

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Pending Application of Rocky Mountain Power for a Certificate of Public Convenience and Necessity Authorizing Construction of the Mona-Oquirrh 500/345 kV Transmission Line.) Docket No. 09-035-54

TRANSCRIPT OF HEARING PROCEEDINGS

TAKEN AT: Public Service Commission 160 East 300 South Salt Lake City, Utah
DATE: May 24, 2010
TIME: 9:05 a.m.
REPORTED BY: Kelly L. Wilburn, CSR, RPR

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

EXHIBITS

Table with 3 columns: No., Description, Page. Includes entries for RMP-1, RMP-2, RMP-3, DPU-1.0, and DPU-1.9SR.

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

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EXHIBITS, CONTINUED

Table with 3 columns: No., Description, Page. Includes entries for DPU-2 and DPU-3.

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

APPEARANCES

- Commissioners: Ted Boyer (Chairman), Ric Campbell, Ron Allen.
For Rocky Mountain Power: TED D. SMITH, ESQ., D. MATTHEW MOSCON, ESQ., STOEL RIVES, LLP.
For the Division of Public Utilities: MICHAEL L. GINSBERG, ESQ., OFFICE OF THE ATTORNEY GENERAL.

WITNESSES

Table with 2 columns: Name, Page. Includes entries for DARRELL T. GERRARD and JONI S. ZENGER, Ph.D.

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

MAY 24, 2010 9:05 A.M.
PROCEEDINGS
CHAIRMAN BOYER: This is the time and place duly noticed for the hearing in Docket No. 09-035-54, In the Matter of the Application of Rocky Mountain Power for a Certificate of Convenience and Necessity Authorizing Construction of the Mona-Oquirrh 500/345 kV Transmission Line.
Welcome to everyone. And welcome, Mr. Smith, we haven't seen you for a while.
MR. SMITH: Good to be back.
CHAIRMAN BOYER: I think what we'll -- we'll proceed as we normally do and have -- hear the witnesses from the moving party first. I guess that will be Mr. Gerrard?
MR. SMITH: Yes.
CHAIRMAN BOYER: And then we'll -- and then Ms. Zenger has some testimony. They're supportive of the certificate, but with some conditions, so we'll hear her next.
So we'll hear from Mr. Gerrard. We'll have an opportunity for cross examination, Commission questions, redirect, and then we'll move on to Ms. Zenger -- Dr. Zenger. And proceed in that manner then.

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1 So let's, let's enter appearances for the
 2 record. Mr. Smith?
 3 MR. SMITH: Yes. Ted Smith with the law firm
 4 of Stoel Rives for the Applicant.
 5 MR. MOSCON: And Matt Moscon, also with Stoel
 6 Rives, for Rocky Mountain Power.
 7 MR. GINSBERG: Michael Ginsberg for the
 8 Division of Public Utilities.
 9 CHAIRMAN BOYER: Okay. With that I think we
 10 might as well proceed with your first witness then,
 11 Mr. Smith.
 12 MR. SMITH: Okay. We'd call Mr. Gerrard.
 13 And while he's coming up, off the record we had a
 14 discussion about the direct testimony of Bruce
 15 Williams.
 16 CHAIRMAN BOYER: Yeah, let's deal with that
 17 right now.
 18 MR. SMITH: Right. The Division and the
 19 Company have stipulated that that testimony, which is
 20 not contested, could be entered into the record by
 21 stipulation and the parties waive cross of
 22 Mr. Williams.
 23 So in light of that we would offer his
 24 testimony as Rocky Mountain Power No. 1. Subject to
 25 that stipulation we move that it be put upon the

5

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1 address is 925 South -- excuse me, Northeast Multnomah
 2 Boulevard in Portland, Oregon.
 3 I also have an office at -- here in Salt Lake
 4 City at 1407 West North Temple, where I maintain an
 5 office when working for Rocky Mountain Power. I'm
 6 currently vice president of transmission system
 7 planning for both Rocky Mountain Power and Pacific
 8 Power.
 9 Q. Okay. Mr. Gerrard, at an earlier point in
 10 this proceeding, in November of 2009, did you have
 11 filed direct testimony that consists of approximately
 12 24 pages, and 6 attached exhibits?
 13 A. Yes, that is correct.
 14 MR. SMITH: And if we could mark that as
 15 Rocky Mountain Power 2? And I'm not sure,
 16 Mr. Chairman, what your convention is. Do you --
 17 would you like the sub-exhibits to be 2.1 through 2.6,
 18 or?
 19 CHAIRMAN BOYER: That's typically how they're
 20 marked.
 21 MR. SMITH: Okay. So --
 22 CHAIRMAN BOYER: But whatever is convenient.
 23 MR. SMITH: All right. We would mark the
 24 testimony itself as RMP-2, and then the Exhibits 1
 25 through 6 as 2.1 through 2.6.

7

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1 record.
 2 CHAIRMAN BOYER: And is that satisfactory,
 3 Mr. Ginsberg?
 4 MR. GINSBERG: That's -- yes, sir.
 5 CHAIRMAN BOYER: Okay. Very well then,
 6 Mr. Williams' testimony is admitted -- pre-filed
 7 testimony is admitted as RMP Exhibit 1.
 8 (Exhibit No. RMP-1 was admitted.)
 9 CHAIRMAN BOYER: Mr. Gerrard, okay.
 10 Different case, so we need to swear you again.
 11 (Mr. Gerrard was sworn.)
 12 CHAIRMAN BOYER: Thank you. Please be
 13 seated.
 14 MR. GERRARD: Good morning.
 15 DARRELL GERRARD,
 16 called as a witness, having been duly sworn,
 17 was examined and testified as follows:
 18 DIRECT EXAMINATION
 19 BY MR. SMITH:
 20 Q. Mr. Gerrard, would you state your name,
 21 business address, and the position you hold at Rocky
 22 Mountain Power or PacifiCorp?
 23 A. Yes, Darrell Gerrard. And I work for
 24 PacifiCorp, both services to Rocky Mountain Power and
 25 for Pacific Power for our company. My business

