

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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

Tuesday, December 15, 2009 - 9:02 a.m.

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

Before: Chairman Ted Boyer
Commissioner Ron Allen
Commissioner Ric Campbell

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

3 CHAIRMAN BOYER: Let's go back on the record,
4 then, in Rocky Mountain Power Rate Case Docket No.
5 09-035-23. And I think today we're hearing from the
6 Office of Consumer Services' witnesses, Messrs. Hayet
7 and Falkenberg.

8 MR. PROCTOR: That's correct. We would like
9 to call Mr. Hayet first. Mr. Hayet will need to be
10 sworn.

11 CHAIRMAN BOYER: Thank you.

12 (Phillip Hayet was duly sworn.)

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

15 PHILLIP HAYET,

16 called as a witness at the instance of
17 OCS, having been first duly sworn, was
18 examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. PROCTOR:

21 Q. Mr. Hayet, if you could state your name and
22 by whom you're employed and for whom you're appearing
23 here today.

24 A. My name is Phillip Hayet. I am employed by
25 Hayet Power Systems Consulting. And I am testifying on

1 behalf of the Utah Office of Consumer Services.

2 Q. Mr. Hayet, in this matter, have you prepared
3 and filed written testimony, consisting of direct
4 testimony filed October 8th and marked OCS 3D Hayet,
5 and one exhibit, as well as surrebuttal testimony filed
6 November 30th, marked OCS 3S Hayet?

7 A. My copy is marked 5S.

8 MR. PROCTOR: Mr. Chairman, can -- I'm sorry.
9 Can we make certain of that and make a modification
10 later?

11 CHAIRMAN BOYER: Yeah, we clarified that.
12 For the record, the copies the commissioners have are
13 labeled -- the direct testimony is witness OCS 3D, and
14 the surrebuttal is OCS 5S.

15 MR. PROCTOR: I'm certain that the 5 was a
16 typographical error, so could we modify that to 3 or --
17 well, whichever you want.

18 CHAIRMAN BOYER: It matters not to us.

19 MR. PROCTOR: For consistency in the record,
20 let's have it 3S. Thank you.

21 Q. (By Mr. Proctor) Mr. Hayet, do you have any
22 corrections to your direct and surrebuttal testimony?

23 A. No, I don't.

24 Q. If I were to ask the questions that are
25 contained in the prefiled written testimony today,

1 would your answers remain the same?

2 A. Yes, they would.

3 MR. PROCTOR: The Office would offer for
4 admission the exhibits that we've referred to above.

5 CHAIRMAN BOYER: Is there any objection to
6 the admission of Mr. Hayet's direct and surrebuttal
7 testimony, together with exhibits?

8 MR. DODGE: No objection.

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

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

12 Q. (By Mr. Proctor) Mr. Hayet, do you have a
13 summary of the testimony that you filed in this matter?

14 A. Yes, I do.

15 Q. Would you please provide that.

16 A. I address four issues in this proceeding, two
17 of which I will only discuss very briefly, as we
18 believe they have been resolved. The two have been --
19 the two that have been resolved are PacifiCorp wind
20 integration cost error, an adjustment to correct an
21 error that PacifiCorp made in calculating its wind
22 integration rate. PacifiCorp had overstated the amount
23 of west side wind in its wind integration calculation,
24 and with this adjustment, the wind integration charge
25 was reduced from \$6.91 per megawatt hour to \$6.62 per

1 megawatt hour. Mr. Duvall agreed with this adjustment
2 in his rebuttal testimony.

3 The second item that has been resolved is the
4 BPA wind integration cost adjustment, an adjustment to
5 the wind integration charge that PacifiCorp has paid --
6 has to pay to BPA because of the contracts that
7 PacifiCorp has for two wind resources that are located
8 within BPA's control area.

9 The Office has withdrawn this issue, as it
10 related to information that was finalized after the
11 Company filed its testimony in this case. While there
12 was some information that -- there's no -- no more to
13 that point, I'm sorry.

14 The two issues that remain are Biomass
15 nongeneration adjustment. The Biomass QF is an
16 extremely high-cost QF that PacifiCorp will be
17 obligated to buy energy from until the end of 2011. In
18 the test year, payments amounted to \$156 a megawatt
19 hour.

20 For the past five years, including the summer
21 of 2009, PacifiCorp has entered into nongeneration
22 agreements, and a nongeneration agreement is a win/win
23 situation for both parties because including the cost
24 to replace the energy, plus what PacifiCorp pays the QF
25 not to generate, PacifiCorp's costs work out to be

1 below what PacifiCorp would otherwise pay to the QF for
2 the energy at the normal rate. The QF also wins
3 because the QF is not having to generate and incur the
4 cost of generation.

5 In 2007, we proposed the same adjustment, and
6 the Commission adopted it and treated it as a
7 normalized adjustment. We believe that the same
8 normalizing treatment should be applied to this case,
9 as the conditions are the same and it would be prudent
10 for PacifiCorp to once again enter into the agreement.

11 The fourth adjustment is PacifiCorp wholesale
12 transmission users' wind integration adjustment. This
13 is the removal of charges that PacifiCorp has imposed
14 on retail customers that rightfully should be charged
15 to wholesale customers.

16 PacifiCorp provides a service to two
17 wholesale wind power transmission customers, which is
18 to supply wind integration services, but PacifiCorp
19 does not charge those customers for that service.
20 Instead, PacifiCorp proposes to charge retail customers
21 for those services, effectively arguing that somebody
22 has to pay for it and therefore it will have to be
23 retail customers.

24 We believe this violates fundamental
25 principles of rate-making, which tries to avoid cross-

1 subsidization and only attempts to charge the customer
2 for the costs it imposes on the system.

3 PacifiCorp argues that its OATT does not
4 allow for such a charge to be made, but PacifiCorp has
5 made no effort to have its OATT changed by making a
6 filing to FERC, which is within its power to do. We
7 believe that PacifiCorp should not be permitted to
8 charge retail customers for costs imposed by wholesale
9 customers. And that concludes my summary.

10 MR. PROCTOR: Thank you, Mr. Hayet. Mr.
11 Hayet is available for cross-examination.

12 CHAIRMAN BOYER: Thank you, Mr. Hayet. Let's
13 begin with -- is it Ms. McDowell today?

14 MS. McDOWELL: That's correct.

15 CHAIRMAN BOYER: Ms. McDowell, then.

16 CROSS-EXAMINATION

17 BY MS. McDOWELL:

18 Q. Good morning, Mr. Hayet.

19 A. Good morning.

20 Q. I'm Katherine McDowell. I'm here on behalf
21 of Rocky Mountain Power. I'd like to ask you a little
22 bit about your wind integration issue with respect to
23 the wholesale customers, the last issue you talked
24 about in your summary, so can you turn to page 8 of
25 your direct testimony, please. And I'd like to direct

1 your attention to lines -- your testimony beginning at
2 line 151. And there you indicate that these particular
3 customers are located within PacifiCorp's service
4 territory, and PacifiCorp provides transmission
5 services to them under its FERC-approved tariff, or
6 FERC-approved OATT.

7 So you don't dispute that PacifiCorp is
8 actually providing these services to these customers?

9 A. No, I don't -- I don't dispute that they're
10 providing these services to those customers.

11 Q. So then let me ask you --

12 A. I just believe that these customers should
13 pay for the service that they receive.

14 Q. Stick with me. We'll get to the merits of
15 your argument. I just want to ask you about one of the
16 outlines of your argument here. So on line 153, then,
17 you say, "Currently, PacifiCorp's OATT allows for the
18 recovery of the cost of providing operating reserves,
19 but not for the cost of providing wind integration
20 services."

21 So you don't dispute that PacifiCorp's OATT
22 does not currently allow PacifiCorp to charge these
23 customers for wind integration services, correct?

24 A. I don't dispute that it currently allows for
25 it. I simply believe that the proper party ought to be

1 paying for what service they receive.

2 Q. All right. Can you turn to page 6 of your
3 surrebuttal, please. And here at lines 132 to 138 you
4 quote -- oh, I'm sorry, I'll let you get to the page.
5 Are you with me?

6 A. Yes, I am.

7 Q. Okay. Page 6, lines 132 to 138. And there
8 you quote Mr. Duvall's testimony, explaining the
9 Company's concern that an OATT wind integration charge
10 might violate the federal statutory mandate against
11 discrimination against transmission customers. Do you
12 see that?

13 A. Yes.

14 Q. And then you go on, at line 140 to 143, to
15 testify that BPA's OATT is proof that this concern
16 about violating the federal law against discrimination
17 is unwarranted. Do you see that?

18 A. That's correct. In other words, that there
19 is the ability to have within one's tariff a provision
20 that would charge for wind integration services. For
21 example, there are two wind resources that have been at
22 issue in this case that PacifiCorp has to pay BPA wind
23 integration service costs, so that's actually another
24 issue that I discussed.

25 Q. Let me hand you an exhibit which I've marked

1 as Cross Exhibit-13.

2 (RMP Cross Exhibit-13 was marked.)

3 Q. So Mr. Hayet, I've just handed you Cross
4 Exhibit-13, which is an OCS Response to RMP Data
5 Request 12. Have you had a moment to look over this?

6 A. Yes. Yes, I have.

7 Q. Are you familiar with this response?

8 A. Yes, I am.

9 Q. So it's true, isn't it, that FERC does not
10 have jurisdiction to determine whether BPA's rates are
11 discriminatory?

12 A. FERC has jurisdiction that it is -- that is
13 different than other transmission owners, that is
14 correct.

15 Q. So if you turn to the last page of this
16 exhibit, which is the -- you responded to this data
17 request by attaching two FERC cases.

18 A. Uh-huh.

19 Q. The second FERC case attached is Docket EF
20 06-2011-000. And I'd like to direct your attention to
21 paragraph 29 on page 7 of that case, the ultimate page
22 of the exhibit.

23 A. Yes.

24 Q. Do you have that paragraph there?

25 A. We've got a 29.

1 Q. Paragraph 29.

2 A. Give me a second to read it, if you don't
3 mind.

4 Q. No, of course.

5 A. Yes, I have it.

6 Q. Do you see that that paragraph dismisses an
7 allegation that BPA's rates are discriminatory because
8 such an allegation is outside of FERC's jurisdiction
9 over BPA?

10 A. Yes, I do see that.

11 Q. So this data request asked you to provide any
12 OAT tariff of which you were aware which contained a
13 wind integration charge. Do you see that on page 1?

14 A. Yes.

15 Q. And in response, you provided basically cases
16 referring to the BPA tariff, correct?

17 A. Correct, because the data response says any
18 FERC order that I'm aware of in which a charge contains
19 a wind integration charge. The BPA is a charge that
20 includes a wind integration charge.

21 And I will also note for your consideration
22 that this is not the only utility that has this sort of
23 concern. I have also identified that there are other
24 concerns of other utilities, including Northwestern
25 Energy, which you may be aware of, which filed for the

1 exact same situation that energy -- that PacifiCorp has
2 in front of us right here. And in that proceeding --
3 and I'll point that to your attention because I only
4 recently came across this.

5 Q. So Mr. Hayet, let me just back up here a
6 second. You're talking about a situation that I assume
7 does not involve a FERC order which has approved a wind
8 integration charge as a part of an OATT, correct?

9 A. That's right.

10 Q. Well --

11 A. FERC did not -- FERC --

12 Q. I'm sorry, go ahead.

13 A. FERC did not approve that Northwestern Energy
14 charge, though they did say they were sympathetic to
15 the issue raised by Northwestern -- Northwestern
16 Energy, which is that it doesn't want to charge its
17 retail customers for charges that are -- for costs that
18 are imposed in serving wholesale transmission
19 customers.

20 The FERC had issues with the tariff itself
21 that Northwestern was proposing in that case, but it
22 was sympathetic to that issue. And I would imagine
23 that other utilities, it would be sympathetic if it
24 took note of that Northwestern Energy case.

25 Q. Well, the fact remains, Mr. Hayet, we asked

1 you to produce any FERC order in the country that had
2 approved such an OATT, and you were able to produce
3 only this order relating to BPA, correct?

4 A. That's correct.

5 Q. And we have just established that FERC does
6 not have jurisdiction to determine whether BPA's rates
7 are discriminatory, correct?

8 A. We have established that they -- but they
9 have the -- they have the power -- if they have issues
10 with their rates, they have the power to take it back
11 to the BPA, to the -- to the administrator, and have it
12 reviewed for further consideration, they do have that
13 statutory authority.

14 Q. But Mr. Hayet, at page 6 of your surrebuttal
15 testimony, in response to Mr. Duvall's testimony that
16 the Company's concern here was that including such a
17 provision in their tariff would violate discrimination,
18 you say that, "I think it is clear that FERC would and
19 does permit a transmission provider to provide such a
20 charge. BPA is a perfect example."

21 But BPA is not subject to the FERC's review
22 of discriminatory rates, is it?

23 A. That's correct. But Northwestern Energy is a
24 perfect example of a -- of a -- of a utility where FERC
25 has considered that issue and would be open to

1 providing it and would not consider, and does not
2 consider, it to be discriminatory.

3 Q. Well, Mr. Hayet, let me just point out two
4 things. First of all, you didn't reference that in the
5 data request response which you provided last week, did
6 you?

7 A. No, I did not, because I thought that that
8 was not -- you know, I -- I answered the question
9 specifically as you asked.

10 Q. And you also didn't reference it in your
11 testimony, did you?

12 A. No, I did not, because it was something that
13 I have found and identified through discussions with
14 FERC at a point that was after I filed testimony.

15 Q. And the fact remains that that tariff was not
16 approved by FERC, was it?

17 A. It was not approved by FERC. However, FERC
18 was sympathetic to the notion that the proper customer
19 ought to be paying the charges, and that the retail
20 customer should not be paying the costs of the hotel.

21 Q. So just to confirm, to your knowledge, there
22 is not a single transmission provider in the entire
23 country subject to the FERC statutory mandate against
24 discrimination which has an approved wind integration
25 charge in its OATT?

1 A. That -- that is true, but that doesn't mean
2 that FERC would not permit some company, such as
3 PacifiCorp, to file, and it -- it does not mean that it
4 would not approve such a -- such a tariff, if it were
5 properly constructed.

6 Q. So Mr. Hayet, you were a witness in the
7 company's 2007 rate case, weren't you?

8 A. I was -- I filed testimony in that case.

9 Q. And do you recall in that case you supported
10 at least a couple of your adjustments with testimony
11 that your approach was the industry standard; do you
12 remember that?

13 A. I need to see what you're referring to.

14 Q. For example, the monthly outage rate
15 modeling?

16 A. If you could show me my testimony, I'd be
17 happy to comment.

18 Q. So Mr. Hayet, I just handed you your
19 testimony from the 2007 rate case, and on page 4 you
20 summarize your adjustment on monthly outage modeling,
21 and there you support that argument, in part, by a
22 reference to standard industry practice; do you see
23 that?

24 A. Yes.

25 Q. So here wouldn't you agree that the standard

1 industry practice is for utilities not to have wind
2 integration charges in their OATT?

3 A. No, I think the notion -- I think I -- the
4 answer to your question is I disagree with your
5 question. And I think the notion of a wind integration
6 charge is something that is -- we all understand that
7 wind resources are fairly new. They're large-scale
8 generation.

9 The effort to implement wind has been a
10 fairly recent development, and because of that,
11 utilities are getting a handle on wind integration
12 costs and what those are. So historically they haven't
13 designed their OATT to include that, but that does not
14 mean that they should not attempt to file tariff, and I
15 think Northwestern Energy is a perfect example of a
16 company who has done so, and it's a perfect situation
17 where FERC comments that they agree that the -- that
18 the retail customers ought not be charged for the
19 costs.

20 Q. Well, Mr. Hayet, that effort was
21 unsuccessful, wasn't it?

22 A. It was unsuccessful, but it wasn't
23 unsuccessful because they didn't support the notion of
24 having a wind integration charge. It was because the
25 charge itself and the way that they had developed the

1 tariff, it did not accept that it's -- the filing
2 itself.

3 That doesn't mean that some other utility
4 couldn't -- such as PacifiCorp, couldn't file a wind
5 integration cost for these transmission customers.
6 There's simply no reason retail customers should pay
7 for this.

8 Q. Mr. Hayet, can you turn to page 10 of your
9 direct testimony. And I'd like to direct your
10 attention to line 220 -- 219 to 220. And there you
11 indicate PacifiCorp's position that it is waiting for
12 additional guidance from FERC before it files to amend
13 its OATT; do you see that?

14 A. Yes. My point on that is there's no point
15 that FERC -- that PacifiCorp has to wait.

16 (RMP Cross Exhibit-14 was marked)

17 Q. So Mr. Hayet, I want to hand you what I've
18 marked as Cross Exhibit-14. So Mr. Hayet, wouldn't you
19 agree that it would make sense for PacifiCorp to wait
20 for additional guidance from FERC if that additional
21 guidance meant that its filing was more likely to be
22 successful in including a wind integration charge than
23 if it were to file one now, similar to the utility you
24 proposed or you referenced, and have that tariff
25 rejected?

1 A. I think that if PacifiCorp cares to wait then
2 PacifiCorp is welcome to wait. I have no -- no
3 opposition to PacifiCorp waiting as long as Pacific
4 bears -- PacifiCorp bears the cost. I think otherwise
5 PacifiCorp should make a filing, should try to
6 determine what the best, most appropriate way to make
7 that filing is so it can charge the proper customer for
8 the proper cost.

9 Q. So Mr. Hayet, I've handed you what has been
10 marked as Cross Exhibit-14, and just for your
11 reference, I'll indicate to you that this is the -- a
12 recent decision from the Oregon Commission approving a
13 settlement of net power cost in Oregon. And I'd like
14 to direct your attention to page -- basically page 6 of
15 that order.

16 And in that order the Oregon Commission
17 addressed this issue in the third paragraph under the
18 discussion and under the fifth paragraph in the
19 ordering paragraphs, directing the Company to keep it
20 apprised of the status of FERC developments on this
21 issue. Can you take a look at that?

22 A. Yes, I see the ordering paragraph. Okay.

23 Q. Mr. Hayet, doesn't this suggest an
24 alternative approach to your adjustment, one where the
25 Utah Commission closely monitors this issue as FERC

1 provides additional guidance and the Company prepares
2 to file its next FERC rate case?

3 A. You know, if -- for example, FERC is not
4 permitting utilities to get cost recovery via the OATT.
5 FERC is simply saying at the time that it's not -- it
6 doesn't think that the utilities necessarily should
7 recover those costs, I would assume.

8 So I don't necessarily see why this -- we
9 should, you know, rely on this. I think that
10 PacifiCorp should not get recovery of their costs
11 simply -- until they go file at FERC. So in other
12 words, I think that FERC -- that PacifiCorp should make
13 that filing at FERC. And when they -- when they do,
14 that's the point at which, you know, they'll likely
15 have the opportunity to get the cost recovery.

16 But it's within PacifiCorp's power. This is
17 open-ended. This doesn't suggest when they might do
18 it, how long they might do it. The rates that they're
19 setting today could be in -- in effect for a number of
20 years.

