expense adjustment. It is just that those labor costs are  
14 hitting different accounts during the test period in this case.  
15 They are still in the case.

16 Q. So you, in order to come to the conclusions that you  
17 have, with the information that the Company provided you, you  
18 have rejected the information that company also provided you  
19 about how it is chosen to deploy resources both in-house hourly  
20 and out-of-company contract resources to meet the preventative  
21 maintenance and corrective maintenance needs of the Company.  
22 You have chosen to reject what Mr. McDougal and the Company  
23 told you in that regard, haven't you?

24 A. I did not ignore it. In fact, I read and spent a lot  
25 of time on this issue and submitted several data requests to

1 try get more information from the Company and how it derived  
2 what it contends is a normal level. And the Company has not  
3 provided a reasonable level of support. It cannot say we cut  
4 "X, "X" and "X" out or we did this much less of this function  
5 that we would normally do and tie any dollars to that amount.

6 The Company just took a blanket comparison of what it  
7 budgeted for certain subset of accounts to the actual costs for  
8 the subset accounts. So I wouldn't agree. I did not ignore  
9 the information provided by the Company. I looked at it,  
10 evaluated it, and found, based on that if you accept the  
11 Company's adjustment, the Company will double recover some of  
12 the labor costs. And it didn't support the dollar amount of  
13 adjudgment in this case.

14 Q. So after that lengthy statement, Ms. Ramas, your  
15 answer is you still have chosen not to believe information  
16 provided you by the Company on how the Company has deployed  
17 both hourly and contracted resources to perform these  
18 functions, correct?

19 MR. PROCTOR: Objection. It's asked and answered.  
20 Furthermore, counsel is mischaracterizing her answer with  
21 respect to not believing. That wasn't the question in the  
22 first place, nor was it in the answer.

23 MR. HICKEY: Mr. Chairman, I think this would go --

24 CHAIRMAN BOYER: We're kind of speaking here cross  
25 purposes. I think Mr. Hickey is using the word "rejected" and

1 Ms. Ramas is using the word "ignored." And he said, "You  
2 rejected it." And she said, "I didn't ignore it." So I'm not  
3 sure where we were on that but --

4 MR. HICKEY: I think that's a fair observation.  
5 Mr. Chairman, let me try to pull this area together. I have  
6 just handed out to the Commission and to the parties what's  
7 being marked as Rocky Mountain Power RR Cross Exhibit A.

8 Q. You are familiar with this document, aren't you,  
9 Ms. Ramas?

10 A. Yes. I'm very familiar with that.

11 Q. Thank you for that direct response. And it is, in  
12 fact --

13 MR. PROCTOR: Mr. Chairman, if I might, I have held  
14 my tongue up to this point, but there seems to be a lot of  
15 editorializing in response to answers given that are really not  
16 necessary, either with respect to who is asked a question  
17 before or not asked a question before. And now something like  
18 thank you for that direct answer. I think that's inappropriate  
19 and I would ask that the Commission warn all counsel it's  
20 really not appropriate or necessary.

21 MR. HICKEY: Mr. Chairman, my concern is that this  
22 witness doesn't seem to, at that point of the examination,  
23 focus on just the question. She seems to have her own desires  
24 to get well beyond what would be a response into the record.  
25 And I have not been editorializing nearly as much as

1 Mr. Proctor just did in that speaking objection.

2 CHAIRMAN BOYER: Okay. Let's do this on this issue.  
3 You have actually, Mr. Hickey, only on a couple of occasions  
4 used an editorial comment or recite with respect to an answer.  
5 And sometimes it's appropriate and sometimes it isn't. For  
6 example, Mr. McGarry, you thanked him for his candid answer  
7 in one instance.

8 On the other hand, Ms. Ramas wants to tell her story  
9 and I'm going to instruct you, Ms. Ramas, to answer the  
10 questions asked. You will have an opportunity when Mr. Proctor  
11 has an opportunity to do redirect examination to tell your  
12 story in more detail. Okay.

13 THE WITNESS: Thank you, Mr. Chairman.

14 MR. HICKEY: Thank you, Mr. Chairman.

15 Q. (BY MR. HICKEY) Ms. Ramas, was this the data request,  
16 OCS data request 24.8, that you propounded through the office  
17 to the Company in hopes of getting more information about how  
18 the Company was deploying resources to meet its preventative  
19 and corrective maintenance obligations?

20 A. Yes. However, the data request also went beyond that  
21 as it questioned the specific assertions made by Mr. McDougal  
22 in his rebuttal testimony with regards to that reallocation of  
23 labor costs.

24 Q. Did you come to understand from information provided  
25 you through this and other data responses that the Company is

1 able to performed both the capitol investment in it's  
2 distribution network in Utah and the -- and the maintenance of  
3 its network in Utah through both contract and hourly employees?

4 A. Yes.

5 Q. So there is a couple of functions going on here. One  
6 is maintaining and preventing maintenance problems in the  
7 network. And the other is adding the new customers as they  
8 come on, building new plant in the distribution system,  
9 correct?