6

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1 Q. (By Mr. Smith) Now let me ask you -- let me
 2 get to the right testimony. In May -- or earlier this
 3 month did you file rebuttal testimony in this case
 4 consisting of approximately 16 pages, and attached to
 5 that, 4 exhibits?
 6 A. Yes, that's correct. May 2010.
 7 MR. SMITH: And if we could mark those as
 8 RMP-3, and 3.1 to 3.4.
 9 Q. (By Mr. Smith) Mr. Gerrard, does -- do you
 10 have any corrections that need to be made to those --
 11 either of those pieces of testimony?
 12 A. No, they're still accurate as written.
 13 Q. Okay. Now, you did update some of the
 14 earlier information in the direct testimony in
 15 rebuttal?
 16 A. Yes, I did. The information that I submitted
 17 was accurate. I did increase the cost analysis
 18 that -- for the project to show the cost of the entire
 19 project. So there were some cost updates, yes.
 20 Q. But the original was still correct?
 21 A. Yes, that's cor -- that's true.
 22 Q. Okay. If I were to propound to you today the
 23 questions that are set forth in the written testimony
 24 would your answers be the same?
 25 A. Yes, they would.

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 MR. SMITH: In light of that, your Honor, we
2 would submit into evidence the Direct Testimony,
3 RMP-2, 2.1 through 2.6, and the Rebuttal Testimony and
4 exhibits, RMP-3, with Exhibits 3.1 to 3.4, into
5 testimony, subject to cross examination.

6 CHAIRMAN BOYER: Thank you.

7 Any objection to the admission of --

8 MR. GINSBERG: No.

9 CHAIRMAN BOYER: -- Mr. Gerrard's direct or
10 rebuttal? Okay. Very well, they are admitted,
11 together with exhibits.

12 (Exhibit Nos. RMP-2, RMP-2.1 through RMP-2.6,
13 RMP-3, and RMP-3.1 through RMP-3.4 were
14 admitted.)

15 MR. SMITH: What's that?

16 CHAIRMAN BOYER: They are admitted.

17 MR. SMITH: Oh, okay.

18 CHAIRMAN BOYER: They are admitted, together
19 with the exhibits.

20 MR. SMITH: Thank you.

21 Q. (By Mr. Smith) Mr. Gerrard, have you
22 prepared a brief summary of your testimony and then
23 some comment on some of the conditions that were
24 proposed by the Division?

25 A. Yes, indeed, I have.

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 transmission planning standards that are in federal
2 law require us, as a utility, to have a plan that
3 meets forecasted demands and expected operating
4 conditions. And that the Company must execute that
5 plan with sufficient lead time to make sure customers
6 are served. So that's a requirement that we take very
7 seriously.

8 Second, in our -- Rocky Mountain Power, or
9 PacifiCorp in this case, is licensed by FERC under our
10 company's Open Access Tariff. Section 2, there's two
11 paragraphs there that I think are germane to this
12 discussion: 28-2 and 28-3 talk about providing
13 adequate and nondiscriminatory -- I think that's the
14 important word -- nondiscriminatory network
15 transmission service for delivery of network
16 generation to loads.

17 That, in short, means we have to provide our
18 generation to our customers, both retail and other
19 customers that are hooked to our transmission system,
20 whether they're ours or not, in a nondiscriminatory
21 basis. This plan does meet those needs.

22 Rocky Mountain Power does have a plan for the
23 short-term long plan. That's our Energy Gateway
24 project. I'm not going to describe it in detail.

25 I've done that already for these -- for you

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Q. Could you please provide that for us?

2 A. Sure. With the understanding that Chairman
3 Boyer, and Mr. Allen, and Mr. Campbell have heard a
4 lot from me on this subject in prior hearings I won't
5 at all go into -- you're free. No slides today for
6 you. Complicated slides.

7 CHAIRMAN BOYER: Very well. And we have read
8 all of the pleading paperwork.

9 THE WITNESS: Great. So I would like to just
10 take a couple of minutes and summarize real quickly
11 the need, for the record, for the project. So if
12 you'll bear with me for a short moment I will cover
13 that quickly, and then get into some of the issues
14 with the certificate.

15 My direct testimony describes the need for an
16 integrated project that our company's taking, taking
17 on, or has taken on since 2005. And Rocky Mountain
18 Power is an essential service provider for the state.
19 And is obligated to have a plan of service to provide
20 safe, reliable, and efficient service to citizens in
21 the state, and those outside the state as well.

22 I also wanted to point out that under federal
23 law by the Federal Energy Regulatory Commission and
24 their delegating their authority to NERC, the North
25 American Electric Reliability Corporation, that the

10

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 folk -- for you gentlemen.

2 The first facility is our Gateway Central
3 project, which was our Populus-to-Terminal, which was
4 certificated by this, by this Commission. And that
5 project is near completion, and will be completed by
6 November of this year as the first facility.

7 The second key facility in our plan is the
8 Gateway Central project, is Mona to Oquirrh, which
9 we're discussing today. That is the second critical
10 element. And that's why we're talk -- we're here
11 today to talk about that.

12 I would describe this project as key to
13 serving what I've coined as the "critical load area"
14 of the state. The reason it's critical is that more
15 than 80 percent -- or about 80 percent, I should say,
16 of the total customer demand in the state lies in a
17 critical load area between Ben Lomond and about
18 Spanish Fork.

19 The other reason it's a critical area is our
20 transmission capacity to deliver those network
21 generation resources to this network load that I just
22 described is fully utilized. And we need new
23 transmission in order to meet future demands.

24 This critical load area, the electrical
25 demand in the area is expected to nearly double by

12

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 2025 from its current size of about 4,400 megawatts to
2 more than 7,000 megawatts. And we believe the growth
3 in Northern Utah in this critical area will be
4 substantial and remain so.

5 Our -- I've demonstrated through my
6 testimony, and through the Facility Review Board with
7 actual factual history forecasts and limits, and also
8 in the depart -- the Division's Data Request 2.10,
9 that there's limits on this system and no capacity is
10 available after 2013. This project is needed by 2013.
11 I've clearly demonstrated that.

12 I've also demonstrated with my testimony that
13 even today our customer, our customer service is at
14 risk with parts of our system out of service. And by
15 2013 our customers are at risk in the critical load
16 area with all of our system in service. Those are two
17 very important things.

18 The lead time on the project requires a
19 construction duration. And requires us to actively
20 plan in advance of that in-service date for 2013. So
21 that's our driver. So that's a summary of the project
22 need from the Gateway testimony.