21 Q. Are you aware that PacifiCorp by FERC order
22 must file a FERC rate case by June of 2011?

23 A. I'm not aware of that.

24 MS. McDOWELL: That's all I have. I'd offer
25 Cross Exhibits 13 and 14.

1 CHAIRMAN BOYER: Any objection to the
2 admission of Cross Exhibits -- RMP Cross Exhibits 13
3 and 14? They are admitted.

4 Okay. Let's turn now to Mr. Ginsberg. Have
5 you questions for Mr. Hayet?

6 MR. GINSBERG: No questions.

7 CHAIRMAN BOYER: Okay. Mr. Dodge?

8 MR. DODGE: I do have just a couple
9 questions, Mr. Chairman, thank you.

10 CROSS-EXAMINATION

11 BY MR. DODGE:

12 Q. Mr. Hayet, the Northwest Energy case that you
13 referenced, do you have that? Can you give us a
14 citation to it?

15 A. Docket ER 091314-000.

16 Q. And you indicated that the FERC rejected the
17 filing but was sympathetic to --

18 A. Yes.

19 Q. -- the issue. Can you, at least in your
20 words, describe what FERC found was wrong with the
21 filing to make it reject it?

22 A. The -- I'm actually going to be unable to
23 give you an articulate answer to that question. The --
24 they did note in the discussion that they -- they are
25 concerned about retail customers having to pay for the

1 cost. They -- that it was clearly laid out in a very
2 similar manner as the PacifiCorp situation. In fact, I
3 believe that PacifiCorp -- I know that PacifiCorp is an
4 intervener in that case.

5 But my recollection is that there were
6 aspects about it that upon the concerns expressed by
7 some of the wind resources there were problems in the
8 way it was constructed, and it was on that basis that
9 FERC basically didn't allow it.

10 Q. Is your understanding of FERC's reluctance
11 that it wants better proof of what the OATT integration
12 charges should be?

13 A. That is my understanding.

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

15 CHAIRMAN BOYER: Thank you, Mr. Dodge. Mr.
16 Reeder?

17 CROSS-EXAMINATION

18 BY MR. REEDER:

19 Q. Mr. Hayet, are you a -- Mr. Hayet, are you a
20 FERC practitioner?

21 A. Yes.

22 Q. Are you familiar with the current debates at
23 FERC about who should pay for transmission expansion
24 and additions?

25 A. Yes, I am.

1 Q. In particular, are you familiar with Judge
2 Posner's decision on August 5th about who should pay?

3 A. I -- I can't say I specifically am familiar
4 with that decision.

5 Q. None of us have it memorized, but isn't it
6 true the 7th Circuit held that the user should pay,
7 that is, the generator should pay for the transmission
8 expansion and not the other users on the transmission
9 system?

10 A. That's my general understanding of how the --
11 the positions that FERC is taking on the transmission.

12 Q. That's kind of the way FERC's evolving, isn't
13 it, that the generators pay the charges they cause on
14 the transmission?

15 A. That's correct.

16 Q. Are you familiar with the earlier cases of
17 this Commission where the very question you've raised
18 about where there is an opportunity to recover from the
19 producers if an appropriate FERC tariff were filed have
20 been discussed and decided?

21 A. You know, I -- I would like to be able to say
22 I am, but I don't think --

23 COURT REPORTER: I didn't hear the last of
24 your question, "I would like to be able to say I am,
25 but..."

1 A. I don't think that's -- my cell phone is off.

2 Q. One of us has got a Blackberry that's getting
3 a lot of e-mails, I think.

4 A. Not me. I am not --

5 Q. Let's see. The last question, in fairness to
6 the reporter, the question was are you familiar with
7 the cases of this Commission wherein the very question
8 you raised about who should pay the cost when there's
9 an opportunity to go and have the producer pay by going
10 to FERC have been decided?

11 A. And my answer was I am not specifically
12 familiar, but it doesn't surprise me because that's a
13 similar position taken by many of the commissions.

14 Q. I don't have the case citation, but ask the
15 Commission to take administrative notice of the CO2
16 case -- cases where they came and went from the Supreme
17 Court two or three times on that issue in this
18 jurisdiction. I have nothing further.

19 CHAIRMAN BOYER: Commissioner Allen?
20 Commissioner Campbell? I have no questions either.

21 Mr. Proctor, redirect for Mr. Hayet?

22 MR. PROCTOR: Could I have just one moment?

23 CHAIRMAN BOYER: Sure.

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

25 //

1 REDIRECT EXAMINATION

2 BY MR. PROCTOR:

3 Q. Mr. Hayet, I want to first ask you some
4 questions about Northwestern Energy. In the decision
5 that you reference at the FERC in 091314, did the FERC
6 say in that order that they did not have jurisdiction
7 to issue or to order the wind integration charge in the
8 OAT tariff?

9 A. No, it didn't say that.

10 Q. Was there anything within the FERC order that
11 discussed whether or not retail customers should pay
12 wholesale wind integration charges?

13 A. There was a mention in the order about the
14 concern that FERC would have about a utility charging
15 the retail customers for the wholesale customer costs.
16 It was a statement that I took to be a sympathetic
17 statement to that concern, that FERC does not want that
18 to occur, though like I said, there were other issues
19 that it had with implementing the tariff.

20 Q. Was there any counter statement within that
21 order that affirmed that indeed it is proper to charge
22 retail customers for wholesale wind integration
23 charges?

24 A. No, there was not.

25 Q. Was Northwestern Energy also involved in a

1 case in Montana where the wind integration charges were
2 an issue, wholesale wind integration charges?

3 A. Well, I believe this particular case is about
4 Montana.

5 Q. Was there any state utility commission matter
6 pertaining to that?

7 A. There was -- there was a case in front of the
8 Montana Commission where the same issue arose. And the
9 Montana Commission, as I recall, did not permit them to
10 make the charge.

11 Q. Did they actually reduce revenue
12 requirements?

13 A. Yes.

14 Q. Are you familiar with the order or the
15 opinion that -- in that case?

16 A. I did not find that opinion.

17 Q. Do you know whether or not PacifiCorp had
18 intervened in that case in Montana?

19 A. I don't recall that, no.

20 Q. Based upon your knowledge of FERC proceedings
21 and OAT tariffs, and I -- you are familiar with them?

22 A. Yes, I am.

23 Q. Are there integration charges included in any
24 other OAT tariffs for nonwind energy?

25 A. There are -- there are -- well, there are

1 reserve charges that are within the OAT, but there are
2 not other integration charges, if I understand your
3 question correctly.

4 Q. Okay. You do. And there are reserve charges
5 in OAT tariffs pertaining to wind projects, correct?

6 A. Yes.

7 Q. So what's missing from prior OAT tariffs is
8 this wind integration charge, correct?

9 A. That's correct.

10 Q. You testified on cross-examination that
11 development of wind projects is rapid recent -- of
12 recent origin; is that correct?

13 A. That's correct.

14 Q. Would that explain why it is that this issue
15 pertaining to wind integration charges in OAT tariffs
16 is not yet fully developed?

17 A. It would, but I would also say to that
18 that -- that there has to be utilities out there that
19 are willing to broach this and take it up with FERC,
20 just like Northwestern did. At this point, I think
21 that it's something that can be addressed and FERC
22 could permit the OATT changes to be made to include the
23 integration charges.

24 Q. So in response to cross, it was if nobody
25 does this, of course it's never going to be included?

1 A. That's correct.

2 Q. Now, in the Oregon case, and this would be
3 Cross Exhibit-14 that you were provided, is -- do you
4 have it there?

5 A. Yes.

6 Q. This order flowed from a settlement
7 stipulation entered into by the parties, correct?

8 A. Yes.

9 Q. And did that settlement stipulation reduce
10 the revenue requirement that had been requested by
11 PacifiCorp?

12 A. While I'm not fully aware of the whole case,
13 I do understand it did reduce it.

14 Q. Was the charging of retail customers for
15 wholesale wind integration an issue in that case?

16 A. There is that -- other than what I'm reading
17 in here that was put in front of me, I don't think I
18 know the answer to that question.

19 Q. Did you or Mr. Falkenberg participate in that
20 case?

21 A. I know Mr. Falkenberg did.

22 Q. Now, the fact that FERC has yet to
23 definitively respond to a petition to include wind
24 integration charges in wholesale OATT contracts, does
25 that change your opinion at all about whether or not

1 within the state jurisdiction retail customers should
2 pay for service provided to wholesale customers?

3 A. I -- it does not change my opinion. And I
4 think that were the -- the Commission in this state to
5 disallow this cost, I believe that PacifiCorp would
6 immediately file, or consider filing for this -- this
7 tariff. It has no incentive to file it as long as it
8 knows that the retail customers will pay.

9 MR. PROCTOR: Thank you, Mr. Hayet.

10 CHAIRMAN BOYER: Thank you, Mr. Hayet. You
11 may be excused.

12 THE WITNESS: Thank you.

13 CHAIRMAN BOYER: Mr. Falkenberg, have you
14 been sworn in this proceeding?

15 THE WITNESS: I have not.

16 (Randall J. Falkenberg was duly sworn.)

17 CHAIRMAN BOYER: Thank you. Please be
18 seated.

19 RANDALL J. FALKENBERG,
20 called as a witness at the instance of
21 OCS, having been first duly sworn, was
22 examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. PROCTOR:

25 Q. Mr. Falkenberg, if you could -- pardon me,

1 Mr. Chairman. If you could state your name, your
2 employer, and for whom you're appearing here today.

3 A. My name is Randall J. Falkenberg. I'm
4 employed by RFI Consulting, Incorporated. I'm
5 appearing as a witness for the Office of Consumer
6 Services.

7 Q. In connection with that appearance for the
8 Office, have you filed three sets of testimony, the
9 first being direct, marked OCS 4D Falkenberg consisting
10 of 47 pages of direct, and five exhibits?

11 A. Yes.

12 Q. Rebuttal testimony consisting of four pages
13 marked OCS 4R Falkenberg?

14 A. Yes.

15 Q. And finally, surrebuttal testimony consisting
16 of 38 pages, and five exhibits marked OCS 4S?

17 A. Yes.

18 Q. Do you have any changes or corrections to
19 that testimony?

20 A. A couple corrections.

21 Q. Would this be on surrebuttal testimony?

22 A. It starts -- I have one for direct and one
23 for surrebuttal.

24 Q. Thank you.

25 A. On page 5 of my direct testimony, at line

1 113, there's a reference to graveyard shift one to five
2 a.m. That should be one to six a.m. That was just a
3 typo.

4 And in my surrebuttal testimony, on page 16,
5 on line 364, there's a reference to Exhibit OCS 4.2.
6 That should be 4.2S.

7 And I guess actually there's a third
8 correction that's related to this. If you go to my
9 exhibits in the surrebuttal, the exhibit labeled 4.2
10 should have been labeled 4.2S.

11 Q. And that would complete the necessary
12 changes?

13 A. That's correct.

14 Q. If I were to ask you the questions today that
15 you responded to in your prefiled written testimony,
16 would your answers remain the same?

17 A. Yes.

18 MR. PROCTOR: With that, Mr. Chairman, I
19 would offer into evidence the exhibits that I've
20 referred to above.

21 CHAIRMAN BOYER: Any objection to the
22 admission of Mr. Falkenberg's direct, rebuttal,
23 surrebuttal testimony, with exhibits and as corrected
24 today? Seeing none, they are admitted.

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

1 Q. (By Mr. Proctor) Mr. Falkenberg, have you
2 prepared a summary of your testimony?

3 A. Yes, I have. I think it will expedite things
4 if everybody could please turn to page 2 of my
5 surrebuttal testimony. I prepared a revision to Table
6 1, which I filed in direct, and it's color coded so
7 that we can kind of get a sense of what issues are
8 resolved, what issues are no longer contested, and that
9 sort of thing.

10 The issues that are highlighted in green are
11 items where the Company and I are in agreement, the
12 Company's accepted some of my adjustments.

13 There is an item that's labeled in yellow,
14 which is an adjustment I've removed.

15 And then there's some in blue where there
16 were some minor modifications to the position that was
17 made in the direct.

18 And the ones that aren't color coded are
19 basically still contested. I would note, however, that
20 I believe that the Company, the Division, and OCS are
21 all in agreement on adjustment 19, which is the White
22 key rate adjustment.

23 I would also point out, however, that the
24 value of any of these adjustments is subject to change
25 were the Company's proposal to make an update to update

1 the forward curve adopted to be adopted.

2 So that shows what's in our final recommended
3 net power cost. It also shows what's not in. There's
4 some notable items that are missing, and the most
5 substantial of which, of course, is the Company's
6 proposed updates for the new forward curve, new
7 contracts, and that sort of thing.

8 It's my testimony that the update isn't
9 complete, it's not symmetrical, it fails to comply with
10 the Commission's direction in the 2007 case, and so I
11 recommend it not be allowed.

12 Now, in terms of what's remaining, I believe
13 that Mr. Duvall went over all of the various
14 adjustments when he made his comments, and I have -- I
15 believe I have rebutted each and every one of his
16 points in my surrebuttal testimony, so I won't go over
17 all of the smaller adjustments, but I will go over some
18 of the bigger issues.

19 Most important among the larger issues, I
20 think, is the GRID market caps issues. The Company
21 puts into the GRID model limitations on the amount of
22 energy that can be sold during the nighttime hours.
23 This was originally placed in the model in order to
24 reflect the fact that they felt there wasn't a
25 sufficient market available at night.

1 Now, what's happened in the last several
2 years, the size of the market's grown. The Company is
3 now making far more sales in the nighttime hours than
4 it -- than the grid model allows, so that being the
5 case, the genesis of the market cap adjustment that the
6 Company has proposed and used in a number of years is
7 no longer valid.

8 Now, one of the other arguments in favor of
9 the market caps that the Company has made is that
10 without the market caps there will be too much coal
11 generation. My testimony has shown that the amount of
12 coal generation that's in the test year is reasonable
13 compared to recent historical data.

14 And this is particularly true if one
15 recognizes the fact that the Company has built in a
16 large amount of cost for wind integration into the test
17 year and that wind integration represents reserve
18 capacity that's being -- in other words, it represents
19 capacity from coal and gas-fired units that's being
20 idled to provide reserves for wind resources.

21 When those are factored into the GRID model,
22 it substantially reduces the amount of coal generation
23 that's in the test year and it gets us down to levels
24 that are quite reasonable. I would point out that the
25 level of coal generation in our test year is actually

1 less than what the Company had -- had filed in the 2008
2 case.

3 So for that reason, for all those reasons, I
4 believe the market caps are inappropriate. It's
5 appropriate to remove the market caps.

6 The next adjustment that I think is important
7 has to do with the screens. We probably all here
8 recall two year -- in the 2007 case we had the issues
9 surrounding the GRID commitment logic error. The
10 commitment logic error is a one-way street. It can
11 only increase power costs. I believe because of that
12 we ought to do the best job possible of correcting it.

13 The Company has proposed various correction
14 techniques in the last couple of cases, and at this
15 point I believe that they just simply want to take
16 shortcuts and not do the best job possible of
17 correcting the error.

18 I believe that because all that the error
19 does is increase power costs we ought to try to do the
20 best job we can do in terms of correcting the error,
21 and so that's why you need to use daily screens. GRID
22 models many inputs on a daily basis and it should model
23 the screens on a daily basis.

24 Okay. The next issue is the start-up energy
25 value. Mr. Duvall has argued that this is an

1 inappropriate adjustment. We believe that because the
2 cost of the start-up energy is included in the model
3 then the energy should also be included. I believe the
4 best way to do it is to factor it into the model
5 itself, let the model use the energy.

6 The Company raised various technical
7 arguments against this and claimed that the approach
8 that I used was in error because it didn't allow the
9 time for start-ups. Well, once I did that, I found it
10 really doesn't end up making any significant
11 difference. So I believe that's a reasonable
12 adjustment that should be adopted.

13 The next significant issue has to do with
14 short-term firm transmission. The problem with the
15 Company's approach is that they're using a four-year
16 average of the capacity for short-term firm
17 transmission lines, but they're using the most recent
18 year cost. The cost has increased and the amount of
19 capacity that's purchased has gone up in the last four
20 years, and so that's a mismatch.

21 I propose it be fixed by either taking a
22 four-year average capacity and using that to match it
23 with the cost during that period on a volumetric basis
24 or to take the 2008 link capacity and pair it with the
25 2008 cost. Either approach produces a comparable

1 adjustment.

2 Let's see. The final issue is the minimum
3 loading and heat rate duration adjustment issue. This
4 is also an issue that is around since the 2007 case.
5 The Commission said in that case that they would like
6 to get more information about this, and so in the last
7 2008 case and in this case I presented additional
8 evidence.

9 I've shown that modeling the heat rates and
10 the minimum loading levels using this approach produces
11 more realistic results for heat rates, it produces more
12 reasonable results, and avoids some situations where
13 really absurd results can occur.

14 Mr. Duvall talked about his Exhibits 4 and 5,
15 GND 4R and 5R, and made the comment that he felt that
16 they showed that the adjustment was unreasonable.

17 In my Exhibit OCS 4S, which I'd like
18 everybody to turn to if possible, I show exactly the
19 mechanics of the heat rate curve adjustment. And the
20 basic problem is this, that when the GRID model models
21 outages it derates the capacity of the resource. So if
22 you have a hundred megawatt unit with a five percent
23 outage rate, it treats it as a 95-megawatt unit.

24 Now, generators typically are most efficient
25 when they're fully loaded. So what happens is in GRID

1 they're never seen as being fully loaded, they're
2 always seen as being loaded at something less than full
3 load. And so what this adjustment does is it corrects
4 the heat rate curve so that it accounts for the effect
5 of these derations.

6 And that's what this exhibit shows. It shows
7 that when you take, for example -- and the figures in
8 here are confidential, so I won't quote the numbers,
9 but for example, if you were to look at the maximum
10 capacity of Currant Creek, you would see that it has a
11 heat rate that's shown in the second column of that
12 exhibit, across from where it says "max."

13 That heat rate is actually lower than what
14 GRID would use. GRID would use the number below that,
15 which is the derated maximum, and that would have a
16 higher heat rate. So all the adjustment does is for
17 the minimum and maximum points on the curve it matches
18 the derated capacity with the actual heat rates. And
19 it does so, I believe, appropriately for every point in
20 between.

21 So this is the basis for the adjustment. The
22 primary effect of this adjustment is simply to reflect
23 the fact that when generators are fully loaded they're
24 more efficient than when they're not loaded fully, so
25 that's really the point of the adjustment.

1 I believe that that covers all of the major
2 points. And as I said, I believe that I have rebutted
3 all of the other issues as well. And I think that that
4 concludes my summary.

5 MR. PROCTOR: Thank you, Mr. Falkenberg. Mr.
6 Falkenberg would be available for cross-examination.

7 CHAIRMAN BOYER: Okay. Thank you, Mr.
8 Falkenberg. Let's begin with Ms. McDowell.

9 CROSS-EXAMINATION

10 BY MS. McDOWELL:

11 Q. Good morning, Mr. Falkenberg.

12 A. Good morning.

13 Q. I'd like to ask you some questions about your
14 market cap adjustment. Can you turn to your direct
15 testimony at page 5, please.