10 A. Yes. It's a function that would -- both those  
11 functions would be performed by internal and external labor.

12 Q. Thank you. And from an accounting point of view some  
13 of that is expense and some of it is capitalized, isn't that  
14 true?

15 A. Yes, some of it. In fact, out of the contract labor  
16 costs sited by Mr. McDougal, the majority of those are  
17 capitalized but some are also expensed.

18 Q. So the fact that there hasn't been a reduction in the  
19 hourly employees wouldn't really answer whether or not there  
20 had been redeployment of workers who previously did  
21 preventative and corrective maintenance work and under the  
22 budget constraints that followed the 2007 order were now doing  
23 capitol accounted for work and adding new assets onto the  
24 distribution system, isn't that true?

25 A. If that is the case, the Company has not demonstrated

1 that through its testimony or in response to these discovery  
2 requests. And if you look at my surrebuttal testimony I  
3 specifically point out the problems with that company  
4 contention and with the information provided by Mr. McDougal in  
5 both his rebuttal testimony and in response to this specific  
6 data request that you just put before me.

7 Q. But then we are back to the fact that data was  
8 provided, it's just that whether you have rejected it, choose  
9 not to believe it, or otherwise don't believe it, the data was  
10 presented, it's that you have rejected it, isn't that the fact,  
11 Ms. Ramas?

12 A. I don't reject the information or say it's  
13 inaccurate. What I reject is the fact that I do not view it as  
14 support of the Company's adjustment or it's argument.

15 Q. Okay. Let's look at page one of RMP-RR Cross Exhibit  
16 8. And in this didn't the Company say that it was explaining  
17 how the resources were deployed to meet these two functions of  
18 growths of the distribution system, itself, and the  
19 preventative and corrective maintenance work that also has to  
20 be done?

21 A. You're referring to the response to OCS data request  
22 24.

23 Q. Point eight. And then it's a short paragraph. If  
24 you would prefer I read it I would be glad to. If you don't  
25 mind that you read AI, not all of A just I.

1 A. Just subpart I?

2 Q. Subpart I would be fine.

3 A. It says: "The reason for including contract labor on  
4 a total UT situs basis is because contractors services in Utah  
5 distribution, P&C Maintenance, is interconnected to contractor  
6 labor within other areas of the business. As P&C work  
7 decreases for internal labor, the Company then redeploys its  
8 internal labor force to other activities within the business,  
9 including capitol, transmission, and distribution related  
10 functions. This action displaces contractor labor levels  
11 across Utah.

12 As demonstrated in Mr. McDougal's rebuttal testimony,  
13 in analyzing the actual historical Utah contractors services  
14 cost, the Company experienced a sharp reduction in contractor  
15 services in the September to December 2008 period.

16 Q. Thank you. And then if we look at the attachments to  
17 those data requests beginning on page one. What did you  
18 understand was being represented in this exhibit?

19 A. It's my understanding that these are the total Utah  
20 situs external contractor costs spent by the Company for the  
21 period of January 2007 through December 2008. And that's  
22 inclusive of the expense portion and the capitol portion that  
23 was expended for external contract labor.

24 Q. Okay. And you would agree, wouldn't you, Ms. Ramas,  
25 that a normalizing adjustment as proposed by Rocky Mountain



1 Power is appropriate to the extent that Utah distribution  
2 expenses were, in fact, lower than normal during 2008. The  
3 dispute is you don't think that's been proven to at least your  
4 satisfaction. Is that a fair summary of where you and the  
5 Company are at this point?

6 A. That in combination with the fact that the way the  
7 Company has done my adjustment, it is my position that it would  
8 result in a double counting of labor costs.

9 Q. Okay. Let's take a look at the pension issue. One  
10 of the pension issues. OSC's position is that the 2009 pension  
11 plan costs should be \$16,883,000; isn't that correct?

12 A. That which costs should be 60 million?

13 Q. The 2009 plan.

14 A. And perhaps if you can gave me a reference .

15 Q. Yeah. And this would be your figure and your -- the  
16 office's figure for -- I'm looking in this question to the 2009  
17 plan costs that you suggest should appropriately be included.  
18 And you also have a figure that you support for the 2010 plan  
19 costs.

20 A. I am not finding a number anywhere of the degree of  
21 \$60 million. I know that the Company --

22 Q. It's 16.

23 A. Oh, \$16 million.

24 Q. If I said 60 I apologize and ask you to write it off  
25 to --

1 A. I recommended --

2 Q. -- late in this day.

3 A. Yeah, I recommended pension plans --

4 Q. 2009 first.

5 A. The pension plan expense amount that I'm recommending  
6 in this case?

7 Q. Yeah.

8 A. Is on a total company before net of joint venture  
9 costs would be \$3,567,000. And net of joint venture I'm  
10 recommending a pension amount of \$20,574,490. However, only  
11 70.88 percent of that cost would be expense with the remainder  
12 being capitalized.

13 Q. And by the time you make that adjustment do we get to  
14 the \$16,883 --

15 A. The 16 million?

16 Q. And I'm sorry, 16 million would be inventory.

17 A. Are you perhaps referring to the post-retirement  
18 benefits other than pensions as opposed to pension expense?  
19 Because I know I recommended 16.8 million prior to joint  
20 ventures.