23 I'd like to turn now to the certificate
24 requirements. Our project has both near-term and
25 long-term elements, but it is a single project. The

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 has proposed several conditions which I'd like to talk
2 about. Our Company agrees with some of those
3 conditions but opposes others.

4 What our Company and Rocky Mountain Power
5 agrees with the following is: Conditioning the
6 certificate upon receipt of the Utah Facilities Siting
7 Board decision, which I understand will come on or
8 before June 12th of this year.

9 Second, when the record of decision is
10 issued, the Company would agree to provide the
11 Commission of any substantial changes that come out of
12 the EIS or come out of the environmental impact,
13 environmental impact process, which is due to conclude
14 in about October of this year. It's open for comment
15 right now.

16 Also, the Company agrees to file, subsequent
17 to your issuing of this certificate, a summary of all
18 permits granted and any that might be pending. And
19 we've already submitted, in my rebuttal testimony, all
20 of the permits that have been acquired so far. And
21 there's just one pending. So we would agree to file,
22 file that after the, after the certificate is issued.

23 The Company disagrees, in whole or in part,
24 with three of the Division recommendations. And I'll
25 address them one at a time, if I may. I very much

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Mona-Oquirrh portion of course in 2013 is just one
2 piece. But it's our full intent to build Limber
3 substation and Clover substations, depending on the
4 customer demand and the economic growth, which we
5 expect to be strong.

6 The Company's treated this project in its
7 entirety. Even through the NEPA process, the federal
8 environmental approval process, where we sought both
9 the Draft Environmental Impact Statement and Final
10 Environmental Impact Statement as one project. And
11 that's why I believe it's critical that the CPCN for
12 this project be granted for the entire project and not
13 just portions of the project.

14 The -- our Company was -- it was our
15 Company's decision to describe the entire project,
16 even though parts of it may not be constructed for
17 several years, so that state, local, and federal
18 agencies can see what our plans are. And they can
19 plan accordingly in their land-use plans, their
20 communities, and any of their resource plans as they
21 need be. So we think that's a good thing to be no
22 surprises, and full disclosure on what we intend to
23 do.

24 The Division's recommended that the
25 Commission grant a CPCN for the entire project, but

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 appreciate -- or our Company appreciates Dr. Zenger's
2 testimony and rebuttal testimony, and the time spent
3 putting that together in support of our project.

4 In her testimony she states that the grant of
5 the CPN should be conditioned upon the Company
6 receiving all necessary permits, including the permit
7 from Tooele. I think that's mentioned on Page 7 of
8 her testimony. In other words, the CPN would be
9 dependent on issuance of a permit by Tooele County.

10 The timing of that CPCN I think is very key
11 to our project. It's critical, in my view and our
12 Company's view, that we receive that CPCN, or the
13 certificate, coincident with the Facility Siting Board
14 decision.

15 That way our Company can proceed with
16 certainty, I believe, in our next steps of starting
17 design, centerline staking, and getting our bid
18 package together, which we plan to issue later this
19 year. I think that's important as, if we end up
20 delaying the certificate, Rocky Mountain Power's not
21 comfortable with moving ahead with the project to that
22 degree.

23 Should we do -- should we delay the issue of
24 our, of our construction bids, that would definitely
25 put pressure on the construction season we have, the

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 construction window, and definitely on our 2013
2 in-service date. And in my experience that would
3 drive up the risk of the project and the costs. So
4 that's why we're recommending that we get the
5 certificate with the, with the Facility Board's
6 recommenda -- decision.

7 Even, even two months is a long -- is an
8 important period for the project. Given how critical
9 this segment is, every day is a day for day slip could
10 have a serious impact on our customers.

11 I think our counsel here in the end will
12 address this in his final argument, but as I
13 understand it from my experience with the Review Board
14 recently that a 60-day period, which is the time
15 Tooele County would have to issue our permit
16 subsequent to the Facility Review Board's decision,
17 could turn into a much larger delay.

18 And I think our counsel will describe that we
19 don't know exactly what the legal efforts including an
20 appeal might be, as a result of the Board's decisions,
21 by Tooele. We don't know whether Tooele County may
22 issue the permit and add other unreasonable conditions
23 that can't be met. That's still unknown.

24 And we've also been informed -- our Company's
25 been informed that Tooele County plans to continue to

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 begin the work in Juab County, Utah County, and Salt
2 Lake Counties. And will provide us the ability to
3 move ahead with our engineer-procure-construct
4 activities that we intend to execute on the project.

5 We recommend -- we recognize that there are
6 limitations on our ability to construct in Tooele
7 County. And until that issue is resolved, we
8 understand there's limitations. But as we move
9 forward with our project I believe -- in my experience
10 we can, we can build those unknowns into our contract,
11 our construction contract, and our construction
12 schedule from here on out. And that those risks are
13 very manageable.

14 I draw on that experience from the point of
15 our last project that we built in Oregon was about a
16 hundred miles of 500-kV line. Very similar in its
17 nature to Mona-Oquirrh. And we had -- we did not have
18 all the property rights secured on that project before
19 we started.

20 Actually, there was one section that was not,
21 was not secured. Had we waited until all of that was
22 secured we would have missed at least one, maybe two
23 summer construction seasons. Significantly delayed
24 our project. So we have experience in managing those
25 risks, and feel that's something we can do.

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 appeal a ruling -- any ruling it doesn't like. All
2 this adds up for potential delay of the CPCN if it's
3 conditioned on all approvals, including the one from
4 Tooele.

5 **Q.** Mr. Gerrard, if I could interrupt. You said
6 Tooele County.

7 **A.** Yeah.

8 **Q.** And I believe you meant Tooele City, did you
9 not, on the --

10 **A.** On their permit it's Tooele City.

11 **Q.** Yeah, on the --

12 **A.** It's Tooele County --

13 **Q.** The entity that indicated it would appeal.

14 **A.** Oh, yes. Thank you for that. It's Tooele
15 City indicated they would. Thank you for that.

16 **CHAIRMAN BOYER:** I think I'll interrupt as
17 well. You indicated that the Facility Siting Review
18 Board order was due the 12th of June. It's the 21st,
19 actually. Just for the record.