16 A. Yes, I have page 5.

17 Q. And then at line 109.

18 A. Yes.

19 Q. Describe -- there's a Q and A describing the
20 market caps. And you, in the first line, indicate the
21 size of the market the Company assumes for most hours
22 of the day and night. Do you see that?

23 A. Yes.

24 Q. And then you indicate that that amount
25 exceeds any amount of energy the Company is likely to

1 ever have available for sale or need to purchase. Do
2 you see that?

3 A. Yes.

4 Q. So effectively, GRID, then, during most hours
5 models a market that does not have limits on it,
6 correct?

7 A. That's correct.

8 Q. And your market cap adjustment effectively
9 proposes to model this market without limits in the
10 graveyard hours, correct?

11 A. That's correct.

12 Q. And that would be from one -- one a.m. to six
13 a.m. in the morning?

14 A. That's correct.

15 Q. Now, are you familiar with the Commission's
16 2005 avoided cost order?

17 A. I've seen that, yes.

18 Q. I'm going to hand it to you as our
19 Cross-Examination Exhibit-14.

20 CHAIRMAN BOYER: I think that would be 15.

21 MS. McDOWELL: I'm sorry, Mr. Hickey has just
22 reminded me that I'm at 15. I apologize.

23 (RMP Cross-Exhibit-15 was marked.)

24 Q. So can you turn to page 13 of this order,
25 please.

1 A. I have it.

2 Q. Now, there at the bottom of the page, the
3 Commission's order states that, "We are persuaded by
4 the evidence that coal resources are backed down in
5 some hours, and use of a production cost model,
6 including market caps, is necessary to accurately
7 identify the production costs avoided by a QF and
8 thereby maintain rate payer neutrality." Do you see
9 that?

10 A. I see it.

11 Q. Now, can you turn to your surrebuttal at page
12 9, please.

13 A. Yes, I see it.

14 Q. There at line 205 you argue that the
15 Commission should not follow this precedent in this
16 case because this was a decision in an avoided cost
17 case, not a general rate case, correct?

18 A. I don't believe I stated that exactly. I
19 think I said that there's some differences between
20 avoided cost cases and general rate cases, and I point
21 out what those differences are. And I also pointed out
22 that the evidence that the Commission relied upon is no
23 longer applicable.

24 Q. So, now, in the 2007 general rate case didn't
25 you argue that the Commission should include nonfirm

1 transmission in the general rate case on the basis that
2 the Commission ordered its inclusion in the avoided
3 cost order?

4 A. I believe I did.

5 Q. Now, you just indicated that your testimony
6 with respect to the avoided cost case didn't just deal
7 with the fact that it's an avoided cost case, but you
8 also addressed the evidentiary issues in the case?

9 A. That's right.

10 Q. So I take it you're familiar with the record
11 in that case?

12 A. I read the order and I read Mr. Duvall's
13 testimony in that case, yes.

14 Q. Are you aware that the Division in that case
15 filed testimony specifically rejecting your argument
16 that the market in the graveyard hours is without
17 limits?

18 A. I think it would be impossible for the
19 Division to have argued that my testimony was incorrect
20 because that was several years ago and my testimony
21 wasn't filed until this year.

22 Q. Let me rephrase that question, but first let
23 me hand you -- this would be --

24 MR. HICKEY: 16.

25 Q. -- Cross Exhibit 16.

1 (RMP Cross Exhibit-16 was marked.)

2 Q. (By Ms. McDowell) So this -- what I've
3 handed you as Exhibit-16, Cross Exhibit-16, is the
4 rebuttal testimony of Andrea Coon from the Division of
5 Public Utilities dated September 8th, 2005. And it's
6 not paginated, but if you could turn to page 5. And I
7 wanted to direct your attention to the question that
8 states, "Why does the Division not agree that the
9 market during the off-peak hours is limitless?" Do you
10 have that page?

11 A. I see it.

12 Q. Now, can you just take a look at that Q and A
13 for a moment.

14 A. I see it.

15 Q. And is a fair summary of this testimony that
16 Ms. Coon concluded that the back-down of the Company's
17 coal plants disproved the limitless market in the
18 graveyard hours argument?

19 MR. PROCTOR: Objection, Your Honor. The
20 question speculates as to a particular conclusion that
21 was reached by the testimony. The testimony speaks for
22 itself. And in addition, it's far more complex than
23 that. I think that to extrapolate a particular
24 conclusion from this testimony, which is also only one
25 paragraph out of the entire testimony, is -- calls this

1 witness to speculate as to what Ms. Coon in her own
2 mind was proving or disproving, as well as the ultimate
3 conclusion that may have been reached by the
4 Commission. The order would be the best test there.

5 CHAIRMAN BOYER: I'm going to sustain the
6 objection, but allow Ms. McDowell to rephrase the
7 question.

8 MS. McDOWELL: Thank you.

9 Q. (By Ms. McDowell) Mr. Falkenberg, you've
10 taken the position that the evidence in the 2005
11 avoided cost -- leading up to the 2005 avoided cost
12 order is important for the Commission to review in
13 terms of whether or not to apply that decision to this
14 case, correct?

15 A. I believe I testified that the decision was
16 based on certain evidence, and that my testimony is
17 that the issues raised in the Commission's order I have
18 addressed. I've demonstrated that there's
19 substantial -- substantially more market out there for
20 sales than the Company is assuming with its market
21 caps, and that the coal-fire generation has increased,
22 and that the nighttime coal generation has increased.
23 So I think I've addressed the evidence that the
24 Commission talked about in its order.

25 Q. So back to this testimony. This question

1 asked, "Why does the Division not agree that the market
2 during the off-peak hours is limitless?" Do you see
3 that?

4 A. I sure do.

5 Q. And there it says that, "While some have
6 relied on the existence of a market price," and then
7 after the comma it says, "the Division is instead
8 relying on actual plant performance information as
9 provided by PacifiCorp. If indeed there is an
10 unlimited market for cheap power in all hours,
11 PacifiCorp's coal plants would show this by the manner
12 in which these plants operate. In other words, these
13 plants should be running full-out in all hours during
14 which the plant is not down for maintenance. The
15 operating data from the coal plants does not support
16 this assumption."

17 Do you see that testimony?

18 A. I do.

19 Q. And doesn't that testimony suggest that the
20 Division's reason for rejecting the limitless market in
21 the nighttime hours, that the evidence they relied on
22 was the fact that the Company's coal units backed down
23 during the nighttime?

24 A. And I have shown that the coal generation has
25 increased during the nighttime hours.

1 Q. I'm asking you about what this testimony said
2 as part of the record in the avoided cost proceeding in
3 2005.

4 MR. PROCTOR: Objection, Your Honor. Ms.
5 Coon's testimony and what she meant is irrelevant to
6 this witness's testimony. This is not cross-
7 examination, this is arguing with the witness about
8 what someone else may have concluded, or for that
9 matter, what conclusions were ultimately reached by the
10 Commission with respect to Ms. Coon's testimony.

11 MS. McDOWELL: I'll move on.

12 MR. PROCTOR: Well, then, Your Honor, if
13 counsel will move on, then her long argument should be
14 stricken from the record so that there's no confusion
15 about what it really was, which was arguing.

16 MS. McDOWELL: There was no argument. There
17 was a question and there was an answer.

18 CHAIRMAN BOYER: Well, there was a question
19 and no answer because an objection was interjected.

20 MS. McDOWELL: And I withdraw the question.

21 CHAIRMAN BOYER: We'll just leave the record
22 as it is and give that appropriate weight.

23 MS. McDOWELL: So just so I don't forget to
24 move the admission of exhibits as I go, I'd offer 15
25 and 16.

1 CHAIRMAN BOYER: Are there any objections to
2 the admission of RMP Cross Exhibits 15 and 16?

3 MR. PROCTOR: There is an objection to 16.
4 The testimony is the testimony, it's of record in the
5 case. To enter the entire testimony because the
6 Company has chosen to select one particular item
7 creates a great deal of problem because of the issues
8 that may or may not have been discussed in the balance
9 of the testimony. It becomes confusion, duplicative,
10 and it ought not to be so.

11 CHAIRMAN BOYER: Are you moving admission of
12 the entire exhibit, Cross Exhibit-16?

13 MS. McDOWELL: I am. And it's the entire --

14 CHAIRMAN BOYER: It's Ms. Coon's testimony.

15 MS. McDOWELL: Her entire testimony. It's
16 her entire testimony in the rebuttal stage of the
17 avoided cost case.

18 And I'd just, you know, indicate that Mr.
19 Falkenberg has asked this Commission to distinguish its
20 previous avoided cost case on the basis of the evidence
21 presented in that case and the evidence presented here,
22 so he's clearly made the evidence that was presented in
23 the 2005 case a relevant fact before this Commission.

24 And it's also commonplace, in my experience,
25 to have previous pieces of testimony from related

1 dockets offered into the record.

2 CHAIRMAN BOYER: We'll admit both Cross
3 Exhibits 15 and 16.

4 MR. PROCTOR: Mr. Chairman, if I may, if this
5 is a comparison of what the testimony in that prior
6 case as -- and with Mr. Falkenberg's testimony and
7 conclusions reached here, then one would enter all the
8 testimony from all parties in this case from 2005,
9 which I'm sure the Commission's well aware of consists
10 of many, many volumes. That's the problem with
11 selectively taking a particular witness in an old case
12 on an issue not a general rate case, selecting one
13 paragraph out of that, and then have the whole thing
14 put into the record. It creates confusion. It
15 creates -- it becomes really unfair to this witness, as
16 we don't know what else he may have reviewed, or what
17 else the Commission may have reviewed in reaching its
18 conclusion.

19 Remember, the first thing that we talked
20 about was the avoided cost order. Permitting this into
21 evidence is not necessary, it's duplicative, and I
22 would admit -- I would say it's irrelevant. So, you
23 know, obviously you have that discretion and I will
24 respect it, but again, it's just simply not admissible
25 evidence.

1 CHAIRMAN BOYER: We're going to admit both
2 exhibits into evidence.

3 MS. McDOWELL: Thank you.

4 CHAIRMAN BOYER: 15 and 16.

5 Q. (By Ms. McDowell) Mr. Falkenberg, I'm going
6 to hand you what I've marked as Cross Exhibit-17.

7 (RMP Cross Exhibit-17 was marked.)

8 Q. Now, Mr. Falkenberg, you yourself have taken
9 a position similar to that taken by Ms. Coon in past
10 testimony before this Commission, haven't you?

11 A. Well, I'm sure you wouldn't mischaracterize
12 my testimony, but perhaps you could point me to what
13 you're talking about.

14 Q. So I've just handed you Cross Exhibit -- 17?
15 17, I'm sorry. I'm having trouble keeping my numbers
16 straight. And let me represent to you that this is
17 testimony you filed in PacifiCorp's Currant Creek
18 Certificate for Convenience and Necessity Proceeding,
19 testimony filed in February 2004. This testimony, I
20 just want to represent to you, was filed in both
21 redacted and confidential form. The Company has for
22 purposes of this -- to facilitate this hearing, has
23 agreed to make public the testimony between pages 11
24 and pages 7, so that there is no redaction on those
25 pages. There are redactions on other parts of the

1 exhibit.

2 So Mr. Falkenberg, do you recognize this
3 testimony?

4 A. I do.

5 Q. So Mr. Falkenberg, can you turn to page 10 of
6 this testimony.

7 MR. PROCTOR: Mr. Chairman, before we begin
8 to examine about -- examination about this particular
9 document, marked as Cross Exhibit-17, I would note that
10 it is testimony consisting of 43 pages and we've been
11 given 11 of them. For that reason, I would object to
12 basing examination upon a partial document. And again,
13 I would certainly have the right to go back to my
14 office and locate the full document and in redirect
15 address that. I think we should have the full document
16 in front of us, just as we did with Ms. Coon.

17 MS. McDOWELL: I do have the full document
18 here for reference for either Mr. Proctor or Mr.
19 Falkenberg, both in a confidential and redacted form.
20 I -- you know, there were just so many pages and there
21 were so many exhibits, and I didn't want to burden the
22 record with material that was irrelevant to the
23 cross-examination. But I'm happy to present this to
24 the witness.

25 CHAIRMAN BOYER: Well, let's do this. Within

1 about 15 minutes or so, we'll be taking a short recess
2 to enable our reporter to rest her weary hands. If you
3 would let Mr. Proctor have an opportunity to review
4 that, and if he deems it necessary to include the
5 entire testimony, we'll do that at a later date. If
6 not, we won't.

7 MS. McDOWELL: And I have no objection to
8 that, but I'm happy to provide the full copies to the
9 witness at this point if that would be helpful.

10 MR. PROCTOR: I would like Mr. Falkenberg to
11 have a full copy and I would like a full copy.

12 CHAIRMAN BOYER: Let's do that.

13 MS. McDOWELL: I have one copy of the
14 confidential and one copy of the redacted full version,
15 so I would have to -- in order to satisfy Mr. Proctor,
16 I would have to take a moment to make a copy.

17 MR. PROCTOR: I would ask that I have a full
18 copy of the confidential.

19 CHAIRMAN BOYER: Let's take a ten-minute
20 recess right now, then.

21 (Recess from 10:16 - 10:32 a.m.)

22 CHAIRMAN BOYER: Okay. Let's go back on the
23 record. You were able to make those copies, Ms.
24 McDowell?

25 MS. McDOWELL: Yes.

1 CHAIRMAN BOYER: And so the record can
2 reflect that you presented the witness and Mr. Proctor
3 with a complete copy of the testimony from the '03
4 case?

5 MS. McDOWELL: That's correct.

6 CHAIRMAN BOYER: Thank you. You may proceed.

7 MS. McDOWELL: Thank you.

8 Q. (By Ms. McDowell) So before the break, Mr.
9 Falkenberg, I had handed you Cross Exhibit-17, which is
10 your February 4th, 2004 testimony in the Currant Creek
11 CCN or CNC proceeding. Do you have that in front of
12 you?

13 A. I think I do, but the only thing I'm not sure
14 of is if there were any exhibits. I don't notice any
15 exhibits being attached, so -- I haven't read the whole
16 thing, so if there were exhibits, then they're not --
17 not been provided. But other than that, it does look
18 like the same testimony.

19 Q. Okay. So I'd like to direct your attention
20 to page 10 of that testimony.

21 A. Yes, I have it.

22 Q. And by way of background, on lines 6 and 7 of
23 that testimony, you indicate that you were critical of
24 the way PacifiCorp had modelled the Currant Creek
25 proceeding -- or the Currant Creek plant because it had

1 not used the GRID model but instead had used what you
2 referred to as a simplistic spreadsheet model, I think
3 the MIDAS model was what was used in that case.

4 A. Well, no. MIDAS was actually a model the
5 Company uses to forecast electric prices, and that was
6 used as an input, but the analysis that I'm talking
7 about there was a simple spreadsheet model to figure
8 out the amount of dispatch benefits of Carrant Creek.

9 Q. Thank you for that clarification. So the
10 concern you had that you were expressing here, though,
11 was the failure to use a GRID or another dispatch type
12 model to model the Carrant Creek plant; is that
13 correct?

14 A. Yeah, the concern I had was that at the time
15 the Company was developing rates for rate cases using
16 GRID they had market caps built into GRID, and the
17 Company was showing in those kinds of runs these
18 turndowns at night and that sort of thing.

19 The problem, though, is when it came to
20 Carrant Creek, the assumption was that it would be
21 running all the time, even at night, when in rate cases
22 we were being told that coal plants even weren't
23 running at night. But in the planning case it was
24 assumed the gas plant could run whenever it wanted
25 because there would be this unlimited market. So that

1 seemed to me to be an inconsistency.

2 Q. So on lines 16 through 18 of your testimony,
3 on page 10, you address that point and say, "In the
4 PacifiCorp studies of Currant Creek, its spreadsheet
5 model shows that the plant will run virtually around
6 the clock for most of its operating life." Do you see
7 that?

8 A. I see that.

9 Q. And then on page 10, further down on the
10 page, on line 21, you address -- you ask the question
11 is that modeling -- "Is this a realistic modeling
12 assumption?" And you indicate that it was not.

13 And then on page -- on line 22, you state,
14 "In the recently completed 2003 Utah rate case, I
15 discovered that PacifiCorp's coal-fired power plants
16 are frequently turned down at night because there is
17 not a liquid power during the -- liquid market for
18 power during the graveyard shift."

19 Do you see that testimony?

20 A. I see it.

21 Q. And then you go on to say that, "The GRID
22 model predicted even more extreme turndowns at night on
23 coal plants in the Utah division that could occur under
24 normalized conditions." And again, you're referring to
25 the 2003 rate case?

1 A. Yeah, and I think here there was an argument
2 that I had with the Company around that time regarding
3 how to calculate market caps. And one of the problems
4 with the market cap methodology is that while it's been
5 predicated on the idea that there are these turndowns
6 of coal plants there's not actually any connection
7 between the computation of the market cap and the level
8 of coal generation at night.

9 So one of the things that I was looking at in
10 that era was a way to do the calculation that was tied
11 to the level of coal generation during the graveyard
12 hours. And that was something that we actually
13 litigated in the Wyoming case. And I believe the 2003
14 Utah case was one of the ones that was settled, so that
15 never was actually resolved, but I think that's what
16 we're talking about there.

17 The Company had more extreme market caps than
18 I was proposing, primarily because they based it on
19 either subjectively determined inputs or else they were
20 based on this analysis only of spot sales.

21 Q. Well, then you go on to say, at line 3, on
22 page 11, "If GRID and plant operators, for that matter,
23 only relied upon a simplistic market price analysis,
24 these low-cost coal plants should be running at full
25 capacity nearly around the clock and making lucrative

1 sales to the offsystem market."

2 Do you see that testimony?

3 A. That's right, and that was what I was really
4 kind of complaining about, was that when it came to
5 Carrant Creek the company was assuming that the plant
6 would be running all the time. And this is, as we
7 know, of course, now it's turned down at night a lot,
8 it's turned off at night; in fact, that's what the
9 whole commitment logic era is about.

10 But in the case of the -- in the rate cases,
11 the Company was assuming the market caps were for real,
12 whereas in planning cases and other types of cases they
13 just sort of ignored them, so it was sort of a now you
14 see it, now you don't type approach.

15 Q. But in this testimony you're critical of the
16 Company's modeling for not including market caps,
17 correct?

18 A. That's right. I think it would have been
19 appropriate to include it based on the evidence that
20 was available at the time, which was that there were in
21 fact turndowns taking place. And, of course, the
22 evidence has changed because the system has changed.
23 There's been a tremendous amount of load growth, and
24 that's been one of the things that has led to the lack
25 of need for market caps.

1 Q. Well, isn't the concern that you had here,
2 that if market caps were removed plants would be
3 showing to be running at full capacity nearly around
4 the clock and making lucrative sales to off-system
5 markets, isn't that what you propose in this case by
6 removing the market caps?

7 A. In the 2003 case, that was a concern that was
8 unrealistically assumed, that Currant Creek would be
9 running all night, making these lucrative sales. In
10 this case, I'm just simply saying let's make the level
11 of sales that's taking place be consistent with what's
12 happened historically. And in the last few years, the
13 level of sales that's been taking place off peak has
14 increased substantially and is much higher than the
15 GRID model is showing. GRID is only showing a small
16 fraction of the off-peak sales that are actually
17 occurring.