21 Q. The adjustment to the post-retirement benefit.

22 A. Oh, I'm sorry. I thought that you were referring to  
23 pension expense.

24 Q. You are correct, Ms. Ramas.

25 MR. PROCTOR: Ms. Chairman, I don't know that I have

1 heard a reference to where this data is coming from, these  
2 numbers are coming from. And I'm lost. So if somebody could  
3 help me.

4 CHAIRMAN BOYER: I think Mr. Hickey and Ms. Ramas  
5 know where they are but the rest of us are sort of in a fog.

6 A. Yes, originally, I was thinking he was referring to  
7 pensions, however the numbers he cited actually pertained to my  
8 post-retirement benefit expense adjustment and --

9 Q. Would this be in exhibit to your surrebuttal  
10 testimony?

11 A. No, to my direct testimony.

12 CHAIRMAN BOYER: To your direct.

13 A. It is Exhibit OSC 2.14, I believe that's what  
14 Mr. Hickey is referring to. If not, he can correct me perhaps.

15 Q. That is. And what do you show for a 2010 spot in  
16 that same adjustment?

17 A. I do not show the 2010 spot in my adjustment.

18 Q. Okay.

19 A. In fact, in my direct testimony I recommended that  
20 for the test year which includes part of 2009 and part of 2010  
21 that this 2009 expense level be utilized.

22 Q. Let's get to the pension issue with page -- since you  
23 have your testimony in front of you. Page 54 line 1225.

24 A. Yes, this is pension expense.

25 Q. And then if we go to your exhibit to answer the

1 Chairman's fair comment of trying to get us all in the same  
2 hymnal, at least better yet on the same page, Exhibit OCS2.13  
3 is your recommendation for the 2009 projected pension plan  
4 cost, isn't that true?

5 A. Yes, that's what I used. But it's also my  
6 recommended test for a pension plan cost.

7 Q. My question of you, Ms. Ramas, is: How does your  
8 figure for that year, 2009, compare to the Company's figure for  
9 2009?

10 A. Okay. In the Company's filing it -- this is based on  
11 the response to OSC 14.1 in deriving its test period costs it  
12 incorporated as one of the components 2009 pension expense of  
13 25.7 million for the typical retirement plan and an additional  
14 7.9 million for the local 57 union plan. And you would compare  
15 that to on line A1 of my recommendation, I'm recommending 2009  
16 retirement plan costs of \$22,567,000, which is approximately  
17 3.2 lower than the \$25.7 incorporated in the Company's  
18 adjustment.

19 And for the local 57 pension plan costs I'm agreeing  
20 with the amount proposed by the Company in this case, which was  
21 \$8 million for the test period. So the difference between my  
22 recommendation and the Company's recommendation on a total  
23 cost, once you factor in the expense factor and the allocation  
24 to joint ventures is I'm recommending a \$3 million reduction to  
25 the Company's request.

1 Q. And that's largely because of the fact that you and  
2 the Company are in disagreement regarding what the projected  
3 pension plan cause should be through the end of the test  
4 period?

5 A. Correct.

6 Q. Now, there is a more recent actuarial report, is  
7 there not?

8 A. Well, I use the actual final actuarial report for  
9 2009 so that, yes, that is definitely more recent than what was  
10 used by the Company in this case for 2009. Since that time in  
11 rebuttal Mr. Wilson sighted some additional actuarial  
12 projections. Those won't be final actuarial reports. However  
13 for 2010 their new actuarial projections as of, I believe, what  
14 he provided to me in response to discovery was as of some time  
15 in October.

16 Q. Let me ask you what we'll mark as RMP-RR Cross  
17 Exhibit 9 and ask if this is, in fact, the October projection  
18 of the actuarial study that you were just referring.

19 A. Yes. If you give me a moment --

20 Q. Sure.

21 A. -- to pull the initial response so I can make sure it  
22 matches. This differs from the page that was provided to me in  
23 response to discovery. But it appears some of the amounts are  
24 the same as what was provided to me in discovery. It's one  
25 page of a multipage study I was provided.

1 Q. Agreed. And which of those lines is consistent with  
2 prior information that you were referring to that you received?

3 A. The amounts are all the same, it just doesn't include  
4 the additional information with regards to the actuarial  
5 assumptions that were used in driving these amounts by the  
6 actuarial firm.

7 Q. For the record, who is the actuarial firm?

8 A. Hewitt Associates.

9 Q. And would you agree that Exhibit -- Cross Exhibit 9  
10 is a part of the October 2009 projection prepared by you and  
11 Mr. Wilson referenced as the most recent work performed by the  
12 bit company's actuary?

13 A. I would agree it appears to be an excerpt from that  
14 document.

15 Q. And what is the projection for the pension cost  
16 through the end of the test period?

17 A. Well, the end of the test period would be at a  
18 midpoint so it wouldn't actually be recollected in here. You  
19 would have to do an average of the 2009, 2010.