20 **THE WITNESS:** Oh, did I say 12th? Excuse me.

21 **MR. SMITH:** I think we agreed it's the 21st.

22 **THE WITNESS:** Yeah. I actually have that
23 written in my notes. Apologies for that.

24 So issuance of this certificate as soon as
25 possible, as I mentioned, will allow our Company to

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Regarding the BLM record of decision, I've
2 been informed by our experts in our Company that we
3 can proceed with our project, even though the record
4 of decision has not been issued. We can notice the
5 BLM for a notice to proceed, and we would follow any
6 conditions the BLM might place on us proceeding with
7 that project. So that, that is something we would
8 move forward with in our schedule.

9 The Company does agree that the CPCN be
10 conditioned upon receipt of the view -- of the Review
11 Board, but we do not agree that the certificate in its
12 entirety should be conditioned on the Tooele County
13 permit, nor the BLM record of decision. Again, I
14 think that's manageable if we do that.

15 The last piece I'd like to address in the
16 Division's testimony, in Dr. Zenger's testimony, is
17 the, the second contested issue is the Division's
18 proposal that the certificate should have a duration
19 of five years after the date of the Commission's
20 issuance of that certificate in this docket. The
21 project elements constructed outside of this should be
22 required to obtain a new certificate. As Dr. Zenger
23 says on page 15.

24 And I understand from her testimony that this
25 recommendation is driven by the fact that Clover and

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Limber substations will be built after
2 Mona-to-Oquirrh. And that the Limber-to-Terminal
3 transmission line would be built at a later date.
4 I've also explained, here and through our
5 Facilities Siting Board discussions, that we fully
6 intend to build those. And I have stated in the data
7 requests back to the Division our expected time frame
8 is around 2017 to '19. However, current load growth
9 and economic development might drive those as soon
10 as -- sooner. So I've stated that clearly in my
11 testimony and in data requests.

12 So we understand the Division's concerns
13 about a long time for the entire project. But again,
14 it does line up with our NEPA process and our
15 environmental permits that have been granted. And
16 therefore the Company proposes an alternative
17 procedure here, if we may, that will accomplish the
18 same purpose without having the CPCN automatically
19 terminate for those segments that are not constructed
20 in five years.

21 So Rocky Mountain Power proposes that the
22 certificate would require the Company, at a date
23 certain in say five or six years, to file a report
24 with the Commission and the Division outlining the
25 current status of varying segments of the project, the

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 relative transmission use by type of customer --
2 retail, non-PacifiCorp, network customer, and other --
3 for future cases and future CPCN filings.
4 And although we don't believe that's part
5 of -- and general counsel will clarify this. I don't
6 believe that's part of the use infor -- relative use
7 information is not part of this proceeding. We did,
8 however, answer questions to the Division posed in
9 Question 3.1 and 3.4 on the use of the Mona-Oquirrh
10 project.

11 And in my response to that, over 90 percent
12 of the customer demand for the retail load in the
13 critical load area is directly served by PacifiCorp
14 and Rocky Mountain Power. The other 9 1/2 percent or
15 thereabouts are other municipalities connected either
16 directly or indirectly to our transmission system, and
17 we're obligated to provide non-discretionary service
18 to those folks. So the use is, is in with the state.
19 So we did, we did answer that at the Division's
20 request.

21 The Company opposes the proposal for the
22 reasons that I've stated, and will outline that in his
23 final argument. So with that, I'd like to conclude my
24 remarks and my testimony for this morning.

25 MR. SMITH: Mr. Gerrard is available for

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Mona-Oquirrh project.
2 With that we would provide updated
3 information on our planned construction schedules,
4 estimated and updated cost calculations, the status of
5 our permits, and other information relevant to
6 determination of need.

7 Based on that report, that submittal, the
8 Commission or the Division then could make an
9 independent determination as to whether any material
10 changes have occurred that would cause this
11 certificate to be reviewed, canceled, or otherwise.

12 So I believe, and Rocky Mountain Power
13 believes, that this would address the Division's
14 concerns, but would not have the advantage of
15 canceling the initial permit without regards to
16 unfinished segments. And it would not require opening
17 a CPCN docket that parties may in lack -- and lack for
18 facts of the site is unnecessary. So that's our
19 recommendation for the CPCN going forward.

20 The last item in the testimony was relative
21 use information. The use of the assets that we're
22 proposing. It's primarily a legal issue in nature and
23 will be addressed by our counsel in final arguments.
24 But as I understand the issue, the Division proposes
25 that the Company be required to provide information on

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 cross examination.

2 CHAIRMAN BOYER: Thank you, Mr. Gerrard.
3 Mr. Ginsberg, cross examination?

4 MR. GINSBERG: Yes, thank you.

5 CROSS EXAMINATION

6 BY MR. GINSBERG:

7 Q. Mr. Gerrard, can you first turn to page 8 of
8 your rebuttal testimony?

9 A. Yes. If you'll give me a moment, I will.

10 Q. Okay.

11 A. Okay, I believe that I'm on page 8.

12 Q. So I'm -- what I'm referring to is the
13 paragraph beginning on line 181, where you go through
14 the various segments of this project and give the
15 estimated in-service dates. Do you see where I am?

16 A. Yes, sir.

17 Q. And you gave a little, little bit of it in
18 your summary, but let's see if we can break down the
19 in-service dates for the various segments of this
20 project. The Clover substation is the one that's by
21 Mona; is that right?

22 A. That is correct. It was Mona Annex in my
23 previous submittal. Since then it's been named
24 Clover, just for the record, is the official name.