18 Q. So I take it this is -- the argument you're
19 making here is similar to the argument you've -- you
20 made in your surrebuttal, which is that coal plant --
21 the backdown of coal plants is less prevalent now than
22 in the past; is that correct?

23 A. The data that I have showed that the back-
24 down of coal plants was occurring less often and that
25 the volume of sales was much greater than what GRID was

1 predicting.

2 Q. So I'd like to hand you another exhibit,
3 Cross Exhibit-18. But before I do that, I'd offer
4 Cross Exhibit-17.

5 CHAIRMAN BOYER: Are there objections to the
6 admission of RMP Cross Exhibit-17?

7 MR. PROCTOR: If I may reserve that, Mr.
8 Chairman, on the grounds that there may be redirect in
9 connection with other parts of that 03-035-29 February
10 testimony, so if you would introduce the entire
11 testimony, confidential version, at this time, that
12 would satisfy that. Otherwise, I would like to reserve
13 an objection because again, the offered Exhibit-17 may
14 not be accurate as a reflection of this witness's
15 testimony at that time.

16 CHAIRMAN BOYER: Ms. McDowell, would you be
17 willing to offer the entire Exhibit-17, rather than the
18 excerpted pages?

19 MS. McDOWELL: I have no objection to that.

20 CHAIRMAN BOYER: We can substitute that after
21 the lunch hour.

22 MS. McDOWELL: That would be fine. I would
23 say that it probably would make sense to also include
24 what I have offered, because what I have offered does
25 make public certain information that was considered

1 confidential in the original filed exhibit. We did
2 that as a way of making this record more accessible. I
3 don't know if you're following.

4 CHAIRMAN BOYER: Yeah.

5 MS. McDOWELL: There was a certain passage,
6 the passage I questioned Mr. Falkenberg about, about
7 half of it was originally redacted, and it would
8 have -- we would have had to do all that examination
9 under confidential seal, so in order to avoid that, we
10 simply made that part of the testimony nonconfidential.
11 It was Company information that we chose to make
12 public.

13 CHAIRMAN BOYER: And that is not a problem.
14 However, if we use the complete nonredacted version and
15 then seal it, I suppose that would solve the
16 confidentiality issue.

17 MS. McDOWELL: No problem. And I think all
18 of the conversation we had about the exhibit we would
19 not consider confidential.

20 CHAIRMAN BOYER: Right. I didn't hear
21 anything that was confidential. All right. Based on
22 that, then, RMP Exhibit-17 will be admitted in its
23 complete form. We'll just substitute the original --
24 or the complete copy of the testimony after lunch.

25 MS. McDOWELL: Thank you.

1 CHAIRMAN BOYER: Please proceed.

2 (RMP Cross Exhibit-18 was marked.)

3 Q. (By Ms. McDowell) Mr. Falkenberg, can you
4 turn to page 9 of your direct testimony, please.

5 A. I have it.

6 Q. There at the beginning of -- Q and A
7 beginning at line 193, you talk about how much coal-
8 fire generation is assumed in the Company's case. And
9 in that response you indicated -- you indicate the
10 actual generation for 2008 as 46.1 million megawatt
11 hours. Do you see that? Line 196.

12 A. 196. Yes, I see that.

13 Q. Okay. And then do you see on line 203 you
14 have also indicated the actual graveyard coal
15 generation during that period of 9.35 million megawatt
16 hours; do you see that?

17 A. I'm sorry, what was the line reference again?

18 Q. That's line 203.

19 A. Yes, I see that.

20 Q. So I handed you an exhibit which I've marked
21 as Cross Exhibit-18. The top part of that exhibit has
22 the -- for reference, your testimony with those figures
23 in it, and then has a calculation under it that
24 converts those megawatt hours into average megawatts.
25 Do you see that?

1 A. I see that.

2 Q. And you're familiar with how that calculation
3 would be done, correct?

4 A. Yes.

5 Q. So by doing that calculation, one can
6 determine the average megawatts in all hours, which
7 would be 5,248, the average megawatts in the graveyard
8 hours of 5,109, then the difference in the other hours
9 of -- hours other than graveyard of 5,285. Do you see
10 that?

11 A. I see that.

12 Q. And would you accept those numbers, subject
13 to check?

14 A. Yes.

15 Q. Thank you. So if one compares the hours
16 other than graveyard to the graveyard generation hours,
17 so that's the comparison that follows below, that
18 indicates that the difference between the two time
19 periods is 175 average megawatts; do you see that?

20 A. I see that.

21 Q. So that's the backdown implied in the actual
22 numbers that you provided in your testimony, correct?

23 A. Well, that's actually the difference in
24 generation in the graveyard hours and the other hours.
25 And that may be due to backdown, but there may be other

1 things in play. For example, it's been well-
2 demonstrated that maintenance outages, outages that can
3 be deferred, are more prevalently scheduled in weekend
4 hours and low load hours and that sort of thing, so
5 that that could be part of the reason why you see this
6 difference.

7 Q. But that is the difference between -- you'd
8 agree, between the level that the plants are running in
9 the middle of the night and the level that they're
10 running all other hours of the day, correct?

11 A. It's the difference in level. And the only
12 argument I've got with you is that backdown implies a
13 reduction in output for economic purposes, and there
14 may be other reasons that those are taking place due to
15 maintenance outages, maintenance duration, that sort of
16 thing.

17 Q. Now, you've reviewed the record in the
18 avoided cost case, I think you said; is that correct?

19 A. I believe I read Mr. Duvall's testimony and
20 the Commission order, yes.

21 Q. And do you recall Mr. Duvall's testimony that
22 the backdown in that case, that he testified to in that
23 case, was 157 average megawatts?

24 A. I don't recall the specific numbers, no.

25 Q. Were you here when Mr. Duvall gave his

1 summary yesterday?

2 A. Yes, I was.

3 Q. And Mr. Duvall at that time also testified as
4 to that 157 megawatt number as the number he provided
5 in the avoided cost case as estimating the coal
6 backdown; do you recall that?

7 A. You know, I don't recall the specific number,
8 but I was busily taking notes and I may have missed a
9 few of the details.

10 Q. Well, it is true, isn't it, that this number
11 of 175 implied in these actual cost -- actual
12 generation numbers that you provided in your testimony
13 suggest a greater backdown now than at the time of the
14 avoided cost case, correct?

15 A. Well, I think that the key -- and first of
16 all, I don't know the basis for Mr. Duvall's number,
17 but I'm accepting as you represented it. But the key
18 really is how much coal are we generating, how much are
19 we generating in the low load hours, and more
20 importantly, how many sales are we actually making?

21 The amount of sales that are actually being
22 made are far greater than what GRID is showing. So I
23 think that if the market caps were tied to the specific
24 amount of coal-fired generation, then that might be a
25 more appropriate comparison, but I'm not denying there

1 are some backdowns. All I'm saying is that the facts
2 that supported the decision in the earlier case to
3 change the system has changed, load has grown, and that
4 sort of thing, so...

5 Q. The avoided cost case was expressly based on
6 the evidence that coal resources were backed down in
7 the graveyard hours, correct?

8 A. I believe that the Commission order said that
9 GRID was already underpredicting coal generation by 1.4
10 million megawatt hours. That was with market caps. So
11 it didn't make sense to remove them and have a much
12 greater, you know, disparity between the GRID
13 generation and the actual.

14 Now, the Commission cited the backdown, but
15 they relied upon the overall level of coal generation,
16 so I don't think that you can really draw much of a
17 conclusion from the comparison you're trying to make.

18 Q. But you'd agree, wouldn't you, based on this
19 number of 175 average megawatts, that suggests that the
20 backdown is potentially even greater than that that Mr.
21 Duvall testified to in the avoided cost case?

22 MR. PROCTOR: Objection, it's asked and
23 answered.

24 CHAIRMAN BOYER: We'll let Mr. Falkenberg
25 answer, if he can.

1 A. Well, with the caveat that I don't know the
2 specifics of Mr. Duvall's calculation and whether it's
3 comparable, and also the point I've made that there are
4 other reasons why coal generation might be less at
5 night, then I would not argue with you. But I would
6 point out that coal generation overall has gone up,
7 it's gone up in graveyard hours, so I don't know that
8 your argument really holds water.

9 Q. So well, let's talk a little bit about coal
10 generation. Do you have Mr. Duvall's chart on coal
11 generation that he -- is in his rebuttal testimony and
12 he referenced in his summary?

13 A. Are you talking about this one?

14 Q. That's correct.

15 A. Yes, I do.

16 Q. And just for reference, that chart is found
17 at page 12 of Mr. Duvall's rebuttal testimony.

18 Now, you indicated that even though the
19 backdown may not have decreased the real issue is the
20 coal generation levels; is that correct?

21 A. That's correct.

22 Q. So this chart demonstrates both the rolling
23 12-month average of coal generation and the rolling
24 four-year average of coal generation, correct?

25 A. That's correct.

1 Q. And it also -- the line -- the line straight
2 across is the average of -- the 12-month averages; is
3 that correct?

4 A. That's the -- I guess it's blue and --

5 Q. The dotted line.

6 A. Yes, that does say average rolling 12-month
7 coal generation, yes.

8 Q. So I wanted to review coal generation levels
9 at three particular dates. First of all, the date of
10 your testimony in the Currant Creek proceeding, I
11 believe that was February 2004, so if you go to the
12 chart, that's -- it looks like that dot is right about
13 at the average, doesn't it, that 12-month rolling
14 average; do you see that?

15 A. Yes, I see that.

16 Q. So that's about at 44.5 million megawatt
17 hours; do you see that?

18 A. I see that.

19 Q. And then if you go to the next key point I
20 wanted to talk with you about, which is the date of the
21 Commission's avoided cost decision, and that was in
22 October of 2005, so that number just generally looks to
23 be about, oh, 44.4 million in October of '05. Can you
24 plot that point?

25 A. I'm sorry. I mean, one problem is that the

1 Commission's order was October 2005, but the record was
2 developed over a long period of time, and I don't know
3 what the time frame was for the figures that were
4 quoted in that case, but I do recall it was a four-year
5 average that was being used.

6 Q. So the -- based on the spreadsheet that I'm
7 looking at that supported this document -- did you see
8 that spreadsheet in the work papers, by the way?

9 A. Which one are you talking about?

10 Q. The spreadsheet that had all the numbers
11 for -- that are demonstrated in this chart, have you
12 seen that work paper?

13 A. I've seen it, yeah.

14 Q. So based on that work paper, the October 2005
15 number that I saw was 44.8 million. Does that look
16 about right on this chart?

17 A. I see July -- okay. And that's what number,
18 the 12 month --

19 Q. October 2005, the 12-month average --

20 A. 12 month.

21 Q. -- 44.8 million.

22 A. I'll accept that. I'm not sure that's
23 relevant, but I'll accept that.

24 Q. And then the most recent one-year average
25 of -- dated August 2009 is 44.4 million, which is a

1 number below the average; do you see that?

2 A. I see that, yeah. And the problem here is,
3 of course, that everything in our test year pretty much
4 ended on December 2008. Power costs have come down
5 some 120, \$130 million since that time. And so to pull
6 in data after that time frame I think would require us
7 to have a brand-new test year that would reflect a lot
8 of the effects of the recession that may not be
9 reflected in the test year that you have because you're
10 basing it on data that ended in December of 2008.

11 Q. Well, just to make sure that the references
12 are clear, in February 2004 the 12-month average was
13 44.5 million, right at the average; in October 2005,
14 44.8 million, above the average; and the most recent
15 numbers, 44.4 million, below the average. Do you see
16 that?

17 A. I see that. And again, going back to the
18 first one, I think it has the same problem as the
19 second one in that you quoted my testimony from 2004,
20 but I think I referred back to data from a 2003 rate
21 case, which may have been based on data before that.
22 So at this point I'm not in a position to say that the
23 October -- or that the February '04 number really has
24 much relationship to the figures you're quoting.

25 Q. But you don't disagree with me, Mr.

1 Falkenberg, that the most recent August 2009 12-month
2 average is lower than the average on either the date of
3 your testimony in the Currant Creek proceeding or the
4 date of the Commission's avoided cost decision, which
5 we just discussed?

6 A. I'm not disputing any of the figures on this
7 chart at this point, and I would point out that neither
8 I nor the Commission actually get day-to-day updates on
9 the Company's coal generation and that sort of thing,
10 so any evidence that we relied upon was based on
11 earlier points in time.

12 Q. So before I move on to my next question for
13 you, I wanted to offer Cross Exhibit-18.

14 CHAIRMAN BOYER: Any objection to RMP Cross
15 Exhibit-18 being admitted? It is admitted into
16 evidence.

17 (RMP Cross Exhibit-19 was marked.)

18 Q. (By Ms. McDowell) Mr. Falkenberg, I'm going
19 to hand you what I've marked as Cross Exhibit-19. Mr.
20 Falkenberg, can you turn to your surrebuttal testimony
21 on page 8, please.

22 A. I'm there.

23 Q. So on line 177 you indicate that this issue
24 about market caps amount to a matter of deciding
25 whether a four-year rolling average or a recent single

1 year average of coal generation is the proper metric
2 for evaluating this issue. Do you see that?

3 A. Well, I said, "To some extent, these
4 arguments amount to a matter of deciding whether a
5 four-year rolling average or a single year, 2008, is
6 the proper metric for evaluating the issue."

7 Q. And then you go on to say that because the
8 Company computes its market caps based on a single year
9 of data, again 2008, the use of a four-year rolling
10 average is a priority nearly irrelevant. Do you see
11 that?

12 A. Yes.

13 Q. So I've handed you what is marked as Cross
14 Exhibit-19, a response to RMP Data Request No. 1. Are
15 you familiar with this data request?

16 A. Yes.

17 Q. I'd like to draw your attention to the chart
18 on page 2 of that data request where the chart sets
19 forth both a 40-month -- 48-month calculation of market
20 caps and a 12-month calculation of market caps. Do you
21 see that?

22 A. Yes, I see it.

23 Q. Now --

24 MR. PROCTOR: Excuse me, Mr. Chairman, if I
25 may inquire. The front page is a data request and what

1 appears to be a complete response. I believe there
2 should be a foundation laid for the charts that are
3 added to the back of that response.

4 MS. McDOWELL: The data request included the
5 attached file as the reference point for the question.
6 This is just the attached file. So it was part of the
7 data request.

8 MR. PROCTOR: Is -- may I voir dire?

9 CHAIRMAN BOYER: I think you ought to voir
10 dire, yes.

11 VOIR DIRE EXAMINATION

12 BY MR. PROCTOR:

13 Q. Mr. Falkenberg, would you look to the last --
14 the second page in the back of that. Is that a chart
15 that you produced in response to the Data Request No.
16 1?

17 A. No. It's -- it was a chart that the Company
18 provided with the data response -- or the data request.

19 Q. Data request. Okay. Thank you.

20 CROSS-EXAMINATION (Resumed)

21 BY MS. McDOWELL:

22 Q. So Mr. Falkenberg, with that calculation, do
23 you understand that the Company prepared these
24 calculations based on the information that was provided
25 in Utah MDR 2.51?

1 A. Yes.

2 Q. And you don't dispute the validity of
3 these -- this calculation, do you?

4 A. I haven't verified it, but I'm not disputing
5 it.

6 Q. And my question is just that isn't it true
7 that whether you calculate market caps based on a 48-
8 month average or a 12-month average, the average is
9 quite similar to 38.35 megawatts for a 48-month average
10 versus 244.92 for a 12-month average; do you see that?

11 A. That's true, the bottom line figures aren't
12 very different. But in the GRID model, the market caps
13 are a monthly input and they control the generation and
14 sales on a monthly basis. And as you see, there are
15 basically 48 different observations. So it could have
16 a more significant impact on the outcome. I don't know
17 because I haven't run that.

18 Q. But you'd agree the averages are similar?

19 A. Yes.

20 MS. McDOWELL: I'd offer Cross 19.

21 CHAIRMAN BOYER: Any objection to RMP Cross
22 Exhibit-19? It is admitted.

23 Q. (By Ms. McDowell) So Mr. Falkenberg, I'm
24 going to switch gears and ask you about the Chehalis
25 start-up costs. I'm going to hand you a portion of

1 your testimony from the 2008 rate case, which is
2 confidential.

3 MR. GINSBERG: Is this 20?

4 MR. HICKEY: Yes.

5 Q. (By Ms. McDowell) Thank you. Can you turn
6 to page --

7 CHAIRMAN BOYER: For the record, Ms.
8 McDowell, we'll mark this as RMP Cross Exhibit-20.

9 MS. McDOWELL: 20, thank you. I'm sorry if I
10 failed to identify it.

11 (RMP Cross Exhibit-20 was marked.)

12 Q. Mr. Falkenberg, can you turn to page 29 of
13 your direct testimony. And I'm going to try to ask
14 you -- we're going to be talking about some
15 confidential numbers, and I'm going to try to -- just
16 to make this a little bit easier for the court reporter
17 and the Commission, I'm going to try to ask these
18 questions in a way that does not specifically reference
19 a number but just talks about the fact that there was
20 controversy over a number.

21 So on page 29, at line 643, you point out the
22 O&M cost that is assumed for start-up costs for
23 Chehalis; do you see that?

24 A. Yes.

25 Q. And you indicate that that is a substantial

1 increase over previous inputs and object to it as
2 unreasonable; is that correct?

3 A. Yes. Well, and more to the point, that it's
4 just never been supported by any evidence or any
5 documentation.

6 Q. Now, as a practical matter, these gas plants
7 don't have more than one start-up per day, do they?

8 A. I don't think it would normally happen that
9 they would, no.

10 Q. So can you turn to the exhibit I handed out,
11 confidential Exhibit-20, Cross 20?

12 A. Yes, I have that.

13 Q. And then on lines 393 to 394 you indicate
14 what the cost of starting a combined cycle plant is.
15 Do you see that?

16 A. I see that.

17 Q. And that number is 2.5 times greater than the
18 number that you're contesting for Chehalis; is that
19 correct?

20 A. That's an inaccurate comparison. The -- that
21 number represents the totality of the start-up costs,
22 which are the heat input times the cost of fuel plus
23 the start-up O&M cost. And back in the time when we
24 were doing that, gas prices were much higher. So I
25 don't think there's any real inconsistency between

1 those prior numbers.

2 The other thing, just also, as you can see,
3 that these numbers were rounded. They were just shaded
4 because they represented confidential data, and it
5 wasn't intended to be an exact comparison, but I didn't
6 want to give away something that was confidential.

7 But in any event, the number that you're
8 talking about, the 2.5 times, is really not a fair
9 comparison because you're leaving out the fuel
10 component.

11 Q. So can you turn to your surrebuttal at page
12 20, please. And I'd offer Cross Exhibit-20.

13 CHAIRMAN BOYER: Any objection to the
14 admission of RMP Cross Exhibit-20? It's admitted.

15 Q. (By Ms. McDowell) Now I want to ask you a
16 question about your start-up energy adjustment.

17 MR. PROCTOR: Excuse me, Mr. Chairman. We're
18 in surrebuttal, I believe, but I didn't get the page
19 and line number.