20 Q. Fair enough.

21 A. For the electric operations, and this was prior to  
22 application of the expense factor so it would be the total  
23 projected cost, it shows for 2009, it would be that line item,  
24 PRP and an amount of 22.5 million for 2010 in the amount of  
25 31.8 million.

1           And then for the local 57 pension plan, which again,  
2       would be prior to the application of the expense factor, it  
3       would be 8.5 million for 2009 and 8.7 for 2010 based on this  
4       run down by Hewitt.

5           Q.     Wouldn't you agree that the Company's actuary has  
6       done a responsible job of addressing the projection of these  
7       pension costs?

8           MR. PROCTOR:   Objection.   Ask the witness to  
9       speculate as to what counsel may mean by a "responsible job."

10          MR. HICKEY:   I think, she understands the question,  
11       Mr. Chairman.

12          CHAIRMAN BOYER:   I think she can answer to the extent  
13       she knows the answer.

14          A.     Yeah, what I can say is that based on the assumptions  
15       they put into their models which were -- aren't provided on  
16       this exhibit you handed out but were provided on my data  
17       response.   Based on the actuarial assumptions and projections  
18       input that's modeled, this is probably a reasonable calculation  
19       based on the assumptions and projections that were inserted.

20          Q.     And if the 2010 Hewitt report were to be the basis of  
21       the commission's decision in this case on the pension  
22       adjustment your pension adjustment wouldn't be necessary, would  
23       it?

24          A.     Are you asking about the Hewitt 2010 report?

25          Q.     The report that was prepared in October of '09 that

1 project into 2010.

2 A. Again, I sited reasons in my surrebuttal testimony of  
3 why I don't think that -- those projections provided for 2010  
4 are reasonable. As I indicated in my surrebuttal testimony,  
5 there is no way to know what discount rate will be selected  
6 for 2010 until December 31st of 2009.

7 Under generally accepted accounting principles and  
8 actuarial standards, they cannot lock in and select that rate  
9 until that date. At that time of October 1st that this  
10 analysis was done by Hewitt on behalf of the Company, based on  
11 the full data response I have and the full document, it appears  
12 from Hewitt, the Company had used a 5.7 percent discount rate.

13 And, again, I believe Mr. Wilson testified yesterday  
14 that that's changed again. I can almost guarantee it will  
15 change again between now and December 31st. We don't know at  
16 that point if it will go up or down but it will change again.

17 Another item that's a problem is -- or my opinion is  
18 inconsistent what will happen in 2010 from what Hewitt prepared  
19 and that's incorporated in this exhibit you handed out, is that  
20 it assumes a return on Plan S that's what we earned during 2009  
21 of 14 percent. As I said in surrebuttal testimony, we already  
22 know the Company's earned more than that 14 percent. I believe  
23 it was upward of 16 percent as of the end of October.

24 So I wouldn't recommend that this be used. But you  
25 are right if the Commission for some reason thinks this report



1 should be used it would differ from the number I'm recommending  
2 but I don't recommend this be used.

3 Q. And that report would be consistent with what the  
4 Company has recommended, isn't that true, Ms. Ramas?

5 A. This report was provided? No. The Company's  
6 recommendation is based on what it filed in its original case,  
7 which is it's original projections for 2009 and 2010 that it  
8 filed back in June of this year. The Company hasn't revised  
9 its adjustment that I'm aware of.

10 MR. HICKEY: Mr. Chairman, I'm going to transition  
11 into another area. If you want to break now that will be  
12 convenient, if not I can --

13 CHAIRMAN BOYER: This would seem to be a logical  
14 place to break for 10 minutes. So we'll be in recess until 10  
15 after the hour.

16 (A break was taken from 3:00 p.m. to 3:12 p.m.)

17 CHAIRMAN BOYER: Let's go back on the record.

18 Mr. Hickey, you were about to embark on a new area of  
19 inquiry.

20 MR. HICKEY: Yes. Mr. Chairman, in doing so and  
21 consistent with commitments that were proposed to other counsel  
22 and Mr. Proctor made over the noon hour and through the  
23 Commission about seeing that we end on time, I don't intend to  
24 examine Ms. Ramas on all of the areas that she went through in  
25 her testimony and the Company are in disagreement over but by

1 not engaging her in cross on some of those, certainly would  
2 want the record to reflect that we have asked the Commission to  
3 consider our own witnesses surrebuttal testimony. But we  
4 wouldn't burden the record with cross on each of those points.

5 CHAIRMAN BOYER: Indeed, we shall. And we will have  
6 an opportunity to make argument in the post hearing brief.

7 MR. HICKEY: Sure.

8 Q. (BY MR. HICKEY) Ms. Ramas, I would like to visit with  
9 you about the MECH management fees adjustment that you have  
10 proposed. I believe on the joint issue list is that 65? Does  
11 that sound right? Somewhere close to there.

12 A. Maybe 66.

13 Q. Sixty-six, that it is. Sixty-six.

14 A. I believe so. The version I brought with me, the  
15 line number changed since then.

16 Q. They did, yeah. That's why I was -- it's either 65  
17 or 66 but it's the only one that says MECH management fees,  
18 isn't it?