25 Q. And you indicated that it's -- that that

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

- 1 substation may be built to provide local transmission.
- 2 But ultimately, to build it as a 500-kV substation, it
- 3 would be dependent on the other expansion portions of
- 4 the Gateway project that are not in this proceeding.
- 5 I think it's called Gateway South?
- 6 **A.** That is correct.
- 7 **Q.** And that's scheduled to be built later in the
- 8 decade?
- 9 **A.** Our current schedule for Gateway South is
- 10 between 2017 and 2019.
- 11 **Q.** Okay. So if Gateway South never gets built,
- 12 or gets delayed, then that substation at a 500-kV
- 13 level would be delayed?
- 14 **A.** That would be correct.
- 15 **Q.** Okay. And then the transmission line that
- 16 goes from, I guess Mona, up to the future site of the
- 17 Limber substation, and then to Oquirrh, which is in
- 18 the Salt Lake Valley, that has a definite date of
- 19 2013?
- 20 **A.** That is correct.
- 21 **Q.** Okay. And that would be a 345 line that
- 22 ultimately would become a 500-kV line?
- 23 **A.** The ultimate -- the line between Mona and the
- 24 future proposed Limber will be constructed at 500 kV
- 25 and operated at 345 kV for a period. The line from

25

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

- 1 **A.** Our in-service date for that was about 2019,
- 2 when Gateway South come in. That's the date we have
- 3 projected at this time.
- 4 **Q.** So it is projected to be in service in 2019?
- 5 **A.** That's my best estimate of its in-service
- 6 date, yes.
- 7 **Q.** Okay. We can get to that in a minute, but
- 8 now let me ask you about the permits. You indicate
- 9 that the only permit that's outstanding is the Tooele
- 10 permit?
- 11 **A.** That is my understanding.
- 12 **Q.** Does that permit cover the site of the Limber
- 13 substation?
- 14 **A.** I believe it does, yes.
- 15 **Q.** And does it cover the transmission line from
- 16 Limber to Terminal, including what's required in Salt
- 17 Lake County?
- 18 **A.** It does not cover the Limber-to-Terminal
- 19 piece. We have not filed for conditional use permits
- 20 there yet.
- 21 **Q.** So those permits are still outstanding then,
- 22 are they not?
- 23 **A.** When you say "those permits," I just spoke of
- 24 a single permit.
- 25 **Q.** The Limber-to-Terminal permit?

27

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

- 1 future Limber site to Oquirrh will be constructed at
- 2 345 and continuously operated at 345. So there's a
- 3 staging in there.
- 4 **Q.** Now, the substation, though, at Limber is
- 5 scheduled to be built at some future date, after the
- 6 line is in service?
- 7 **A.** For the 500-kV station, that is correct, a
- 8 future date. Local load growth in the Tooele County
- 9 area may cause the local -- that would be a 138-kV --
- 10 345-kV station to be built there sooner than that.
- 11 **Q.** And that would be built at the same --
- 12 **A.** It's very similar to Clover.
- 13 **Q.** Same site as the 500-kV future substation?
- 14 **A.** That's correct. It's an integral part of the
- 15 system, yes.
- 16 **Q.** And then the -- and that you indicate might
- 17 get built earlier, depending on load growth in the
- 18 Tooele area?
- 19 **A.** That is, that is correct.
- 20 **Q.** Now, the line, though, from Limber to
- 21 Terminal is a scheduled 345-kV line?
- 22 **A.** That's correct, it is.
- 23 **Q.** Now, this testimony indicates it has no
- 24 in-service date, planned in-service date currently; is
- 25 that correct?

26

Kelly L. Wilburn, CSR, RPR
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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

- 1 **A.** Yeah, that's a single permit. That has not
- 2 been filed yet.
- 3 **Q.** Who would that permit be from?
- 4 **A.** It would be from Tooele County.
- 5 **Q.** Would there also be one required from Salt
- 6 Lake County?
- 7 **A.** I would have to defer on -- to my colleague,
- 8 Brandon Smith's testimony. I believe that there is
- 9 one for Tooele County -- or excuse me, for Salt Lake
- 10 County. Because the County line's there, yes.
- 11 **Q.** So when you indicated there's only one permit
- 12 outstanding you were sort of putting this future line
- 13 aside because it's so far off in the future?
- 14 **A.** Yes, I was not referring to the
- 15 Limber-Terminal line. And the reason that we've not
- 16 filed for permits -- conditional use permits on that
- 17 segment is we were informed by the people that would
- 18 issue those permits, in discussions, that they have a
- 19 statute of expiration. I'm not sure the duration of
- 20 that. I think it's around two years. That's my
- 21 estimate, subject to check.
- 22 **A.** And that it wouldn't be prudent to file for
- 23 those if we didn't have a two-year in-service-date
- 24 window. So we have intentionally not filed, at the
- 25 recommendation of those counties and cities, for the

28

Kelly L. Wilburn, CSR, RPR
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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Limber-to-Terminal piece.
 2 **Q.** But you understand it's, actually it's the
 3 unknown nature of the in-service date for the
 4 Limber-to-Terminal piece of the transmission line that
 5 drove the Division's recommendation to say you need to
 6 come back in and provide information dealing with that
 7 facility. Do you understand that?
 8 **A.** I do, yeah. And we've agreed to come back
 9 with more refreshed information in a period of five
 10 years or so and update you on our status for that. We
 11 do review our projects. This Gateway project
 12 annually. We're required to do that by the FERC
 13 statutes. So annually we will refresh and we'll be
 14 glad to provide that.
 15 **Q.** Now, the Facility Review Board decision, if
 16 they affirm your proposed route then there's no
 17 problem, is there? In other words, then -- and if you
 18 rec -- you've suggested that you'd go ahead and -- and
 19 I'm not clear.
 20 You would go ahead and begin construction
 21 on -- or bidding on certain parts of the project upon
 22 the decision by the Facilities Review Board. And --
 23 suggesting that the certificate not be conditioned
 24 upon waiting for the -- additional time for Tooele to
 25 act, or the record of decision from the BLM to act; is

29

Kelly L. Wilburn, CSR, RPR
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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 what their decision will be, but it could change the
 2 project. Once we have that decision, then we can move
 3 ahead on a risk-adjusted basis on what our next steps
 4 would be.
 5 **Q.** So -- but would the -- is your proposal that
 6 the certificate be issued regardless of what the
 7 decision is from the Facilities Review Board? Or that
 8 you file some type of report as to how it affects this
 9 project?
 10 **A.** Well, I think we would, we would want the
 11 certificate issued with the decision from the, from
 12 the Review Board, whatever that, whatever that might
 13 be. And any updates to the project we would, we would
 14 bring forward at this part of the certificate, if
 15 there's changes that might affect schedule or things
 16 like that.
 17 **Q.** Couldn't it materially affect, as I
 18 understand it, if the route of the transmission line
 19 that is proposed by Rocky Mountain Power is not
 20 accepted and an alternative route is -- I'm not sure
 21 if an alternative route would even be selected -- but
 22 it might affect the viability of the project
 23 altogether?
 24 **A.** The Board has the authority to pick something
 25 other than the route that the Company has requested.