20 MS. McDOWELL: I'm sorry, page 20.

21 Q. And I'm going to ask you specifically about
22 your question and answer beginning on line 452.

23 A. Yes.

24 Q. Now, do you understand that Mr. Duvall has
25 criticized the start-up energy adjustments in this case

1 because they don't account for a minimum downtime?

2 A. He said that it didn't allow for the time
3 required to start up, that was one of his points.

4 Q. And you agree that it would be more accurate
5 to include that minimum downtime in the calculation of
6 a start-up energy adjustment, don't you?

7 A. Yeah, as a matter of principal, I think it is
8 more accurate. You know, one of the -- and I did GRID
9 runs to try to test that and find out if it would make
10 a difference, and it really didn't seem to make that
11 much of a difference for this case.

12 And I suspect that if I were to reflect it in
13 a future case I might be accused of changing my method,
14 but the reality is I would just be trying to do a
15 better job.

16 Q. So you reference that you did a study that
17 reviewed this issue about minimum downtimes, correct?

18 A. That's right, along with various other of Mr.
19 Duvall's points.

20 Q. Right. And so that was one of the new runs
21 that -- GRID runs that you produced as part of your
22 surrebuttal testimony; is that correct?

23 A. It was referenced, yes, I provided it in
24 discovery.

25 Q. And it's true, isn't it, Mr. Falkenberg, that

1 you produced seven new power cost runs as part of your
2 surrebuttal testimony?

3 A. I believe so, yes, I'll accept that. I don't
4 recall the exact number.

5 Q. And the Company has not had an opportunity to
6 respond to any of those runs, have they, because those
7 runs were just produced two weeks ago, correct?

8 A. Well, you have the opportunity to do
9 cross-examination.

10 Q. But not through a dualing run, correct?

11 A. Well, I think it would be interesting because
12 then perhaps you could testify to it and I could
13 cross-examine you on it, but I guess that's not the way
14 they do this.

15 Q. So Mr. Falkenberg, back to your surrebuttal,
16 page 2, the chart that you pointed out to the
17 Commission.

18 A. Yes.

19 Q. Your -- does this represent your final
20 recommendation in this case, 9,064,890 -- well,
21 9,064,896,485?

22 A. That's correct. However, I would point out
23 that there's just one wrinkle to this and that is that
24 I think in the Company's runs they included a \$5
25 million adjustment for the SMUD contract because of the

1 settlement in another case. And we didn't include it
2 in here, but Ms. Ramas included it in her testimony, so
3 effectively, my number's \$5 million higher.

4 Q. So to compare it to the Company's net power
5 cost baseline of a billion eighteen, you would need to
6 add five million to this number; is that what you're
7 saying?

8 A. That's correct.

9 Q. So that would be 971 as your baseline number?

10 A. Well, it would be about 969,896.

11 Q. Oh, I'm sorry. Thank you. 969. 969
12 million; is that correct?

13 A. Yes.

14 Q. Okay.

15 A. Almost 970.

16 Q. So I'm going to hand you what I marked as
17 Cross Exhibit-21.

18 (RMP Cross Exhibit-21 was marked.)

19 Q. (By Ms. McDowell) Now, in the cost of
20 capital hearing in this case, your counsel, Mr.
21 Proctor, asked a number of questions about the recent
22 settlement of the Oregon rate case. And I just want to
23 ask you, you were involved in the related case, UE 207,
24 addressing net power costs as a part of that rate --

25 A. Yes.

1 Q. -- case process? And that case was settled
2 at the same time as the general rate case, correct?

3 A. That's correct.

4 Q. And in that case you sponsored testimony with
5 both Mr. Duvall and Mr. Higgins supporting that
6 settlement, correct?

7 A. Yes.

8 Q. And Cross Exhibit-21, which I've handed to
9 you, is that testimony, correct?

10 A. Yes.

11 Q. So on page 3 --

12 MR. PROCTOR: Excuse me, Mr. Chairman. I
13 have to at this point interpose an objection. This is
14 testimony in support of a stipulation, and I don't know
15 whether Oregon applies the same standard as this
16 Commission does, but if my memory serves me correctly,
17 stipulations of settlements and testimony in support of
18 settlements in this jurisdiction are typically
19 prohibited from use in other proceedings because it is
20 a settlement.

21 Now, it's not the outcome of the settlement
22 or the order the Commission enters, it's rather the
23 testimony and evidence that's submitted in support of
24 the stipulation, because that obviously may differ
25 substantially from the testimony submitted on the

1 merits as part of the litigation.

2 It may be that Oregon has a similar
3 provision, but certainly this jurisdiction, again, if
4 my memory serves, does have that provision, and so
5 therefore this particular testimony would not be
6 admissible.

7 MS. McDOWELL: So Chairman Boyer, I'm
8 surprised to hear this argument because Mr. Proctor
9 submitted testimony almost identical to this in the
10 related general rate case in the cost of capital
11 proceeding with which he used to cross-examine our
12 witnesses, Dr. Hadaway and Mr. Williams. So I don't
13 agree that it's an appropriate objection, and in any
14 event, I think Mr. Proctor has waived it by bringing in
15 the exact same, and frankly, related testimony to this
16 testimony in the cost of capital proceeding in this
17 case.

18 MR. PROCTOR: We can go back, certainly, to
19 the record, but my questions were based upon the order
20 and the effective rate of return that a commission had
21 entered or had been asked to enter. It did not in any
22 way involve the testimony submitted in support of the
23 stipulation.

24 If there was any testimony that was addressed
25 to Mr. Hadaway, then it was on the merits, and I don't

1 recall that there was. So this particular item of
2 testimony is in support of a settlement, not on the
3 merits, but of the settlement, and as a consequence,
4 under the rules of this Commission, as I recall them,
5 it would be inadmissible.

6 CHAIRMAN BOYER: Well, my recollection is
7 different, but then I'm older than you and can't even
8 remember what I had for breakfast this morning. But my
9 view of the rule in this jurisdiction is that
10 settlement negotiations, statements made during the
11 settlement negotiation process, are not admissible, but
12 that testimony given to support a stipulation is a
13 matter of public record and we can take administrative
14 notice of it if we choose and admit it into evidence.

15 MR. PROCTOR: That is very true, except the
16 parties in the stipulation itself agreed not to use it
17 in any other proceeding, and this would be a direct
18 violation of that. You're correct about negotiations
19 are not admissible, that's a very common, long-standing
20 rule in any rule of evidence.

21 But this particular testimony is where the
22 problem lies, because this is not addressing the
23 merits. It's not a position. It is rather a joint
24 testimony in order to persuade the Commission to accept
25 a settlement, and therefore, I would say it's

1 inadmissible. I'll submit it, though.

2 CHAIRMAN BOYER: We'll let you proceed on
3 your -- you haven't even offered it into evidence at
4 this point, have you, Ms. McDowell?

5 MS. McDOWELL: Well, I was about ready to,
6 since it sounded like this would be the time to do it,
7 but I'm also happy to ask my questions and then offer
8 it again.

9 CHAIRMAN BOYER: Why don't you do that first,
10 ask your questions first, and then offer it, if you
11 would, please.

12 MS. McDOWELL: Okay, I'll do that.

13 Q. (By Ms. McDowell) So can you turn to page 3
14 of Exhibit-21, please.

15 A. I have it.

16 Q. And there on line 5 you indicate that the
17 settlement equates to a 2010 NPC of a billion
18 thirty-one; do you see that?

19 A. Right. That was a December 31, 2010 test
20 year.

21 Q. So that's a test year that's approximately
22 six months later than the test year in this
23 jurisdiction --

24 A. That's correct.

25 Q. -- in this case?

1 A. Yes, that's correct. However, there are some
2 other differences that I think are worth noting. The
3 historic period used in that case was actually earlier.
4 It was the historic period ending June 30, 2008, so
5 that was all before the financial crisis and that sort
6 of thing. And as of course we know, the Company's cost
7 projections have come down, so I think that's one of
8 the differences.

9 Q. It's true, isn't it, that the Utah filing and
10 the Oregon filing use the same load forecast?

11 A. I don't know that.

12 Q. So this settlement is approximately, let's
13 see, 60 million higher than your recommendation in this
14 case, correct, in terms of the net power cost baseline?

15 A. That sounds right. I'm just trying to
16 recall. I believe that your request in Oregon was for
17 a billion and eighty-one million, so that was 80
18 million higher than your request in this case, so it
19 seems like we're getting closer, then.

20 Q. So were you here when Mr. Duvall gave his
21 summary and talked about the fact that rates in this
22 case are really being set at the bottom of a trough and
23 are projected to increase over the next year or two?

24 A. I recall that.

25 Q. And doesn't the level of this settlement with

1 a test year that's further out suggest that Mr. Duvall
2 was exactly right about that?

3 A. Well, I don't know about that because I --
4 you know, if Mr. Duvall's crystal ball was that good, I
5 would think he could make a lot more money in the stock
6 market and speculating in commodities. And I don't
7 think anybody knows what the economy's actually going
8 to do.

9 Q. Well, in the Oregon case didn't you criticize
10 the Company's case in Oregon on the basis that it was
11 higher than the Company's filing in Utah?

12 A. See, now there you might be getting into
13 something we talked about in settlement.

14 Q. I'm just talking about the case that you
15 filed in surrebuttal in Oregon.

16 A. And I just don't recall, but I think maybe I
17 did reference the Oregon -- or the Utah, yeah.

18 Q. All right. That's all I have. I'd offer
19 Exhibit 21.

20 CHAIRMAN BOYER: Any objection? Do you want
21 to renew your objection, Mr. Proctor?

22 MR. PROCTOR: Well, I'm not going to, but let
23 me make an apology, first. Hand me my note. I love it
24 when your client is younger and therefore has a better
25 memory. According to my client, we did use testimony

1 in support of the Oregon stipulation regarding the ROE,
2 so I apologize for my misstatement. I still don't
3 think it's admissible, but I'm going to withdraw my
4 objection.

5 CHAIRMAN BOYER: Thank you, Mr. Proctor.
6 Does anyone else object to its admission? Very well,
7 it will be admitted.

8 Does that complete your cross-examination,
9 Ms. McDowell?

10 MS. McDOWELL: That does, Commissioner.

11 CHAIRMAN BOYER: Okay. Let's turn now to Mr.
12 Ginsberg. Have you cross-examination for Mr.
13 Falkenberg?

14 MR. GINSBERG: Just a few questions.

15 CROSS-EXAMINATION

16 BY MR. GINSBERG:

17 Q. In your rebuttal testimony, you adopted the
18 position of Mr. Evans on plant outages; is that
19 correct?

20 A. That's correct.

21 Q. And you also had an adjustment for plant
22 outages that you include in your direct testimony for
23 the Lakeside plant; is that correct?

24 A. Actually, it was Currant Creek.

25 Q. Currant Creek. Are those two adjustments

1 cumulative?

2 A. They're different adjustments. Mr. Evans
3 dealt with the schedule for coal-fired power plants and
4 I dealt with the schedule for the Currant Creek plant,
5 and so they're perfectly additive.

6 Q. You were the witness in the '07 rate case on
7 this plant outage issue?

8 A. That's correct.

9 Q. Would you describe how you handle the issue
10 of overlap of plants in calculating the plant outage
11 adjustment?

12 A. I didn't try to prevent overlaps from
13 occurring specifically. When you're dealing with the
14 actual, that's going to happen. I don't know that
15 there's much you can do about it.

16 Q. So when you calculate for purposes of the
17 adjustment for a rate case, you do allow overlaps?

18 A. I think you generally have to. I mean, you
19 might -- and just to be clear, when you have overlaps,
20 you have two units on it, on an outage, at the same
21 time, it's more likely to raise power cost than that
22 lower power cost.

23 MR. GINSBERG: Thank you.

24 CHAIRMAN BOYER: Is that all the --

25 MR. GINSBERG: That's all.

1 CHAIRMAN BOYER: -- you've got for, thank
2 you, cross-examination?

3 Mr. Dodge.

4 MR. DODGE: I have no questions, thank you.

5 CHAIRMAN BOYER: Mr. Reeder?

6 MR. REEDER: Just a couple.

7 CROSS-EXAMINATION

8 BY MR. REEDER:

9 Q. Mr. Falkenberg, I understand the position of
10 your client is that there should be no updates in the
11 net power cost; do I understand that correctly?

12 A. Yes.

13 Q. Assume that the Commission should choose to
14 allow some updates. Were you present in the hearing
15 room yesterday when Mr. Duvall testified concerning the
16 Nevada power contract?

17 A. I recall that.

18 Q. How, as a person skilled and knowledgeable in
19 the GRID model, would one go about integrating that
20 information into the calculations and adjusting net
21 power costs appropriately?

22 A. It's a straightforward calculation. You
23 would just simply enter the terms and conditions of the
24 contract into the test year and run the model. What I
25 suspect would happen is that the pricing of that

1 contract was based on an index plus an adder. I think
2 that the index would roughly approximate the actual
3 cost, so that the impact on power cost would probably
4 be to reduce power cost by the amount of the adder
5 times the volume of sales.

6 MR. REEDER: I have nothing further.

7 CHAIRMAN BOYER: Thank you, Mr. Reeder.
8 Commissioner Allen? Commissioner Campbell?

9 COMMISSIONER CAMPBELL: I know you testify in
10 a number of other states, and I guess I'd like to get
11 your opinion on how the GRID model compares to other
12 models that you -- that are used in other
13 jurisdictions.

14 THE WITNESS: Well, the GRID model is more
15 custom made for the specifics and unique
16 characteristics of the PacifiCorp system, and so in
17 that respect there are some advantages to it, I
18 suppose.

19 The models that are used in other states are
20 typically models like ProMod, which are used in a lot
21 of places. You know, the advantage of those types of
22 models is that they're typically supported by a very
23 large staff of experts that deal with all these kinds
24 of problems.

25 I mean, for example, the problem of

1 commitment logic is something that a lot of brain power
2 is applied to in terms of trying to come up with a
3 solution, so -- so it's kind of a question of would we
4 be better off with an industry standard model? There
5 are problems with that.

6 One problem is that you don't necessarily
7 have immediate access to it. You may have to acquire
8 it through a license or something.

9 And the other problem is that it isn't
10 necessarily specific to the company that you're looking
11 at, so there may be some problems that come up in that
12 regard.

13 COMMISSIONER CAMPBELL: Are there any -- are
14 there fewer disagreements when using a standardized
15 model versus using this Pacific GRID model?

16 THE WITNESS: I wouldn't say that. Normally
17 with power cost modeling you have disagreements. And
18 Mr. Hayet and I were involved in Georgia Power cases,
19 for example, and the level of adjustments made to power
20 costs were pretty substantial in some instances. And
21 it involved some of the same issues, things like
22 modeling of reserves and that sort of thing. I believe
23 Georgia Power was using the UPM model, which is a model
24 that's widely used in the industry.

25 CHAIRMAN BOYER: Mr. Falkenberg, I have a

1 question or two on the market cap issue. I don't want
2 to misstate your testimony or position, but in very
3 simple terms, is it your position that market caps
4 should be removed because actual graveyard sales exceed
5 the amount permitted by GRID?

6 THE WITNESS: That's absolutely true.

7 CHAIRMAN BOYER: What kind of magnitude are
8 we talking about in terms of minimal hours or dollars?
9 Maybe the dollars are confidential.

10 THE WITNESS: Well, the dollars, of course,
11 would be in my adjustment. But the volumes, I did talk
12 about that in my testimony, and I believe I've got
13 that. If you take a look at my direct at page 11, it
14 says, "Graveyard sales in the GRID test year amount to
15 only 1.8 million megawatt hours. Even after removing
16 market caps from GRID, the total graveyard shift,
17 short-term, firm, and balancing sales amount to only
18 3.1 million megawatt hours."

19 And these figures are a lot less than more
20 recent data, which is in the range of 400 -- four to
21 five million megawatt hours, so it's quite a bit less.
22 The dollar impact is about \$10 million on a total
23 company basis, or about four-and-a-half million in
24 Utah. That's on my Table 1.

25 CHAIRMAN BOYER: Thank you, Mr. Falkenberg.

1 Redirect, Mr. Proctor?

2 MR. PROCTOR: Yes, Mr. Chairman. May I have
3 just a moment to organize?

4 CHAIRMAN BOYER: Please.

5 MR. DODGE: Mr. Chairman, while we're off the
6 record for a moment, there was some discussion
7 yesterday about having Mr. Higgins come today to
8 present only his net power cost testimony, so it's all
9 in the same two days, and then returning on Thursday
10 for his cost of service. And that was our expectation,
11 if that's all right with the Commission. We assumed
12 we'd probably do that after lunch. If we want to do it
13 before, I just need to get him over here quickly, but I
14 think we had assumed after lunch.

15 CHAIRMAN BOYER: I think after lunch would
16 be -- unfortunately, I have a commitment during the
17 lunch hour today, so yeah, we can do that in the
18 afternoon. That would be a good use of time, I think.

19 In fact, while we're just chatting here -- I
20 guess we're still on the record, off the record, it
21 doesn't matter -- I notice that we have something like
22 16 or 17 witnesses for the next two days. Are we being
23 optimistic in thinking that we can hear from all of
24 these witnesses in two days?

25 MR. GINSBERG: I think some of them have been

1 waived, maybe four or five of them.

2 MR. HICKEY: That's my understanding as well,
3 Chairman.

4 CHAIRMAN BOYER: Okay. We'll rely on your
5 good judgment that we can work our way through this.

6 MR. DODGE: We still have, oh, 13 or so.
7 It's going to be a lot.

8 CHAIRMAN BOYER: Ready now, Mr. Proctor?

9 MR. PROCTOR: Yes, Mr. Chairman, thank you.

10 REDIRECT EXAMINATION

11 BY MR. PROCTOR:

12 Q. Mr. Falkenberg, if you would first look at
13 your direct testimony, page 5, line 109.

14 A. Yes.

15 Q. Well, excuse me, I may have given the
16 wrong -- let me just ask this. You were asked a
17 question pertaining to the unlimited market that
18 referenced the Company -- oh, excuse me. I didn't
19 carefully use the time that you gave me, I apologize.
20 Here we go.

21 Yes, it's on your direct testimony, page 5,
22 line 109, the question being, "How does the Company
23 determine market caps?" And you used a particular
24 megawatt number to identify the Company's assumption
25 about the market size. Do you see that?

1 A. Yes.

2 Q. And later on you stated, "However, during the
3 graveyard shift, one to six a.m., GRID inputs assume
4 the market is quite small, averaging only..." And then
5 again there's a number there that is confidential.

6 Now, what should the GRID be assuming as an
7 input for the market size --

8 A. It should be --

9 Q. -- during that graveyard period?

10 A. Sorry. It should be the same as on line 111.

11 Q. In other words, they should assume that size
12 of a market 24 hours a day?

13 A. That's right.

14 Q. Why should they assume that when there is
15 also some cross-examination pertaining to the -- they
16 called it backdown, but for the reduction in the coal
17 plant's generation during those graveyards? I believe
18 the term -- or the number of 175 was used.

19 A. Well, as I said, the theory behind this
20 adjustment was that the market is not there at night,
21 that there's not a liquid market. And the evidence
22 proves that that's not the case, that there is an ample
23 market, a much larger market than GRID is showing.