19 A. Yes.

20 Q. You proposed to reduce the amount of MECH management  
21 fees, isn't that true?

22 A. Yes, I proposed to reduce the amount that's charged  
23 to the Utah rate payers.

24 Q. And you are aware of the fact that there was a  
25 commitment made at the time of the acquisition of PacifiCorp by

1 MECH to cap management fees to no more than \$9 million a year?

2 A. Yes, I agree that that placed a cap on those for, I  
3 believe, it was a five-year period, roughly.

4 Q. And, in fact, that level of management fee was  
5 significantly less than the management fee that PacifiCorp was  
6 committed to its prior ownership group Scottish Power, isn't  
7 that true?

8 A. Oh, yes.

9 Q. And you would agree that there are certain benefits  
10 that the -- ultimately the rate payers of Rocky Mountain Power  
11 receive as a result of efficient and effective management  
12 practices by MECH, isn't that true?

13 A. I agree that there have been cost reductions in many  
14 of the O&M areas since the time of that merger.

15 Q. And it's also true that while there has been a  
16 discussion of MECH goals in the context of financial goals,  
17 there are many nonfinancial goals that MECH has directed  
18 PacifiCorp and through it one of its divisions, Rocky Mountain  
19 Power to achieve, isn't that true?

20 A. Are you referring to the ones I specifically removed,  
21 which are the goals that pertain to the MECH bonus plan?

22 Q. I'm referring in general to the fact that there are,  
23 for instance, safety goals that MECH has established, isn't  
24 that true?

25 A. Yes, there are.

1 Q. And customer satisfaction improvement goals, you are  
2 aware of those too, aren't you?

3 A. Again, as I indicated in my direct testimony, the --  
4 I requested and the Company did not provide me the 2009 -- or  
5 the 2008 the base period goals. They did provide me the 2009  
6 goals.

7 Q. Well, let me --

8 A. And do they have measures such as this in there but  
9 the document, as I indicated in my testimony, is provided to me  
10 as confidential. But I agree there are some goals in those  
11 areas within that document that was provided.

12 Q. So without editorializing, we are in agreement that  
13 they are goals beyond financial goals, fair enough?

14 A. Yes, I agree with that.

15 Q. Would you agree that rate payers benefit from goals  
16 such as customer satisfaction and improvement goals to the  
17 extent the goals are met or exceeded?

18 A. To the extent the goals are met and they improve  
19 customer satisfaction then rate payers would benefit from  
20 those.

21 Q. And to the extent that there are bonuses within MECH  
22 that are tied to performances other than pure financial  
23 performances, they are, in fact, direct benefits to rate payers  
24 from achieving those goals, correct?

25 A. Again, I wasn't provided the base year goals that are

1 included in the costs in this case. But with the 2009 goals,  
2 as I agreed in my testimony, they are some goals that go to  
3 improving service and satisfaction, those would benefit  
4 customers, yes.

5 Q. And the fact that financial goals are met is not  
6 necessarily a bad thing for rate payers, is it?

7 A. I don't see how MidAmerican Energy Holding Co.  
8 meeting its financial goals are necessarily a benefit to Utah  
9 rate payers.

10 Q. Wouldn't you agree that the -- one of the objectives  
11 of seeing that a regulated utility meets its obligations to  
12 serve the various customer classes is to see that that utility  
13 remain financially viable or healthy enough to meet its service  
14 obligations to customers?

15 A. I agree it's very important that PacifiCorp remain  
16 financially viable to provide services to its customers, which  
17 is one of the reasons I haven't removed the PacifiCorp  
18 incentive plan payments. My adjustment was specific to the  
19 allocation of Mid-American Energy Holding Co. bonus costs.

20 Q. Your point is you think that's more indirect than  
21 direct?

22 A. I don't see where the companies provided an indirect  
23 benefit to Utah customers of Mid-American Energy Company  
24 meeting its financial targets.

25 Q. Let's talk about another adjustment that you have

1 proposed and that's in the category of the generation overhaul.

2 A. Yes.

3 Q. You talked about that in your summary and you have  
4 talked about it in your testimony, haven't you?

5 A. Yes, I have.

6 Q. And isn't the issue here whether or not there should  
7 be an adjustment for the time value of money in the four years  
8 compensation that is then averaged and establishing the  
9 generation overhaul expense?

10 A. I wouldn't call it just -- our issue is not just the  
11 time value. It's whether or not those historic costs, which  
12 has been demonstrated fluctuate from year to year, should be  
13 escalated to current year dollars in deriving an average  
14 amount. Part of the reason the Company is escalating it, it  
15 contends is the time value of money.

16 Q. And you don't disagree that is one of the reasons  
17 that the Company is adjusting the figure -- escalating the  
18 figure?

19 A. I believe that's what they site is one of the reasons  
20 for doing that.

21 Q. And in fairness, isn't it true that reasonable folks  
22 in the business of either providing expert testimony in the  
23 context of these regulatory rate proceedings or utilities  
24 operating in this industry can disagree on some of these  
25 issues, and it doesn't necessarily mean there is only one right

1 position, does it, Ms. Ramas?