31

Kelly L. Wilburn, CSR, RPR
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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 that right?
 2 **A.** That's correct. We would -- we do not want
 3 the certificate conditioned on the record of decision,
 4 nor Tooele County's permit issuance, that's correct.
 5 And to further answer your question, with the
 6 certificate in hand, Rocky Mountain Power would feel
 7 more comfortable proceeding with the next steps on
 8 this project. Which include centerline staking,
 9 design, preparing bid packages, and those types of
 10 activities.
 11 Without a certificate of need I think that is
 12 probably something that puts a lot more risk on our
 13 project should we move ahead without that.
 14 **Q.** When do the -- will the bid packages that
 15 you'll be sending out be for the entire project or
 16 only for the -- this Mona-to-Oquirrh transmission
 17 line?
 18 **A.** It would be just for the Mona-Oquirrh
 19 transmission line. So that's Mona, to the proposed
 20 future Limber site, to Oquirrh. That's the first
 21 stage that we're talking about here by 2013.
 22 **Q.** Now, the record -- the decision from the
 23 Facilities Review Board could materially change the
 24 entire scope of the project, could it not?
 25 **A.** I suppose it could. We'll see. I don't know

30

Kelly L. Wilburn, CSR, RPR
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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 And if they chose to do that, that could impact the
 2 project overall, yes. And I stated that in the, in
 3 the Review Board testimony that I provided.
 4 **Q.** So would it make sense to evaluate the
 5 certificate after the decision has come out, rather
 6 than just being an automatic issuance of the
 7 certificate regardless of what the decision is?
 8 **A.** No, I don't believe that's a necessary step
 9 that we have to take. We can, we can get the
 10 certificate and look at the decision, and then decide
 11 how to move forward with our project.
 12 **Q.** Do you have your exhibit, it's in your direct
 13 testimony, it's DTG-2?
 14 **A.** I believe I do here. Just bear with me for a
 15 moment.
 16 MR. SMITH: Is this the -- from the IRP?
 17 MR. GINSBERG: Yeah, the IRP stuff.
 18 THE WITNESS: Yes, that I have in front of
 19 me, Mr. Ginsberg.
 20 **Q.** (By Mr. Ginsberg) Now, in your direct
 21 testimony you indicated that this project has gone
 22 through the IRP process; is that right?
 23 **A.** It is an integral part of our IRP process,
 24 yes.
 25 **Q.** Now, when I look at the action plan that is

32

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

- 1 included in the 2008 IRP. Do you have that in front
2 of you?
3 **A.** Yeah. I'd like to make sure I'm on the same
4 page. If you could give me a page number, I want to
5 make sure I'm with you on that.
6 **Q.** Sure. Why don't we go to page 258.
7 **A.** I have it here in front of me.
8 **Q.** And when I look down at the bottom, the last
9 one is the Mona-to-Oquirrh transmission line that
10 we've been just talking about.
11 **A.** That is correct. I see it here.
12 **Q.** Now, if we go over to the next page it lists
13 the other possibilities that will be occurring in the
14 future; is that right? The other proposed portions of
15 the Gateway project?
16 **A.** That is correct.
17 **Q.** And how far out in the future do the action
18 plans evaluate?
19 **A.** Our action plans for this case went out
20 approximately ten years.
21 **Q.** And --
22 **A.** Our IRP is published for ten years.
23 **Q.** And the Mona-to -- the Limber-to-Terminal
24 portion of the line is not included in this action
25 plan, is it?

33

Kelly L. Wilburn, CSR, RPR
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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

- 1 doesn't have to read it? Just -- do you all have that
2 in front of you? Okay.
3 **Q.** (By Mr. Ginsberg) That basically says that
4 you're gonna reevaluate these segments to ensure that
5 they're still justified; is that right?
6 **A.** That's correct. That's how I would read
7 that.
8 **Q.** And you'll look at alternatives to these
9 segments could be deferred or not constructed if not
10 warranted?
11 **A.** That would be prudent for us to do regularly.
12 Review our plans to make sure they still meet our
13 customers' needs, yes.
14 **Q.** And what is -- when you put a segment into
15 the IRP planning process, what is the -- what does
16 it -- it evaluates whether that portion of the
17 proposed transmission line that we just discussed
18 earlier should be built or not built, depending on
19 evaluation with other alternatives that may be out
20 there; is that a fair statement?
21 **A.** I think that's a fair statement. Let me
22 clarify just a little bit. The transmission into our
23 Integrated Resource Plan is used to evaluate options
24 for new resource -- for new resources for our
25 customers.

35

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

- 1 **A.** It is not.
2 **Q.** If you turn to page 280. Again, here it is
3 with a descriptive of the proposed transmission line.
4 You see Mona to Limber to Oquirrh? Segment C?
5 **A.** Yes.
6 **Q.** And it also now includes the
7 Oquirrh-to-Terminal portion of the line, which is not
8 portion -- part of the certificate; is that right?
9 **A.** That is correct.
10 **Q.** But it is a line you're currently building?
11 **A.** It's not under construction. It's currently
12 planned to be built.
13 **Q.** And again, the Limber-to-Terminal portion of
14 the line is not discussed at all in this -- in the
15 IRP, is it?
16 **A.** I don't believe we stated explicitly the
17 Limber-to-Terminal piece. Again, at the time it was
18 outside of, outside of the construction period of
19 2019.
20 **Q.** Now, can you turn to page 66?
21 **A.** Sixty-six in the IRP?
22 **Q.** In that exhibit also, in that IRP exhibit.
23 **A.** I'm on page 66.
24 **Q.** Can you, can you read that last paragraph?
25 MR. GINSBERG: Or does everyone have it so he

34

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

- 1 Those can be, those can be purchases from
2 markets, liquid markets. They can be purchases from
3 existing -- our plants. Our own and others. And so
4 the transmission is a first in, if you will, input
5 into the Integrated Resource Plan. And from that we
6 determine the lowest-cost resources to serve
7 customers.
8 **Q.** So is it fair to say --
9 **A.** I believe that's what you just described to
10 me, if I heard you correctly.
11 **Q.** So is it fair to say then that the
12 Mona-to-Limber-to-Oquirrh piece and the Oquirrh-
13 to-Terminal piece have gone through that process?
14 **A.** They have.
15 **Q.** But the Limber-to-Terminal piece of the
16 transmission line has only gone through a very
17 high-level --
18 **A.** It was in the, it was in the Integrated
19 Resource Plan later than two thousand five -- 2019.
20 **Q.** Okay. So it hasn't actually gone through the
21 process that the action plan goes through?
22 **A.** The Limber-to-Terminal -- the
23 Limber-to-Terminal piece has been put in the
24 Integrated Resource Plan out -- at a time frame later
25 than 2019.