24 Now, one of the sort of corollaries of the
25 theory that there's no market is that well, therefore

1 we would have less coal generation. So the Company's
2 argument has been that in order to restrain coal we
3 have to put in this limit on the size of the market.
4 However, there's never been any connection between the
5 way in which the market cap is actually computed and
6 the amount of coal generation. Those two are really
7 independent and it's just kind of happenstance that
8 they get to numbers that they consider reasonable based
9 on historical data.

10 There's -- and part of the thing is that as
11 load is increased -- if load goes up at four in the
12 morning, then there's going to be more coal generation.
13 And the limitation placed on the market caps doesn't
14 really take into account that because it's putting a
15 limit on overall coal generation.

16 Q. One of the issues that was addressed in
17 cross-examination was whether or not the avoided cost
18 use of market caps -- or use of market caps in
19 calculating avoided cost would suggest that the market
20 caps that are in existence in this case for the Company
21 at this time are appropriate.

22 Would you turn to your surrebuttal testimony,
23 page 9, beginning at line 205.

24 A. Yes, I have that.

25 Q. Do you address at that point the difference

1 between an avoided cost case and a general rate case
2 with respect to market cap issues?

3 A. That's right, I did.

4 Q. What were your conclusions about those
5 differences?

6 A. They're different kinds of cases. Some
7 things that may be important in a single test year are
8 not as important, or perhaps more important, in an
9 avoided cost case. We're looking at typically many
10 years out in the future, I think, in avoided costs.
11 We're only looking at one test year for a general rate
12 case and we're looking, I think, at more detail in
13 general rate cases.

14 Q. You were also asked to comment upon Ms.
15 Coon's testimony filed in September of 2005 with
16 respect to the Division's view of the use of market
17 caps in an avoided cost. Was that testimony complete?

18 A. No. The copy that was provided didn't
19 include the exhibit that was referenced in the
20 testimony in the same question and answer that I was
21 cross-examined about. That was Division Exhibit 2.1R.
22 That was left out.

23 Q. Mr. Falkenberg, I've handed you a duplicate
24 of, I believe it was Cross Exhibit-17 of -- no, excuse
25 me.

1 A. 16.

2 Q. 16, with the exception that the exhibit you
3 referenced is attached; is that correct?

4 A. Yes.

5 Q. Have you had an opportunity now to review the
6 exhibit?

7 A. Yes.

8 Q. And parts of the testimony -- excuse me just
9 one moment, Mr. Chairman. I apologize.

10 Cross Exhibit-16, there was a reference to,
11 on page 5, to Ms. Coon's calculation of the market as
12 being limitless or less than limitless for the purpose
13 of establishing market caps in an avoided cost. And on
14 page 5 she's referring to that DPU 2.1R. What does --
15 what is DPU 2.1R, and from your review of it, how was
16 it generated?

17 A. What -- what it appears to be is simply a
18 tabulation of about 12 days of actual data for Utah
19 coal plants. It doesn't seem to incur -- include any
20 of the coal plants from anywhere else on the system.
21 And it shows the hourly generation of the various
22 plants the first day of each month from August of 2004
23 to July of 2005, so it's basically 12 days' worth of
24 data for some of the plants on the system.

25 Q. And does DPU 2.1R state the period of time

1 that -- within which those 12 days were gathered?

2 A. Right. It's the first day of each month, I
3 believe, August of 2004 to July of 2005.

4 Q. Now, would that particular selected --
5 selection of data be helpful to calculating what the
6 market size is at this point in time for the purposes
7 of a general rate case?

8 A. Oh, I think not, because I think what we'd
9 want to do is look at, first of all, all of the units
10 on the system that are impacted by market caps. We'd
11 want to look at a period of time that is appropriate
12 for the test year, we'd look at 2008, for example. I
13 would not look at just one day a month. I'd look at
14 every day of the month.

15 Q. Do general condition -- economic conditions
16 also have an impact upon load data and available
17 markets?

18 A. That's true. Certainly as the economy
19 improved over the years load went up, the market prices
20 went up, many things happened. And then, of course, in
21 the last several months the economy's declined and
22 there's been a lot of problems.

23 MR. PROCTOR: At this time, Mr. Chairman, I
24 would move to admit -- and again, we had the same
25 problem yesterday of how to mark it, but --

1 CHAIRMAN BOYER: Why don't we mark it OCS
2 Redirect Exhibit 2.

3 MR. PROCTOR: Thank you very much. And I
4 would move to admit that.

5 (OCS Redirect Exhibit-2 was marked.)

6 MS. McDOWELL: So Chairman Boyer, I don't
7 have any objections to that, but I do -- in just -- in
8 the interest of making sure the record is clear, this
9 witness stated that this only included Utah coal
10 plants, and I just want to be clear that the Naughton
11 Coal Plant, which is listed here, is not a Utah coal
12 plant, so I just want to have --

13 CHAIRMAN BOYER: Thank you for that.

14 MS. McDOWELL: -- in the spirit of making
15 sure there's no error in the record, Naughton is a
16 Wyoming plant.

17 CHAIRMAN BOYER: Thank you for that
18 clarification.

19 MR. PROCTOR: Thank you very much.

20 CHAIRMAN BOYER: With that, we'll admit --
21 any objections to the admission of this?

22 MR. REEDER: No objection.

23 CHAIRMAN BOYER: It is admitted, then.

24 Q. (By Mr. Proctor) In your evaluation of the
25 market caps and their applicability at this point in

1 time, have you considered the system as a whole?

2 A. That's right.

3 Q. And that would include both sales, actual
4 sales, as well as the load on the system?

5 A. That's right.

6 Q. I also have some questions to ask you about
7 the start-up costs, in particular those revolving
8 around Chehalis. It was pointed out that on page 14 of
9 your direct testimony, at the question beginning at
10 line 392, you provided a start-up, daily start-up cost,
11 for a combined cycle, the number being confidential.
12 Do you recall that?

13 A. Are you talking about my direct testimony
14 from the 2008 case?

15 Q. Oh, yes, from 2008, 035-38, yes, I'm sorry.

16 A. Okay. Yes, I have that.

17 Q. And in your surrebuttal -- or in your direct
18 testimony in this case, at page 29, you opine that
19 they're of a certain start-up cost for the Chehalis
20 plant, and the number again is confidential. Do you
21 recall that?

22 A. Yes.

23 Q. What is the difference between the cost that
24 you opined as to a combined cycle plant in 08-035-38,
25 and that which you opined in this case about Chehalis?

1 A. Well, the difference is that the start-up
2 costs that we're talking about here in the '08 case was
3 both the O&M and the fuel, the start-up fuel that's
4 used. And that -- and I was talking about this in the
5 context of the test that's done on a daily basis of
6 whether to start up a unit or shut it down. And so
7 this is the cost. There would be O&M costs for
8 additional starts and there would be fuel.

9 So that differs from the cost that -- I was
10 just breaking it out, really, into the parts in the
11 current testimony, and there's really two elements to
12 the calculation. You would add the daily start cost to
13 the fuel cost. And the fuel cost is equal to the
14 start-up BTUs times the cost per BTU.

15 I believe that with the gas prices that we
16 were experiencing last year Chehalis would have been
17 lower than the other units, but it was still within the
18 range of that number that I quoted in the 2008 rate
19 testimony.

20 Q. And how does that relate, then, to your
21 requested adjustment dealing with the start-up energy?

22 A. The point is that the Company is including
23 the start-up energy cost in the test year. They're
24 calculating that cost as a simple addition to the power
25 cost number, but they're not reflecting the energy in

1 the test year anywhere. They're not reflecting any
2 value of that energy.

3 So it's -- it's not appropriate to include
4 all of the cost but none of the value. The Company is
5 basically assuming that there's never any value of any
6 kind for that energy, no matter what happens.

7 MR. PROCTOR: That's all I have. Thank you
8 very much.

9 CHAIRMAN BOYER: Thank you, Mr. Falkenberg.
10 You are excused.

11 THE WITNESS: Thank you.

12 CHAIRMAN BOYER: Let us reconvene, then, at
13 1:30 today. At that time, we'll hear from Mr. Higgins
14 on the net power cost portion of his testimony. Thank
15 you.

16 (Lunch recess from 11:45 - 1:35 p.m.)

17 CHAIRMAN BOYER: Let's go back on the record,
18 Docket No. 09-035-23. Now we're going to hear from UAE
19 and their witness, Mr. Higgins.

20 Mr. Higgins, you haven't been sworn in this
21 proceeding?

22 THE WITNESS: I have not.

23 (Kevin C. Higgins was duly sworn.)

24 CHAIRMAN BOYER: Thank you. Please be
25 seated.

1 Mr. Dodge?

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

3 KEVIN C. HIGGINS,

4 called as a witness at the instance of

5 UAE, having been first duly sworn, was

6 examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. DODGE:

9 Q. Mr. Higgins, will you state your full name.

10 A. My name is Kevin C. Higgins.

11 Q. And by whom are you employed?

12 A. Energy Strategies.

13 Q. And on whose behalf are you testifying in
14 this proceeding?

15 A. I'm here on behalf of UAE.

16 Q. Mr. Higgins, did you prepare and have filed
17 in this proceeding UAE Exhibit-1, your direct testimony
18 with your resume; and Exhibits 1.1 through 1.7; UAE
19 Exhibit-1R, the rebuttal testimony; and UAE Exhibit-
20 1SR, your surrebuttal testimony, with Exhibit UAE
21 1.1SR?

22 A. Yes, I did.

23 Q. And do you have any corrections to that
24 prefiled testimony?

25 A. No, I do not.

1 Q. And does that testimony reflect your
2 testimony here in this proceeding?

3 A. Yes, it does.

4 Q. Thank you. Mr. Higgins, you understand --
5 first of all, Your Honor, I'd like to move the
6 admission of those exhibits that I referenced.

7 CHAIRMAN BOYER: Are there any objections to
8 the admission of Mr. Higgins' direct, rebuttal,
9 surrebuttal testimony, together with exhibits? They
10 are admitted.

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

12 Q. (By Mr. Dodge) Mr. Higgins, you understand
13 that today's testimony will only address net power
14 costs and that you will come back on Thursday for cost
15 of service and rate spread testimony, correct?

16 A. Yes.

17 Q. With that in mind, do you have a summary of
18 your net power cost testimony you'd like to give?

19 A. Yes, I do.

20 Q. Please proceed.

21 A. Thank you. In my direct testimony, I had
22 proposed four specific revenue adjustments to Rocky
23 Mountain Power's filed case. Three of these
24 adjustments have been accepted by the Company. These
25 adjustments are -- these are adjustments to 401(k)

1 contribution expense, recognition of High Plains
2 capital cost reduction, and the use of an updated
3 forward price curve in the GRID. This latter
4 adjustment was subject to a correction by the Company,
5 which I have accepted.

6 My remaining adjustment pertains to wind
7 integration costs. Rocky Mountain Power has not
8 accepted my proposed adjustment, and I have not changed
9 my opinion regarding it.

10 In this proceeding, Rocky Mountain Power has
11 dramatically increased its proposed recovery of wind
12 integration costs from \$6.1 million in the prior rate
13 case to about \$25 million in this case. A significant
14 portion of this requested increase is attributable to
15 the Company's estimated cost of self-supplied wind
16 integration.

17 In the previous rate case, the Company
18 requested a recovery of \$1.16 per megawatt hour for
19 these costs. In its rebuttal case in this proceeding,
20 Rocky Mountain Power is proposing to recover \$6.62 per
21 megawatt hour for these costs, an increase of over 400
22 percent.

23 My recommendation is to disallow \$3.60 per
24 megawatt hour of this request and to authorize recovery
25 of \$3.02 per megawatt hour, which is still 2.6 times

1 greater than the Company's request in the prior case.
2 In my opinion, the Company has not met its burden of
3 proof with respect to recovery of any amount greater
4 than this.

5 There are two types of wind integration
6 activity that are at issue here, intrahour and
7 interhour. Rocky Mountain Power is seeking recovery of
8 \$4.83 per megawatt hour for intrahour wind integration
9 and an additional dollar seventy-nine per megawatt hour
10 for interhour wind integration, which together sum to
11 the \$6.62 that I just mentioned.

12 Rocky Mountain Power's intrahour wind
13 integration charge incorporates the cost of reserves
14 the Company claims are needed to support regulating up
15 and regulating down in realtime as wind output
16 fluctuates within each scheduling hour.

17 Regulating up is performed when wind
18 generation decreases in realtime. When this occurs,
19 the Company must increase -- increase generation from
20 its own units.

21 To respond in this way, Rocky Mountain Power
22 must hold incremental reserves. Of course, the cost of
23 capacity associated with these incremental reserves is
24 already recovered in the Company's return on rate base.
25 However, there is an opportunity cost of foregone

1 wholesale sales associated with holding back these
2 incremental reserves from the market.

3 It is appropriate to include this incremental
4 cost in net power costs. Therefore, I agree that the
5 prudent cost of incremental reserves needed to perform
6 intrahour regulating up for wind integration should be
7 recovered from rate payers.

8 Regulating down is performed when wind
9 generation output increases in realtime. When
10 regulating down, Rocky Mountain Power backs down other
11 generation units in response to increased wind up. In
12 contrast to regulating up, regulating down does not
13 cause incremental costs to be incurred to serve rate
14 payers, as regulating down does not require withholding
15 resources from the market.

16 Indeed, by it's very nature, if generation is
17 being backed down, this means it was not withheld from
18 economic activity in the first instance. Hence, there
19 is no opportunity cost that must be recognized in the
20 calculation of net power costs for regulating down.
21 Therefore, I recommend the Commission not allow
22 recovery of costs claimed by Rocky Mountain Power for
23 regulating down.

24 The Company's claimed intrahour wind
25 integration cost is based on an assumed need for 295

1 megawatts of incremental reserves to perform this
2 activity. Using the Company's work papers, I have
3 recalculated its intrahour reserve requirement for wind
4 integration with regulating down excluded. This
5 produces an incremental reserve requirement of 221
6 megawatts instead of 295 megawatts. This change
7 reduces the intrahour wind integration cost from \$4.83
8 cents per megawatt hour to \$3.02 per megawatt hour.

9 I'll turn now to interhour wind integration.
10 Interhour wind integration is a brand-new cost claim
11 being made by the Company in this case. Interhour wind
12 integration is associated with day ahead and hour ahead
13 system balancing in which Rocky Mountain Power must
14 rebalance its system to accommodate changes in its wind
15 generation forecast.

16 I agree that this activity occurs. I
17 disagree that there is a demonstrated incremental cost
18 to rate payers associated with this activity. Rather,
19 the cost that Rocky Mountain Power has claimed for
20 interhour wind integration strikes me as being little
21 more than a mathematical contrivance.

22 Why is that so? First, it is useful to take
23 a step back and recognize that the expected normal
24 output of wind generation is already incorporated in
25 GRID's calculation of net power cost. Therefore, for

1 the purpose of setting rates, the amount -- the amount
2 of wind output that is less than forecast must equal
3 the amount of wind output that is more than forecast
4 over the course of the test period.

5 This means that if forecast deviations are
6 all addressed with market transactions that the Company
7 assumes, and if these market transactions are assumed
8 to occur at the same market price or without bias as to
9 purchase or sale price, then there is no incremental
10 cost associated with this activity.

11 Similarly, there is no incremental cost
12 associated with this activity if these deviations from
13 forecast are met using the Company's own generation
14 reserves, which as we know would be increased
15 dramatically under the Company's intrahour wind
16 integration assumptions.

17 The Company's claim for interhour wind
18 integration only arises because of three assumptions.
19 If any one of these assumptions does not hold, I
20 believe the claimed cost is invalid. At a minimum,
21 Rocky Mountain Power would not have met its burden of
22 proof.

23 Number one, the first assumption the Company
24 makes is that it always performs interhour wind
25 integration using a market transaction. However, with

1 the Company also assuming that it will have 295
2 megawatts of increased reserves available for intrahour
3 wind integration, I do not believe the Company's
4 implicit assumption that none of this reserve is
5 available for interhour wind integration is credible.

6 Number two, the second assumption the Company
7 makes is that it always suffers a pricing disadvantage
8 when transacting in the market for -- for interhour
9 wind integration. That is, Rocky Mountain Power
10 assumes that it always sells at a discount from the
11 market price and always buys at a premium above the
12 market price.

13 It is this spread on either side of the
14 market price that constitutes the basis for 100 percent
15 of the Company's claimed interhour wind integration
16 cost. If this spread does not hold up, then the
17 transactional loss claimed by the Company does not hold
18 up either.

19 Number three, the third assumption the
20 Company makes is that it always buys in the market when
21 the wind output is below forecast and always sells in
22 the market when wind output is above forecast.
23 However, these are not the only market options
24 available. When wind output is below forecast, rather
25 than buying more power at a premium, Rocky Mountain

1 Power could opt to reduce its balancing sales, which
2 occur virtually every hour in GRID. Since the Company
3 assumes that hour ahead sales occur at a discount,
4 reducing discounted sales in lieu of increased
5 purchases at a premium eliminates the Company's claimed
6 loss on a market transaction.

7 Similarly, when wind output is above
8 forecast, rather than increasing sales, the Company
9 could opt to decrease balancing purchases, which also
10 occur during most hours in GRID. So rather than
11 selling more power at a discount, Rocky Mountain Power
12 could purchase less at a premium. Again, the Company's
13 assumed loss on the market transaction disappears.

14 Consequently, I conclude that the Company has
15 not met its burden of proof with respect to its claimed
16 intrahour -- interhour wind integration costs.

17 Therefore, I recommend that Rocky Mountain Power's wind
18 integration charges be reduced by \$1.79 per megawatt
19 hour to remove the cost of assumed transactional losses
20 for performing interhour wind integration. This
21 concludes my summary.

22 MR. DODGE: Mr. Higgins is available for
23 cross.

24 CHAIRMAN BOYER: Thank you, Mr. Higgins. Ms.
25 McDowell.

1 MS. McDOWELL: Thank you, Chairman Boyer.

2 CROSS-EXAMINATION

3 BY MS. McDOWELL:

4 Q. Good afternoon, Mr. Higgins.

5 A. Good afternoon, Ms. McDowell.

6 Q. So Mr. Higgins, I wanted to ask you some
7 questions about your position on wind integration
8 charges in this case, but before I do that, I wanted to
9 ask you about UAE's position on this issue in some past
10 cases.

11 A. Sure.

12 Q. The first case I wanted to ask you about was
13 the avoided cost case that we discussed this morning.
14 Were you here with us this morning?

15 A. I was not.

16 Q. All right. Let me hand you what was marked
17 this morning as Cross Exhibit-15. Should I wait for a
18 moment while people find their copies?

19 MR. DODGE: Please.

20 Q. Mr. Higgins, please turn to page 24. And I
21 won't begin until your lawyer gives me the green light.

22 MR. DODGE: Thank you. Yes.

23 Q. Do you have page 24 of Cross Exhibit-15 in
24 front of you?

25 A. Yes, I do.

1 Q. Now, this is the PacifiCorp voided cost case
2 that we discussed at some length this morning. It's
3 a -- I'll represent to you that it's a 2005 decision of
4 this Commission, a docket in which UAE was actively
5 involved. Are you familiar with this case?