2 A. Oh, no, it doesn't.

3 Q. Yeah. And, in fact, in this instance, your position  
4 on this particular generation overhaul expense adjustment is  
5 different than the division's, isn't it?

6 A. We were in agreement until the Division changed its  
7 position at the surrebuttal phase of this case. So as of  
8 today's date to the best of my knowledge we are in  
9 disagreement.

10 Q. But it's today's date and what the refined issues  
11 that are still in play are is what this whole hearing is about,  
12 isn't it?

13 A. Yes, I would agree. And, yes, at this point the  
14 Division and I are in disagreement on this issue.

15 Q. And you would acknowledge that in having disagreement  
16 with not just the Company but with the Division on this issue,  
17 that reasonable minds can have reasonable differences on -- in  
18 this instance, what the escalation of generation overhaul  
19 expense should be, correct?

20 A. Well, you promise that by saying "reasonable  
21 differences." It's my position that the Company's escalation  
22 of this cost is not reasonable, using very high escalation  
23 rates in that adjustment. And it's my opinion that these type  
24 of costs should not be escalated.

25 Q. Is it your position then that Dr. Powell on behalf of

1 the Division is unreasonable in his surrebuttal testimony and  
2 agreeing with the Company on this position?

3 A. It's my position that them accepting the Company's  
4 request is not reasonable. So, yes, you're right.

5 Q. In fact, Dr. Powell is the only one between at least  
6 the Division and the office who performed any type of analysis  
7 on whether or not there ought to be an escalation of this area  
8 of experience, isn't that true? You don't have a published  
9 analysis or shared analysis in this case on that adjustment,  
10 isn't that true?

11 A. What Mr. Powell's analysis does is compare two  
12 different escalation methodologies. He doesn't compare that to  
13 no escalation. He presents two different methodologies for  
14 escalating. It's my opinion that they should not be escalated  
15 at all. It's my opinion, and I was hopeful that the Division  
16 would retain it's original recommendation in this case, but  
17 they chose not to do that.

18 Q. That doesn't make their position unreasonable though,  
19 does it?

20 A. In my opinion, if they accept the Company's  
21 adjustment, which is what they did, the result will be an  
22 unreasonable or not a normalized level of overhaul cost in this  
23 case. So I think the result of that is unreasonable.

24 Q. But in any event, you have no alternative study that  
25 produces a result different from that produced by Dr. Powell,



1 do you?

2 A. I don't think it's necessary to provide a study  
3 showing zero escalation. I don't even know what study would be  
4 needed to show zero escalation. I did show the -- or show them  
5 the impact of no escalation in my adjustment. So I don't know  
6 of any study that you would need to support my recommendation  
7 that it not be escalated.

8 Q. Just one final question to jump back to the MECH  
9 management fees and the goals discussion that we were having a  
10 minute ago, Ms. Ramas. Where will the MECH equity infusion  
11 into PacifiCorp in its Division in this part of the service  
12 territory, Rocky Mountain Power, come from if MECH is not  
13 financially sound?

14 A. I'm not sure I would recommend that that be directed  
15 to the office's cost of capitol witness. He addresses the  
16 capitol structure and the financing of the Company. I haven't  
17 looked into that.

18 Q. I have no further questions, Mr. Chairman.

19 CHAIRMAN BOYER: Thank you, Mr. Hickey.

20 Mr. Ginsburg, have you questions?

21 MR. GINSBURG: No questions.

22 CHAIRMAN BOYER: Mr. Dodge?

23 MR. DODGE: Just briefly, Mr. Chairman.

24 CROSS-EXAMINATION

25 BY MR. DODGE:

1 Q. Ms. Ramas, you referenced in your summary Dr.  
2 Powell's surrebuttal testimony and then have responded to a few  
3 questions about it. But given that we didn't receive analysis  
4 by Dr. Powell until surrebuttal, and therefore, you haven't had  
5 a chance to respond in testimony to it, can you explain what it  
6 is about Dr. Powell's analysis, if you haven't already done so,  
7 I'm not trying to ask you replot ground. But I would like to  
8 understand what you disagree with about Dr. Powell's analysis  
9 or conclusions.

10 A. Well, what his analysis does is it takes the table  
11 that was presented in Mr. McDougal's testimony, in both  
12 Mr. McDougal's direct, and again in Mr. McDougal's rebuttal,  
13 where Mr. McDougal contends various impacts of the escalation  
14 and compares escalating then averaging versus taking the  
15 average and then escalating it. What Mr. Powell does is does a  
16 similar study with different assumptions. And again, I haven't  
17 fully -- I didn't look at the model used by Mr. Powell.

18 However, it's still comparing two different inflation  
19 assumptions and comparing different escalated amounts. It's  
20 not removing the escalation and comparing that.

21 Another problem I have with the model that was  
22 provided both by Mr. McDougal and Mr. Powell, is they both use  
23 the two and a half percent inflation factor in this. In the  
24 Company's adjustments they are using inflation factors that  
25 significantly exceed two and a half percent. They use one set

1 of factors for the steam plant overhaul cost and another set of  
2 factors for the non-steam plant overhaul cost.