36

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 **Q.** But it doesn't appear in these
2 documentations?
3 **A.** That's correct. It's a ten-year, it's a
4 ten-year IRP resource picture.
5 **Q.** I did also --
6 **A.** And one other thing I'd like to point out, if
7 I may. Excuse me for interrupting you. This is a
8 2008 document. We have reviewed our action plans,
9 making them current with 2010. And our Integrated
10 Resource Plan was updated March 31st of this year with
11 a new action plan. So we continue to look at that.
12 **Q.** Is that the 2008 update?
13 **A.** It's the two thousand -- March 31, 2010,
14 update.
15 **Q.** Well, I actually have it here, so let me.
16 (Pause.)
17 MR. GINSBERG: Could I get these marked as
18 exhibits?
19 CHAIRMAN BOYER: Mr. Ginsberg, why don't we
20 start with Exhibit 2 at this point, inasmuch as
21 Dr. Zenger's --
22 MR. GINSBERG: Okay.
23 CHAIRMAN BOYER: -- direct testimony is 1.0
24 and her surrebuttal is 1.9-SR.
25 MR. GINSBERG: So if we could go ahead and

37

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DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 transmission, and a description of the Gateway
2 Transmission project?
3 **A.** Yes, I believe that's, I believe that's
4 correct.
5 **Q.** Now, in here, if we look at the first page of
6 DPU Exhibit 2. Again, the pieces that are included do
7 not include the Limber-to-Terminal transmission line;
8 is that fair?
9 **A.** It's not included in this action plan. It's
10 outside of 2019, I believe.
11 **Q.** How far outside is it?
12 **A.** Well, our, our in-service date for Limber to
13 Terminal was after 2019.
14 **Q.** So it's just an unknown date? That means it
15 could be 2025?
16 **A.** It could be. I think it's, it's pretty
17 inaccurate to try and forecast out that far. But our
18 analysis showed that we, we weren't going to include
19 it until after 2019.
20 **Q.** And if we look at the verbal description
21 again on page 2 of the -- what's been marked as DPU
22 Exhibit 3. On Energy Gateway Segment it shows the
23 changed in-service dates that have taken place
24 between, between the original IRP and the update. And
25 again, it does not include this Limber-to-Terminal

39

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DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 mark the 2008 IRP Update and Action Plan, want to mark
2 that as 2. And then the verbal description --
3 MR. SMITH: Now, I only received the --
4 MR. GINSBERG: Oh, did I?
5 MR. SMITH: We only got the first of those.
6 MR. GINSBERG: Oh, sorry.
7 MR. SMITH: Did you get this -- the second
8 one, Mr. --
9 THE WITNESS: I have two.
10 MR. SMITH: Okay.
11 THE WITNESS: I'm not sure which one we're
12 missing here, but I have --
13 MR. GINSBERG: You have them both. He didn't
14 have them.
15 THE WITNESS: Okay. Thank you for that.
16 MR. GINSBERG: And then the verbal
17 description of the Energy Gateway Transmission project
18 as 3, if that's -- if we could.
19 (Exhibit Nos. DPU-2 and DPU-3 were marked for
20 identification.)
21 **Q.** (By Mr. Ginsberg) Do you have what's been
22 marked as DPU Exhibit 2 and 3 in front of you?
23 **A.** Yes, I do.
24 **Q.** And these are updates -- what you've referred
25 to as the March 31st IRP Update of the action plan on

38

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 piece at all.
2 **A.** That is correct.
3 **Q.** And am I --
4 **A.** Are you referring to Table 2.2, please?
5 **Q.** Yes, sir.
6 **A.** Okay. Wanted to make sure I was looking at
7 the same thing you are.
8 **Q.** Yeah. And with -- you know, as you
9 indicated, you can't get a permit for the
10 Limber-to-Terminal portion of the transmission line.
11 Why would the Commission issue a certificate with that
12 much uncertainty surrounding an in-service date of a
13 major investment like that, that may not be built for
14 10 years or 15 years?
15 In other words, why, why should the -- why
16 does that make sense?
17 **A.** Well, I think for, for me it makes sense in
18 that that part of this -- that part of the system,
19 that line from Limber to Terminal, again, is an
20 integral part of the electric plan that we have.
21 I do agree that it's not as near term or as
22 urgent as Mona-Oquirrh. But I think it's, it should
23 be seen as clearly a part of our electrical grid that
24 we need going forward, for the same reasons that
25 Gateway South is listed in here as 2019.

40

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Without it -- without Gateway South we have
2 an incomplete picture of what our Company plans to do,
3 or what our customers might need in the future. So
4 similar to that.

5 Q. But you're not asking for your certificate
6 for Gateway South at this point, even though it's
7 planned to be built before Limber to Terminal?

8 A. Yeah. That will come, however, with the
9 project timing. We are underway with our
10 environmental work and our permitting for, for the
11 Gateway South project and the Gateway West project.
12 So those, those will come in due order.

13 Q. So what is your concern, then, about if the
14 Limber-to-Terminal piece is not built, that -- isn't
15 built until the 2020 time period, that when you come
16 in for that Gateway South project after 2015, which is
17 the Division's recommendation, you include the
18 Limber-to-Terminal piece of that transmission line for
19 a certificate at that time, rather than you all just
20 filing a report with the -- which is your
21 recommendation.

22 A. Well, my con --

23 Q. What's the problem with doing that?

24 A. Well, I don't think there's any problem
25 exactly with doing it later. My concern, and our

41

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 piece of the Gateway project?