6 A. Generally. I was not a witness in this case.

7 Q. So beginning at page 23 and onto page 24, it
8 sets forth the Commission's decision in that docket,
9 which was to -- as stated on page 24, to allow the
10 Division's recommendation of \$3 a megawatt hour for a
11 wind integration charge as a part of the Company's
12 avoided costs. Do you see that on page 24?

13 A. Yes.

14 Q. And that was tied to the wind penetration
15 level of 300 megawatts. Do you see that also in the
16 next sentence?

17 A. No. Oh, I see it on page 24.

18 Q. Right, right under the -- it's a description
19 of the Division recommendation, which was adopted by
20 the Commission.

21 A. I see the reference to 300 megawatts on page
22 24, yes.

23 Q. So UAE was an active participant in that case
24 but did not object to this wind integration charge, did
25 they?

1 A. I don't know.

2 Q. Were you here yesterday when Mr. Duvall
3 testified in response to a question from Commissioner
4 Campbell about the level of wind the Company would be
5 integrating in the test period?

6 A. I don't believe so.

7 Q. Would you accept, subject to check in the
8 record, that he testified that the Company will be
9 integrating approximately 1500 megawatts in the test
10 period?

11 A. Yes, I accept that.

12 Q. Does that sound reasonable based on your
13 review of the data?

14 A. Yes.

15 Q. So you would agree, wouldn't you, that
16 integration charges generally increase when wind
17 penetration levels increase?

18 A. Yes, that seems to be the case.

19 Q. So it's true, isn't it, that your wind
20 integration charge of \$3.02 in this case for
21 integrating 1500 megawatts of wind is the same charge
22 the Commission approved in 2005 for calculating avoided
23 costs, assuming a much lower level of wind penetration,
24 correct?

25 A. Apparently, although I don't know that these

1 are necessarily apples to apples comparisons in that
2 what I'm -- my recommendation for \$3.02 is the
3 appropriate cost to be recovered from retail rate
4 payers for wind integration, and the other reference,
5 the \$3 per megawatt hour, as I understand it, is for
6 avoided cost purposes, and they are not necessarily the
7 same thing.

8 So without having a chance to, you know,
9 further analyze the basis for the \$3 per megawatt hour
10 charge relative to the \$3.02 charge, I would say that
11 subject to that caveat they do appear to be close to
12 one another.

13 Q. Fair enough. So I next wanted to ask you
14 about the 2007 case. You were a witness in that
15 proceeding, weren't you?

16 A. Yes, I was.

17 Q. And do you recall that the Commission in that
18 case approved a wind integration charge of a dollar
19 fourteen a megawatt hour?

20 A. I believe so, yes.

21 Q. And UAE did not object to that wind
22 integration charge in that case, did it?

23 A. That is correct.

24 Q. And then in the Company's last case, the 2008
25 case, the Company proposed a wind integration charge of

1 a dollar sixteen a megawatt hour; does that sound
2 right?

3 A. Uh-huh.

4 Q. And in that case UAE did object to that
5 charge and proposed an alternative way to model the
6 charge; do you recall that?

7 A. Yes.

8 Q. I want to take a moment and hand you your
9 testimony in that case, along with a portion of Mr.
10 Duvall's rebuttal testimony. So that will be
11 cross-examination Exhibits 22 and 23.

12 CHAIRMAN BOYER: Ms. Duvall, which do you
13 wish to be marked as Exhibit-22? Is that Mr. Higgins'
14 testimony?

15 MS. McDOWELL: Mr. Higgins' is 22, and Mr.
16 Duvall's is 23.

17 (RMP Cross Exhibits 22 and 23 were marked.)

18 Q. (By Ms. McDowell) So Mr. Higgins, I handed
19 you what's been marked as 22 and -- Cross Exhibit-22,
20 and I'll represent to you that this is your prefiled
21 direct testimony in PacifiCorp's 2008 rate case, but
22 I've only included the portion relevant to net power
23 cost and wind integration charges.

24 Does this look familiar to you?

25 A. Yes, it does.

1 Q. And then I've also handed you the rebuttal
2 testimony of Greg Duvall, marked as Exhibit-23, the
3 portion of his testimony that responds to your position
4 in the 2008 case.

5 So I just wanted to ask you about your
6 position, and that was on -- set forth on page 8 of
7 Exhibit-22.

8 A. Yes.

9 Q. So there on page 8 you explain, on line --
10 basically lines 176 through 180, that the wind
11 integration charge is constituted by the cost of
12 holding incremental reserves; do you see that?

13 A. Yes.

14 Q. And you propose to value that reserve cost
15 within GRID rather than import it from an external
16 calculation; do you see that?

17 A. Yes, I do.

18 Q. So then going down the page, you -- on line
19 190, you indicated that you added 26 megawatts of
20 reserves to -- basically to the reserves in GRID, and
21 that produced a reduction in power costs of 1.1 -- 1.2
22 million, you cite there on line 192; do you see that?

23 A. Yes, I do.

24 Q. So then Mr. Duvall's testimony, Cross
25 Exhibit-23, can you turn to page 53. Again, this is

1 just an excerpt of Mr. Duvall's testimony. And do you
2 see that Mr. Duvall indicates that your adjustment of
3 1.2 million is equivalent of reducing the Company's
4 wind integration charge to 85 cents a megawatt hour; do
5 you see that?

6 A. Yes.

7 Q. Do you agree that that's the -- an accurate
8 equivalency calculation?

9 A. Yes, I do.

10 Q. So can you -- I think in your summary you
11 indicated that your wind integration charge in this
12 case is based upon an incremental reserve requirement
13 of 221 megawatts. Does that sound right?

14 A. Yes.

15 Q. And that removes the regulate down services
16 from the Company's estimated reserve requirement, which
17 was a higher number, closer to 300?

18 A. That is correct.

19 Q. So would you accept, subject to check, that
20 the reserve requirement you're proposing in this case
21 of 221 megawatts is approximately 8.5 times greater
22 than the reserve requirement you modelled in the 2008
23 case of 26 megawatts?

24 A. I -- I would need to clarify part of the
25 premise of your question, Ms. McDowell. I'm not

1 affirmatively proposing 221 megawatts. I'm accepting
2 the Company's representation that it requires 221
3 megawatts to do this for just regulating up. And so
4 with that -- with that clarification, I would agree
5 that that is significantly larger than the 26 megawatts
6 that I referenced in a couple of cases.

7 Q. So in this case you did not propose to model
8 that reserve requirement in GRID, did you?

9 A. That's correct.

10 Q. And to approximate the impact of applying
11 your approach in the 2008 case to this case, one could
12 multiply that 85-cent a megawatt hour charge in the
13 2008 case that you proposed for carrying 26 megawatts
14 of reserves by 8.5 to determine the cost of holding 221
15 reserves, couldn't you?

16 A. No, not necessarily. The costs are not
17 linear, first of all, so you wouldn't -- you couldn't
18 necessarily do a linear extrapolation of that.

19 Q. But the question was, you could approximate
20 the impact by basically saying it's, you know, 85 -- 85
21 cents a megawatt hour for carrying 26 reserves, the 221
22 reserves, megawatts of reserves, in this case are 8.5
23 times greater, so multiplying 85 cents a megawatt hour
24 times 8.5 would equal \$7.23 a megawatt hour, as a way
25 of approximating the cost of modeling those reserves in

1 GRID like you proposed in the 2008 case, correct?

2 A. I don't agree. I mean, I agree that -- with
3 your multiplication. I don't agree that necessarily
4 represents an approximation of the cost from -- as
5 you -- as you've described for many reasons, which I
6 could explain if you'd like me to.

7 Q. Well, did you -- did you in this case conduct
8 any studies indicating what the reserve requirement you
9 propose in this case would be valued if you add -- if
10 you use the GRID-based approach you proposed in the
11 2008 case?

12 A. I did not, because I felt that the Company's
13 brand-new approach that it came up with in this case
14 was closer to what I was recommending in the prior case
15 than what the Company had done in the prior case. In
16 other words, I felt as if the Company's analysis of
17 intrahour reserves in this case was a lot closer to
18 what I was suggesting the Company ought to do in the
19 prior case.

20 For that reason, I didn't feel that it was
21 going to be productive for me to recommend tossing out
22 the intrahour methodology that the Company had proposed
23 in this case. In fact, the Company's work papers for
24 its intrahour reserve calculation, while not tying back
25 to GRID, still tied into market prices for -- for the

1 forward price curve that was used in this case, which
2 is -- if you go back to the testimony -- of my
3 testimony that you recited to me, you can see that that
4 was part of the thrust of my point, was that these
5 reserve costs ought to reflect market prices in the
6 current case rather than a 20-year forecast.

7 So I felt the Company had moved in that
8 direction in this case, and for that reason, I didn't
9 feel it was -- would be helpful to propose something --
10 to propose the same methodology I proposed in the prior
11 case. So I left it at that and worked with the work
12 papers and the information the Company provided in this
13 case.

14 Q. Mr. Higgins, do you agree that if you had
15 proposed that approach from the last case in this case
16 it would have produced a substantially larger wind
17 integration charge than the one that you have proposed?

18 A. I have not done that analysis, so I do not
19 know.

20 Q. So I wanted to now move to asking you a
21 little bit about your wind integration position in this
22 case. And as I understand it, you have adjusted the
23 Company's proposal to \$3.02 a megawatt hour by removing
24 all of the cost associated with interhour balancing,
25 day ahead and hour ahead balancing, as well as

1 regulating down; is that correct?

2 A. That is correct.

3 Q. So let me just first ask you about interhour,
4 the day ahead and hour ahead balancing.

5 A. Sure.

6 Q. So it's your position that the Company incurs
7 zero costs in balancing the system for fluctuations in
8 wind resources in the day ahead and hour ahead markets,
9 correct?

10 A. Zero incremental costs for rate making
11 purposes, yes.

12 Q. So you don't -- your position is not that the
13 Company -- your position is that the Company does incur
14 costs; is that correct?

15 A. My position is the Company engages in
16 activity. That activity does not necessarily result in
17 a net increase in costs. In fact, it could even
18 produce a net increase in revenue.

19 Q. So well, let me ask you a hypothetical. If
20 you -- and this is about the interhour day ahead, hour
21 ahead balancing position. If one day ahead wind
22 generation is projected to be a thousand megawatts for
23 an hour beginning at eight a.m. say, and to balance the
24 system, the Company enters a sales transaction for 500
25 megawatts, so that's done ahead of time. Then an hour

1 ahead the next day, holding everything else constant,
2 assume further that wind generation for eight a.m. is
3 now projected to be 700 megawatts instead of a
4 thousand.

5 A. Okay.

6 Q. Are you with me? Okay. And assume all of
7 the Company's economic resources are already committed.

8 A. Okay.

9 Q. In that scenario, wouldn't you agree that the
10 Company would have to purchase 300 megawatt -- 300
11 megawatts for that hour to balance the system?

12 A. Not necessarily.

13 Q. Please explain your answer.

14 A. Sure. In that situation, we need to
15 recognize that the Company is always making balancing
16 sales every hour of the year, virtually, in GRID. So
17 another option the Company would have in that situation
18 would be to reduce its balancing sales by the same 300
19 megawatts rather than having to incur a purchase.

20 Q. But the hypothetical indicates that all else
21 is constant and all economic resources are committed,
22 so you don't have the choice in my hypothetical of
23 being able to, you know, use system flexibility like
24 you suggest. This is strictly a situation where the
25 Company, to balance the system, is looking at needing

1 300 additional megawatt hours. And in that situation,
2 the Company has no choice but to go to the market for
3 300 megawatt hours; isn't that correct?

4 A. I don't mean to be argumentative, Ms.
5 McDowell, but I don't agree that even within your
6 hypothetical that that's a reasonable premise, and that
7 is that even with the -- with the Company's resources
8 being fully economically dispatched, if the Company
9 finds itself hour ahead in a situation where something
10 has changed, the Company has the option of changing its
11 balancing sales, and that's how -- for example, that's
12 how rates in Utah are set in the first instance, and
13 that is that the Company runs its GRID model, in every
14 hour it makes balancing sales and purchases that are
15 determined in the hour ahead.

16 So in the hypothetical you've proposed to me,
17 clearly one of the options the Company would have,
18 besides having to buy 300 megawatts of power from the
19 market to make up for the shortfall in wind, it would
20 have the option of reducing its balancing sales by 300
21 megawatts because GRID assumes the Company's doing this
22 every hour anyway.

23 Q. Well, I think what we're potentially mixing
24 up here is GRID normalizing balancing and realtime
25 balancing, and I'm asking you about a realtime

1 situation where the Company is 300 megawatts short and
2 the Company does not have balancing sales because that
3 is the final position, the Company does not have the
4 ability to balance other things to bring that 300
5 megawatts back. It's -- the hypothetical assumes that
6 it's fixed. And in that situation the Company has got
7 to go to market to balance its load, correct?

8 A. Within the strict parameters of your
9 hypothetical, which I believe is a worst-case border
10 solution, in that hypothetical, if for some reason the
11 Company has no ability to reduce its balancing sales,
12 which by definition are balancing sales which occur
13 every hour, in that case, they would go to market and
14 buy it.

15 Q. In a reliability situation, doesn't the
16 Company need to be planning for worst-case scenarios?
17 I mean, isn't that the point of holding reserves, isn't
18 that the point of balancing day ahead, hour ahead?

19 A. When I say "worst-case scenario," I do not
20 mean it in the sense of a worst-case reliability
21 scenario. I meant it in a worst case for the rate
22 payer scenario. You presume the most expensive
23 possible situation on that as the Company can only make
24 up this 300 megawatts by going to the market and by
25 paying a premium, rather than backing down balancing

1 sales, for which the Company appears to assume it sells
2 at a discount.

3 Q. So in these -- assuming all of the same facts
4 of the hypothetical, but assuming that wind projection
5 increases to 1500 megawatts instead of decreases,
6 wouldn't the Company then be required to sell 500
7 megawatts to balance the system?

8 A. The Company would have the option of selling
9 500 megawatts to balance the system or backing off 500
10 megawatts of purchases in the balancing market, because
11 again --

12 Q. You're -- you're assuming a new hypothetical,
13 that the Company has 500 megawatts of balancing
14 purchases it can back off of.

15 A. The Company -- again, built into the GRID
16 model that customers are -- for which customers are
17 paying rates, the Company has balancing purchases in
18 over 6,000 hours of the year. So I agree there's a
19 minority of time when there are no balancing purchases,
20 but most of the time there are.

21 And so it seems to me that what the Company
22 would do, perhaps do a combination of these things. In
23 other words, it isn't just black and white, you're 500
24 megawatts long wind so the only thing you can do is to
25 sell those 500 megawatts. It seems to me that what the

1 Company would do is it would mix the -- it would do
2 some combination of selling some excess power into the
3 market, into the balancing market, and backing off some
4 sales in the market, so -- sorry, backing off some
5 purchases in the market, so to achieve the 500 megawatt
6 rebalancing with the additional wind that's available.

7 Q. In your assumed solution to this problem, the
8 Company would be engaging in transactions in the
9 market, correct?

10 A. As we've been discussing, yes, these would be
11 transactions in the market, although I also believe
12 that the Company could use its incremental reserves
13 that are assumed for intrahour wind integration to
14 assist in this.

15 Q. And your position in this case is that the
16 Company can engage in those market transactions
17 essentially for free, correct?

18 A. No, it's not -- it's not for free. It's that
19 the -- that -- but that they're -- my position is that
20 they're generally offsetting. In other words, it's not
21 that the market transactions are free. It's that the
22 transactions incurred to address a wind surplus must
23 equal, in terms of megawatt hours, the transactions
24 incurred to meet a wind deficit, so the megawatt hours
25 on either side balance out.

1 The only thing left is the transaction cost
2 the Company has assumed, and that transaction cost
3 disappears if you recognize that the Company can engage
4 in more than one option to meet its shortfall or
5 surplus hour ahead.

6 Q. Your position is that it disappears entirely,
7 correct?

8 A. I believe that that's the most reasonable
9 presumption. It actually -- because the Company could
10 actually make money on these transactions rather than
11 lose money on these transactions, and so I think that
12 zero is right in the middle of making money and losing
13 money.

14 Q. But irrespective whether the Company's making
15 money or losing money on the transaction, the
16 transaction fee itself, which is incurred in every
17 transaction, is something that you propose to disallow
18 entirely in your position?

19 A. I haven't proposed to disallow the fee per
20 se. I've proposed to disallow the revenue associated
21 with the fee because I do not believe that the revenue
22 associated with the fee has been demonstrated by the
23 Company, and because that the -- I don't believe that
24 there's a good case that the revenue from the fee
25 summed over the year is going to be a positive value.

1 Q. And when you say revenue, you're talking
2 about the cost, the transaction costs?

3 A. The cost, yes, yes, yes, I should -- the
4 dollars associated with it. In other words, even if
5 one accepts that there's this premium paid for
6 purchases at a discount for sales, even if one accepts
7 that premise, that by itself does not produce interhour
8 wind integration cost because the Company doesn't just
9 have to sell when it's long wind and buy when it's
10 short wind. It can -- when it's long wind, the Company
11 can reduce its purchases. When it's short wind, the
12 Company can reduce its balancing sales.

13 If it does that, the transaction costs move
14 in the other direction. They're positive in terms of
15 cost to the Company. They're negative in terms of a
16 net revenue to the Company. I think it's most likely
17 that the Company would do a combination of these things
18 where -- where these transaction costs would net to
19 zero.

20 Q. So you don't -- you're not taking the
21 position that there are no costs here, you're just
22 assuming them all away?

23 A. No, I'm not assuming them all away at all.
24 I'm saying that if these costs exist, if these -- if
25 these -- if these transactional differences exist that

1 the Company has assumed, I'm saying they move in the
2 other direction as well. They don't just move to the
3 Company's disadvantage. There are situations in which
4 they move to the Company's advantage.

5 And so just as I -- just as I described, if
6 the Company is long generation, it can reduce its
7 purchases. Recall the Company says we buy at a
8 premium, sell at a discount. If the Company reduces
9 its purchases, it's reducing purchases at a premium.
10 In that case, the transaction cost is actually cutting
11 in the Company's favor.

12 So my point is it isn't so much whether these
13 transaction costs exist. It's that the Company has
14 assumed they always happen to the Company's
15 disadvantage because of the way the Company structured
16 the analysis. So you can have -- you can accept that
17 there are these transaction costs. That doesn't mean
18 that -- that that results in a net wind integration
19 cost to be recovered from customers.

20 Q. So it's true, Mr. Higgins, isn't it, that no
21 other party in this case supports UAE's position that
22 all intrahour costs should be disallowed?

23 A. I'm not aware of any party that has made that
24 proposal besides myself, besides UAE.

25 Q. So let me ask you about regulate down. Can

1 you turn to your direct testimony at page 17, please.

2 A. Sure.

3 Q. I'm sorry, are you there on 17 and 18?

4 A. Yes, I am, uh-huh.

5 Q. Now, your position on regulate down is that
6 while the Company incurs no cost -- let me just start
7 at this, with this on line 432. Your position is that
8 the Company incurs no cost associated with regulated --
9 regulate down services, correct?