3 If you were look at the specific escalation factors  
4 used by the Company, for example, in getting to the steam plant  
5 overhaul costs and escalating those from calendar year 2007 to  
6 calendar year 2008, they are using an escalation factor of 7.43  
7 percent to escalate from their December 2005 overhaul cost for  
8 the steam plant, they are applying an escalation factor to get  
9 to 2008 dollars of 16.39 percent. Those are significantly  
10 higher than the escalation factors that were presented in Mr.  
11 Powell's example calculations and in Mr. McDougal's  
12 illustrations.

13 Q. Could you just -- I know this issue was presented and  
14 resolved by the Commission in a very recent case, but could you  
15 just summarize your argument for why no escalation factor  
16 should be applied until after year?

17 MR. HICKEY: Mr. Chairman, I'm going to object on the  
18 basis of friendly cross. If this is appropriate anywhere, it  
19 would probably be redirect. But it seems to me that these are  
20 objectionable on the basis of friendly cross by Mr. Dodge.

21 MR. DODGE: I guess, I'm not -- we have never heard  
22 that objection here. So maybe you need to explain what you  
23 mean by --

24 CHAIRMAN BOYER: We don't typically have friendly  
25 cross in our hearings. I'm just being facetious. I think

1 that's an appropriate line of questions. I'm going to  
2 overrule.

3 You may answer.

4 THE WITNESS: Thank you.

5 A. Well, consistent with the recommendation I made in  
6 the 2007 docket that the Commission ruled on, the reason you  
7 normalize these costs is because they fluctuate from year to  
8 year. They go up and down. You don't want to set base rates  
9 based on a non normalized level. If the base year happens to  
10 be significantly different from a normalized level, you  
11 wouldn't want that set in rates. That's why for many years now  
12 the Commission used -- or agreed to the use of a four-year  
13 average amount for normalizing overhaul costs for inclusion in  
14 rates.

15 Since those costs fluctuate from year to year, in my  
16 opinion, you shouldn't also escalate those costs. Particularly  
17 by just applying a general escalation factor there may be other  
18 items that offset those costs, such as contract or cost savings  
19 potentials, productivity savings because you get more  
20 experience with doing overhauls on these plants. A lot of the  
21 over costs pertain to contracted amounts that wouldn't  
22 necessarily change at the same rate as generally inflation  
23 factors. That's why it's always been my position before this  
24 Commission that those -- that in driving an average cost of  
25 historical averages you should not escalate those historical

1 amounts. The goal is to set a normalized level of cost that  
2 fluctuates. If they were just only impacted by inflation they  
3 wouldn't fluctuate from year to year, you would have a constant  
4 trending upward and that's not the case for the overhaul cost.

5 MR. DODGE: Thank you. I have no further questions.

6 CHAIRMAN BOYER: Thank you.

7 Mr. Reeder, no questions?

8 MR. REEDER: No questions.

9 CHAIRMAN BOYER: Mr. Allen? Mr. Campbell has some  
10 questions.

11 COMMISSIONER CAMPBELL: Just a couple.

12 Do you have -- would you comment on -- or do you have  
13 any concerns about intergenerational subsidy when it comes to  
14 underfunded pensions?

15 THE WITNESS: Not within a generation subsidy. A  
16 significant concern I have though when it comes to under funded  
17 pension plans, is the better funded a pension plan is, that  
18 serves to reduce the cost in the future. One of the factors  
19 that's used for accounting purposes in sending the pension  
20 expense is the return earned on those funds. The return earned  
21 on those pension assets serve to reduce the amount of the  
22 pension expense that would be booked for financial purposes.  
23 So typically, it's my recommendation -- it's been my  
24 recommendation in other jurisdictions that if the Commission  
25 allows amount of pension expense, the Company should at least

1 fund to that level.

2 It would cause intergenerational issues if it's under  
3 funded because of the fact that the less the Company funds it,  
4 that's going to have a bigger impact on expense down the road  
5 because the expenses are going to be higher because you are not  
6 going to have that interest income offset any longer.

7 But it's important to remember when you're addressing  
8 the amount of pension expense to include in rates, the funding  
9 of the pension plan is different than the expense in rates.  
10 What you include in rates isn't the amount of cash they  
11 contribute to fund the plan. Here in Utah it's based on the  
12 calculation under generally accepted accounting principles.

13 COMMISSIONER CAMPBELL: I understand the accounting  
14 for pensions. Let me ask just one other general question since  
15 you get to go to a lot of other states and see what goes on  
16 around the country. In kind -- well, let me ask it this way:  
17 If we routinely normalize out one time nonrecurring expenses  
18 every time we have a rate case, will a company ever be able to  
19 earn it's authorized return? This is just a policy question, a  
20 broad policy question that occurred to me as we were having  
21 this discussion the last couple of days.

22 THE WITNESS: Yes, I believe they can because you are  
23 normalizing expenses. You know, you may have some abnormal  
24 costs that would occur in the year that you would normally  
25 remove, but there might also be some abnormal costs savings to

1 there removed, the Company applying escalation factors and  
2 various adjustments in its case to increase its expenses for  
3 known changes that are occurring.