10 A. I said the Company does not incur incremental
11 cost to serve rate payers from regulating down.

12 Q. So again, you're not taking a position that
13 this is a costless service that the Company's engaged
14 in, correct?

15 A. That is correct. There are costs, but
16 they've already been paid by rate payers, so there are
17 no new costs to rate payers from the service.

18 Q. And in fact, you propose that if the Company
19 provides these services to third parties it should
20 charge a cost to those third parties for providing that
21 service; isn't that correct?

22 A. There are circumstances in which that may
23 be -- might be a reasonable thing to do, yes.

24 Q. So again, even though you have reduced this
25 cost to zero for the Company, you agree that there are

1 costs associated with the service, correct?

2 A. Yeah, I agree that you can't perform
3 regulating down without generation at your disposal.
4 So the question is does regulating down cause new costs
5 that customers haven't already paid for. For rate
6 payers, they've already paid for those generation
7 facilities that are using -- that are performing
8 regulating down, so there's no incremental cost.

9 However, if you were to sell to a
10 third-party, clearly that third-party might benefit
11 from the fact that PacifiCorp owns generation and
12 performs regulating down for them. In that case, I
13 would think that there could be a good basis for
14 charging them for regulating down. However, I think
15 the regulator would then take into account that this
16 should probably be a revenue credit to the customers
17 who pay for the -- through a return on rate base, the
18 generation that performs the service.

19 MS. McDOWELL: So I wanted to, before I
20 forget to do it, offer twenty --

21 CHAIRMAN BOYER: 22 and 23?

22 MS. McDOWELL: 22 and 23.

23 CHAIRMAN BOYER: Any objection to the
24 admission of either of those exhibits?

25 MR. DODGE: No objections.

1 CHAIRMAN BOYER: Okay. Cross -- RMP Cross
2 Exhibits 22 and 23 are admitted.

3 Q. (By Ms. McDowell) So Mr. Higgins, I wanted
4 to ask you about a part of the wind integration study
5 that was attached to Mr. Duvall's direct testimony. Do
6 you have a copy of that?

7 A. I do.

8 Q. So can you turn to page 273 of that study.

9 A. Yes.

10 Q. And I want to ask you about the first
11 sentence in the first full paragraph where it -- and
12 this again goes back to the interhour integration
13 discussion we were having. In there, the Appendix F
14 states that, "Fixing the imbalance in realtime is
15 generally more expensive, and to this end, the study
16 assumes that all forecasts and balances are addressed
17 in the day ahead market." Do you see that?

18 A. Yes.

19 Q. And isn't the -- in your discussions about
20 fixing this, you know, imbalances in the balancing
21 market and using the system flexibility and so forth,
22 aren't you really indicating that the Company should
23 not be balancing in the day ahead market but should be
24 waiting and -- until the hour ahead market to address
25 imbalance issues?

1 A. No, not at all. I'm just working with the
2 tools that the Company provided in this case. As part
3 of the Company's request for recovery of interhour wind
4 integration costs, the Company has posited that there
5 are day ahead activities that it engages in as well as
6 hour ahead activities that it engages in. And so I'm
7 accepting that, and I'm simply saying I don't believe
8 that there are incremental costs to rate payers
9 associated with these activities. I accept that the
10 activities occur, and I accept that they occur day
11 ahead and hour ahead.

12 Q. But aren't you -- isn't your position really
13 that in order for the Company to have the kind of
14 flexibility you argue that it must have that it should
15 forego this cheaper balancing in the day -- in the day
16 ahead markets and instead balance on a more realtime,
17 hour ahead basis?

18 A. No, not at all. I think that, for example,
19 the same analysis that I offered with respect to the
20 Company balancing sales hour ahead could be applied to
21 day ahead, in other words, if day ahead the Company
22 finds itself short wind, in other words, it had
23 originally forecast more wind than had shown up day
24 ahead. So in the example you offered, the Company
25 might be short 300 megawatts of wind. Day ahead,

1 rather than have to purchase additional resource to --
2 to meet its projected balancing day ahead, the Company
3 could reduce sales. So again, you know, that could
4 happen day ahead just as it could happen hour ahead.

5 Q. But there are limits on the Company's
6 flexibility, wouldn't you agree, as a result of needing
7 to avoid the risk of the higher-priced realtime
8 markets?

9 A. I agree that there are limitations, and which
10 is why I believe the Company would do some combination
11 of -- when it's short wind, that it would do a
12 combination of increasing purchases and decreasing
13 sales. Similarly, when it's long wind, it would do a
14 combination of increasing sales and decreasing
15 purchases.

16 I believe that's a very realistic type of
17 activity the Company would engage in. But when that
18 happens, these transaction costs net out and go to
19 zero.

20 MS. McDOWELL: That's all I have. Thank you.

21 CHAIRMAN BOYER: Thank you, Ms. McDowell.

22 Mr. Ginsberg, any questions for Mr. Higgins?

23 MR. GINSBERG: No.

24 CHAIRMAN BOYER: Mr. Proctor?

25 MR. PROCTOR: No, thank you.

1 CHAIRMAN BOYER: Mr. Reeder?

2 MR. REEDER: Just a couple, if I may.

3 CROSS-EXAMINATION

4 BY MR. REEDER:

5 Q. Mr. Higgins, are you familiar with the FERC
6 reporting term "offset," or I'm sorry, "book out"?

7 A. No.

8 Q. Okay. Are you aware of any studies that have
9 been conducted that would determine how many hours of
10 the year the possibility of offsetting or netting, as
11 you described it, is not available as an opportunity
12 for PacifiCorp to reduce these wind integration costs?

13 A. No, no, I have -- I'm not aware of any study
14 of that sort. It seems to me the Company has, you
15 know, basically assumed that it always sells power when
16 it's long wind and always buys power when it's short
17 wind, rather than netting out purchases and sales.

18 Q. In your judgment, sir, should there be some
19 kind of a study to determine if there are opportunities
20 at all to net or offset or circumstances where it can't
21 be done before one makes that assumption?

22 A. Yes, I believe that if -- if a company is
23 going to make an argument that says we're entitled to
24 interhour wind integration costs based on incurring
25 transactional losses from buying and selling, then it's

1 incumbent on the company to demonstrate what -- or
2 present some information that shows how these
3 transactional costs are likely to offset one another
4 through a combination of purchases and sales, rather
5 than assuming the most extreme case that maximizes the
6 transactional losses, which is what the Company did in
7 this case.

8 Q. First show they couldn't mitigate before they
9 recover the cost?

10 A. Yes.

11 Q. Are you aware, sir that the Company has both
12 owned and nonowned wind resources?

13 A. Yes.

14 Q. Have you taken a position in this case on
15 whether -- on who should pay the wind integration costs
16 on the nonowned wind resources?

17 A. I have not. I think that to do so would
18 require looking at, you know, each individual contract
19 and premise underlying that contract, and I have not
20 done that.

21 Q. If on this record it should appear that the
22 opportunity to pass the cost of wind integration onto
23 the seller could arise if PacifiCorp would change its
24 OATT, what would be your position?

25 A. I think that wind integration charges to

1 third parties is a very reasonable subject for being
2 addressed at FERC because it truly is an ancillary
3 service. It's a very specialized ancillary service,
4 and I think that it is reasonable for this to be
5 addressed to FERC. And I'm aware, for example, of I
6 believe it's Northwestern Energy in Montana which is
7 certainly has some provisions in its OATT to deal with
8 wind integration, for example.

9 Q. Unless and until it's addressed to FERC
10 should it be passed on to the retail rate payers?

11 A. I think that there are -- if one looks at the
12 premise underlying one of these arrangements, that is
13 if one looks at the premise underlying a third-party
14 wind developer and the fact that the wind integration
15 costs are not passed on to them, but to customers, I
16 believe one could look -- could look at those on a
17 case-by-case basis, and I believe there's situations in
18 which one might determine that the costs shouldn't be
19 passed on to rate payers, but I wouldn't presume that
20 absent knowledge of the jurisdictional approval,
21 perhaps, of the wind seller's contract if it was a QF,
22 for example, in the first instance. So I think you
23 have to go back and look at each -- each set of facts
24 before you reach that conclusion.

25 Q. Have you been a witness in a case in this

1 jurisdiction where that question has arisen before?

2 A. I don't recall.

3 Q. Do you recall the gas plant?

4 A. Yes.

5 Q. Can you tell us the circumstances there?

6 A. Are you referring to the Questar --

7 Q. Yes, sir.

8 A. -- case? Well, and, you know, that was many
9 cases ago for me and, you know, my recollection is that
10 Questar Gas Company was seeking to recover costs
11 associated with a CO2 plant that one of its affiliates
12 had built and was selling services from. And I
13 certainly recall there being quite a bit of controversy
14 here in Utah about whether those costs should be
15 recoverable from rate payers or not.

16 Q. Or passed on to the producers?

17 A. Or passed on to the producers, yes.

18 Q. And it required to go to FERC to pass it on
19 to producers, didn't it?

20 A. I believe that's the case, yes.

21 MR. REEDER: I have nothing further.

22 CHAIRMAN BOYER: Thank you, Mr. Reeder.

23 Commissioner Allen, any questions for Mr. Higgins?

24 Commissioner Campbell?

25 COMMISSIONER CAMPBELL: Do you have some

1 familiarity with Bonneville Power Administration, the
2 makeup of their system?

3 THE WITNESS: Commissioner Campbell, I have
4 some general familiarity with Bonneville Power
5 Administration, but I do not -- I have not practiced in
6 a regulatory sense in front of them, and so I wouldn't
7 say I have a detailed knowledge of them.

8 COMMISSIONER CAMPBELL: Are you aware that
9 it's a large hydro system?

10 THE WITNESS: Yes, I am aware of that.

11 COMMISSIONER CAMPBELL: Do you have -- do you
12 have an opinion as to whether it would be easier or
13 more difficult for them to integrate wind than our
14 utility here?

15 THE WITNESS: You know, I have not pondered
16 that question, quite frankly, and I'd be hesitant to
17 offer an opinion without looking at it more carefully.

18 But I would say one big distinction is this.
19 My understanding of Bonneville Power Administration's
20 wind integration costs are that they're the type of
21 third-party costs that I've been discussing in some
22 portions of my cross-examination today. In other
23 words, they're distinct from expenses that a utility is
24 attempting to recover from retail rate payers.

25 So I think there's a very important

1 distinction between wind integration charges that one
2 utility would charge another or would charge a third
3 party vis-a-vis wind integration costs that a utility
4 is attempting to recover from its rate payers, because
5 the rate payers may have already paid for the
6 facilities that the utility is seeking to recover costs
7 from, whereas when one utility is charging another for
8 wind integration, that third party, that other utility,
9 has not necessarily paid for the facilities that are
10 used for the wind integration. So I see that as a big
11 difference, but beyond that, I don't really have an
12 opinion.

13 CHAIRMAN BOYER: Okay. And I have no
14 questions. Mr. Dodge, any redirect?

15 MR. DODGE: A few. Thank you, Mr. Chairman.

16 REDIRECT EXAMINATION

17 BY MR. DODGE:

18 Q. Mr. Higgins, in the series of hypotheticals,
19 or the hypothetical that you were asked by Ms.
20 McDowell, we talked, I think, about both hour-ahead and
21 day-ahead markets. And there were some questions
22 regarding assuming that the transaction costs
23 disappeared, et cetera, or assuming that the resources
24 are all fully subscribed.

25 The -- when you -- let's start with the

1 day-ahead market. When a utility makes it's day-ahead
2 balancing decisions generally for its system, is that a
3 different time or the same time as when it would make
4 the decision you're talking about to reduce purchases
5 or increase sales to offset the wind variation that
6 they now project?

7 A. Well, for day-ahead purposes, it would seem
8 to me that that would occur at the same time. You
9 know, I mean, it's the Company that has categorized
10 this activity into day ahead and hour ahead. And so it
11 certainly seems perfectly plausible to me that they --
12 for day-ahead purposes, they would perform their day-
13 ahead wind planning and their day-ahead system planning
14 at the same time.

15 Q. Now let's move to hour ahead. Would there
16 be -- would it be at the same time or a different time
17 that they would make their hour-ahead balancing sales
18 and purchases decisions for the balance of the system
19 as compared to the day ahead -- or hour-ahead balancing
20 and sales that may be necessary for a wind resource?

21 A. And it certainly must occur at the same time
22 because it all must occur hour ahead.

23 Q. And have you seen in this docket any study
24 from the Company attempting to demonstrate that at any
25 hour, or any specific number of hours, that the kind of

1 sales or purchases you're assuming can offset what the
2 wind requires would not exist?

3 A. No. In fact, if one looks closely at the
4 GRID model, to get a feel for how often balancing sales
5 occur and how often balancing purchases occur, one sees
6 that they occur at almost all hours of the year, that
7 is, there are balancing purchases in over 8,000 hours
8 of the year -- I mean pardon me, they're balancing
9 sales in over 8,000 hours of the year and they're
10 balancing purchases in over 6,000 hours of the year.
11 So this activity is clearly occurring, you know, every
12 hour.

13 Q. If the utility were able to demonstrate, A,
14 that there was a specific transactional cost to a sale
15 or a purchase necessitated by hour ahead or day ahead
16 wind integration, and that in a certain number of hours
17 there were simply no resources available to back -- or
18 other sales or purchases to back them, then would you
19 agree that such a cost might be properly recovered from
20 rate payers?

21 A. Yes, I think conceptually that that could be
22 the case. I -- I would suspect that it's a fraction of
23 the cost the Company is attempting to recover from rate
24 payers.

25 Q. And is it your position that the Company has

1 no such costs and they can't recover it or that they
2 haven't demonstrated, they haven't met their burden in
3 this docket?

4 A. My position is that they have not
5 demonstrated that they have the costs to the extent the
6 Company is seeking recovery, that's my position.

7 Q. Mr. Higgins, you mentioned ancillary
8 services. I take it that the concept of specific
9 charges or costs for wind integration is a relatively
10 new issue; is that correct?

11 A. Yes, it is, it's relatively new.

12 Q. Is it conceptually significantly different
13 than the issue of costs for other ancillary load
14 following type services?

15 A. I think conceptually it's similar. For wind
16 integration, what appears to be the case is that there
17 may be greater amounts needed to perform regulating --
18 regulation service compared to thermal resources, for
19 example, and so that's why we're seeing attempts to
20 recover wind integration costs per se. But the concept
21 is similar to other ancillary services.

22 MR. DODGE: Thank you. I have no further
23 questions.

24 CHAIRMAN BOYER: Thank you, Mr. Higgins. I
25 guess we'll be hearing from you again tomorrow or the

1 following day.

2 THE WITNESS: That will be my pleasure.

3 CHAIRMAN BOYER: Before we recess for the
4 day, I think it was Mr. Ginsberg who volunteered that
5 some of the witnesses scheduled for the next two days
6 have been waived. I wonder if those could be
7 identified for the Commission.

8 MR. REEDER: I believe we identified on the
9 first day that Mr. Baron, Mr. Chriss, and Mr. Fuez have
10 been waived.

11 MR. GINSBERG: I don't have my list of
12 witnesses.

13 MR. REEDER: Right. It's Baron, Chriss, and
14 Fuez, 32, 33, and 34, if yours is numbered like mine
15 is.

16 MR. GINSBERG: Was that also the Farm Bureau
17 witness?

18 MR. DODGE: That's Fuez. Fuez is Farm
19 Bureau, that's how you pronounce it.

20 MS. MICHELE BECK: It's Fuez.

21 MR. DODGE: Fuez.

22 MS. MICHELE BECK: Fuez.

23 MR. DODGE: Fuez.

24 MS. MICHELE BECK: Fuez.

25 MR. DODGE: Fuez. Okay. Thank you.

1 MR. REEDER: Yes, he has been waived?

2 MR. HICKEY: We have no questions for him.

3 MR. REEDER: Are there others on the list
4 that we can deal with?

5 MR. PROCTOR: Alt?

6 MR. DODGE: No, we want Alt to come, not that
7 I have questions for him.

8 MR. HICKEY: This is sort of a free-falling
9 conversation, Mr. Chairman.

10 CHAIRMAN BOYER: That's okay.

11 MR. HICKEY: So you know who --

12 CHAIRMAN BOYER: We'll make a record here in
13 a moment.

14 MR. HICKEY: When you're ready --

15 CHAIRMAN BOYER: Yes, Mr. Hickey, do you
16 have --

17 MR. HICKEY: I can tell you that on behalf of
18 Rocky Mountain Power we have no questions of Witness
19 Baron, Witness Chriss, and Witness Fuez.

20 MS. MICHELE BECK: Fuez.

21 MR. HICKEY: Fuez.

22 MS. MICHELE BECK: F-a-t-e-s, Fates.

23 MR. HICKEY: Fuez. Thank you. And then I
24 show, and I think your list should as well, Mr.
25 Chairman, that -- and these are actually all net power

1 cost witnesses that are excused below, as well as Mr.
2 Shortt, who was a revenue requirement witness.

3 CHAIRMAN BOYER: Yes, I have those. So of
4 the some 17 witnesses that we're going to hear from in
5 the next two days, three of them have been waived.
6 Okay.

7 COMMISSIONER CAMPBELL: I see 12.

8 CHAIRMAN BOYER: Okay. I misstated. I show
9 12 witnesses, including Paice, Thornton, Alt, Griffith,
10 Higgins, Mancinelli, Nunes, Abdulle, Chernick, Gimble,
11 Brubaker, and Swenson.

12 MR. GINSBERG: And Brill was returning.

13 CHAIRMAN BOYER: And Brill?

14 MR. REEDER: 13, by my count, including Mr.
15 Brill.

16 CHAIRMAN BOYER: Dr. Brill would make it 13.

17 MR. PROCTOR: Mr. Chairman, may I just make a
18 suggestion? I know I'm reluctant to say who I don't
19 want to examine in front of the Commission, honestly.
20 Maybe the parties' counsel could meet shortly after you
21 leave the bench and see if we can eliminate some of
22 these others. I know my client -- there's certain ones
23 that my client would not need to examine.

24 CHAIRMAN BOYER: Well, that would be fine. I
25 mean, we're not trying to restrict any testimony or

1 evidence in this case. On the other hand, we'd like to
2 know, you know, which page of the hymnal we're singing
3 off of and which witnesses so that we can sort of pace
4 ourselves accordingly.

5 Are there any other issues that we should
6 discuss before we recess for the evening? Okay. Well,
7 thank you very much for your participation. We'll see
8 you at nine o'clock in the morning.

9 (The hearing adjourned at 2:41 p.m.)

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REPORTER'S HEARING CERTIFICATE

State of Utah)
 : ss.
County of Salt Lake)

I, Angela L. Kirk, a Registered Professional Reporter and Certified Court Reporter in and for the State of Utah, do hereby certify:

That prior to being examined the witnesses were duly sworn to tell the truth, the whole truth, and nothing but the truth;

That said proceedings were taken down by me in stenotype on December 15, 2009, at the place herein named, and was thereafter transcribed, and that a true and correct transcription of said testimony is set forth in the preceding pages.

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

WITNESS MY HAND at Salt Lake City, Utah
this 18th day of December, 2009.

Angela L. Kirk, RPR, CCR