4 For example, typically, you would have the  
5 incremental generational expense, so the Company is adding in  
6 new costs it's projecting. At the same time abnormal costs or  
7 nonrecurring you would remove. I do believe though, if you are  
8 dealing with the base year and there is a nonrecurring cost  
9 that may have a significant financial impact on the Company,  
10 the Company has the ability to request a deferral and  
11 amortization of those costs.

12 So if there is something between rate cases the  
13 Company would have the ability to request an accounting order,  
14 and has done so in numerous cases if it thinks it will have a  
15 significant financial impact. And if they are prudent costs --  
16 it's been my experience with this Commission if they are  
17 prudently incurred and if they requested deferral in a timely  
18 manner, the Commission does take that into consideration and  
19 has allowed some of those past deferrals.

20 CHAIRMAN BOYER: I have no questions of Ms. Ramas,  
21 other than the pronunciation of her surname.

22 But before we move onto redirect, Mr. Hickey, do you  
23 wish to move admission of RMP RR Cross Exhibits 8 and 9?

24 MR. HICKEY: I do, thank you, Mr. Chairman.

25 CHAIRMAN BOYER: Is there any objection to the

1 admission of these exhibits?

2 MR. PROCTOR: Yes, Mr. Chairman.

3 CHAIRMAN BOYER: And Mr. Proctor.

4 MR. PROCTOR: With respect to RMP RR Cross Exhibit 9,  
5 Ms. Ramas testified that this was merely an excerpt of the  
6 Hewitt report, as well, the excerpt of the Company's response  
7 to the data request. And I have taken the liberty of acquiring  
8 a complete response that has the excerpt, as well as, the  
9 information that was omitted by the Company. And I believe  
10 that I would like to offer this as a substitute to Cross  
11 Exhibit 9.

12 CHAIRMAN BOYER: Let's distribute that and take a  
13 look at it, Mr. Proctor.

14 MR. HICKEY: Mr. Proctor, I'm confused, 8 was the  
15 data request and 9 is the Hewitt report.

16 MR. PROCTOR: Yeah, substitute 9. That's what I  
17 wanted to substitute was your for your --

18 MR. HICKEY: Yeah. Well, I don't have a problem with  
19 that but there is a number issue here.

20 MR. PROCTOR: A number issue where? I'm sorry, which  
21 one? Where was I confused.

22 MR. HICKEY: I thought this was 8.

23 MR. PROCTOR: It is, I believe.

24 MR. HICKEY: Then we're in agreement.

25 MR. PROCTOR: I'm sorry.



1 MR. REEDER: Which is the correct number?

2 MR. HICKEY: If you are talking about this excerpt,  
3 it's been marked as 9.

4 MR. PROCTOR: Yeah, Rocky Mountain Power offered  
5 Cross Exhibit 9, which is an excerpt of the Hewitt report. I'm  
6 offering a substitute -- and I don't know, we can talk about  
7 how to mark it later, that entire Hewitt report.

8 MR. HICKEY: No objection, Mr. Chairman.

9 MR. PROCTOR: We just substituted it as our Rocky  
10 Mountain Power Cross 9. Would that be acceptable?

11 CHAIRMAN BOYER: That would be acceptable to us.

12 MR. HICKEY: Fine with the outcome.

13 CHAIRMAN BOYER: The substituted RMP-RR or Cross  
14 Exhibit 9 will be admitted into evidence.

15 I interrupted, I guess, Mr. Proctor. It's your turn  
16 to conduct your redirect.

17 MR. HICKEY: I must have heard something. And I  
18 thought there was a discussion about 8, as well, but there  
19 wasn't?

20 MR. PROCTOR: No, I have no objection to Cross 8.

21 CHAIRMAN BOYER: In that event, Exhibit RMP-RR Cross  
22 Exhibit 8 is also in evidence.

23 MR. PROCTOR: With that substitution, Mr. Chairman, I  
24 would have no questions. Thank you.

25 CHAIRMAN BOYER: Very well. We're way ahead of

1 schedule so thank you for that. So Monday morning on  
2 December 14 we'll commence again at 9:00 a.m. We'll delve into  
3 the issue of net power costs. And we wish you all safe travel.  
4 We'll be in recess until Monday at 9:00. Thank you.

5 (End of Proceedings at 3:37 p.m.)

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REPORTER'S CERTIFICATE

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

IS TO CERTIFY that the hearing was taken before me, Katie A. Harmon, Certified Shorthand Reporter in the State of Utah, residing in Salt Lake City.

That the testimony of said witness was by me reported in Stenotype, and thereafter caused to be transcribed into typewriting, and that a full, true, and correct transcription of said testimony so taken and transcribed is set forth in the foregoing pages, numbered from 271 to 435, inclusive, and said witness deposed and said as in the foregoing annexed deposition.

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

WITNESS MY HAND AND OFFICIAL SEAL this 14th day of December, 2009.

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KATIE A. HARMON, RPR