2 A. For Gateway Central, yes.

3 Q. Yeah. And scheduled after Gateway South is
4 built, and after Gateway West is built, and other --

5 A. It's --

6 Q. -- other portions of Gateway. So your
7 current projections for the need for the
8 Limber-to-Terminal piece are outside of your planning
9 horizons at all currently?

10 A. Well, I think I'll correct that a little bit.
11 This Limber-to-Terminal piece is scheduled after
12 Gateway West, to your question.

13 Q. Right.

14 A. And about the same time as Gateway South. In
15 and around 2019. Or right after Gateway South.

16 Q. Okay.

17 MR. GINSBERG: Could I have admitted that
18 DPU-2 and 3?

19 CHAIRMAN BOYER: Are there any objections to
20 the admission of Exhibits -- DPU Exhibits 2 and 3?

21 MR. SMITH: No objection.

22 CHAIRMAN BOYER: They are admitted.

23 (Exhibit Nos. DPU-2 and DPU-3 were admitted.)

24 MR. GINSBERG: Can I take just a moment?

25 CHAIRMAN BOYER: You may.

43

Kelly L. Wilburn, CSR, RPR
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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Company's concern, is that we may have to build Limber
2 to Terminal sooner. Again, it will be driven by load
3 growth and economic development.

4 Even though it's right outside of, or just,
5 just a little later than our ten-year window, our
6 concern is having to build it sooner than not later.
7 We want to be prepared to do that.

8 And I would cite the case where -- we've had
9 at least one project that I'm aware of in Tooele
10 County where we've been unable to serve new customers,
11 actually declined service at this point, because we
12 don't have the electrical facilities to do that.

13 And usually when these large customers come
14 in, they want service yesterday. So I believe the
15 benefits that I'm trying to communicate here is it
16 puts our Company in a, I think a good position to be
17 able to move forward on this project if our time frame
18 changes.

19 Moving things later can happen and does
20 happen. Also, we have things that come sooner than we
21 expect. And that is my concern. Our Company's
22 concern.

23 Q. But as of right now, the Company's current
24 projections of the need for projects, the
25 Limber-to-Terminal piece, it looks like it's the last

42

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DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 (Pause.)

2 MR. GINSBERG: Thank you, Mr. Gerrard.

3 That's all the questions I have.

4 CHAIRMAN BOYER: Thank you, Mr. Ginsberg.

5 Let's turn now to the Commissioners.

6 Commissioner Allen, have you questions for
7 Mr. Gerrard?

8 COMMISSIONER ALLEN: No.

9 CHAIRMAN BOYER: Commissioner Campbell?

10 COMMISSIONER CAMPBELL: I have just one. And
11 it goes along the line with the questions related to
12 Limber to Terminal, and it has to do with the Clover
13 substation. I heard here today that, that the Clover
14 substation was related to the Gateway South project.

15 And so I guess my question is, why would that
16 not be included in your CPCN for Gateway South? Why
17 is Clover part of this CPCN?

18 THE WITNESS: The, the reason it's included
19 in here is the high-voltage portion of the Clover
20 substation is the southern terminal of Mona-Oquirrh
21 when it's completed.

22 So, so we will be building -- for clarity,
23 Clover substation will ultimately have 500 kV, 345 kV,
24 and 138 kV. And Gate -- when Gateway South comes in
25 it will be -- have to operate at 500 kV, as would

44

Kelly L. Wilburn, CSR, RPR
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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Mona-Oquirrh.
 2 So it's the southern terminal of this project
 3 in its final state.
 4 COMMISSIONER CAMPBELL: Do you see the need
 5 to build it before Gateway South is built?
 6 THE WITNESS: We see a need to build a
 7 portion of Clover before Gateway South -- this would
 8 be the 345-to-138-kV portion -- for local transmission
 9 service into and around Cedar City.
 10 We're looking at our reliability, and as I
 11 mentioned, we look at our load growth forecasts
 12 annually to see what the demands are doing and the
 13 forecasts are doing. And we have indications,
 14 Mr. Campbell, that Clover is going to be needed sooner
 15 than Gateway South at this point.
 16 CHAIRMAN BOYER: Couple of questions,
 17 Mr. Gerrard.
 18 THE WITNESS: Certainly.
 19 CHAIRMAN BOYER: Sort of following on the
 20 same line that Commissioner Campbell was asking. By
 21 stating that the Limber-to-Terminal segment is
 22 forecast to be built sometime after 2019, isn't -- and
 23 the issue of whether or when is still a little bit
 24 uncertain, isn't that sort of a tacit admission that
 25 you don't currently know that it's necessary and

45

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 generally, based on your experience, what, what is
 2 happening to the cost of commodities, concrete, steel,
 3 those sorts of things that will be necessary for these
 4 transmission projects?
 5 THE WITNESS: In dealing with our project
 6 team we've actually seen a lowering of costs the last
 7 couple of years. Actually, since Populus-Terminal was
 8 bid we've seen a softening some of concrete prices,
 9 and steel prices, and even aluminum conductor prices.
 10 We, we hedge those in our bids to try and
 11 make sure we've got our exposure cap there. But they
 12 have softened some. And I think the reason for that
 13 of course -- my own opinion is, of course, the
 14 economy.
 15 At the time, two years ago, there were quite
 16 a number of projects being proposed that have been
 17 slowed down a little bit, particularly in California.
 18 So to answer your question directly, I think the
 19 prices have softened a little bit.
 20 The other thing that helps us with our cost
 21 control, again -- and I mentioned it earlier -- is
 22 being able to put a construction bid and an EPC bid,
 23 as we call it, out there. And let the, let the
 24 constructor or the contractor give us the best terms
 25 for him as far as construction and delivery of

47

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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 convenient?
 2 THE WITNESS: I can't --
 3 CHAIRMAN BOYER: May or may not be?
 4 THE WITNESS: I think in the -- my answer to
 5 that is that I don't see that it's needed, in my
 6 professional opinion, before 2019 with the data that I
 7 have. Again, that, that could change with load growth
 8 patterns and such. So I've forecasted as accurately
 9 as I know how to do.
 10 CHAIRMAN BOYER: Okay. And then by adding --
 11 in your rebuttal testimony adding the Clover
 12 substation, and I suppose this Limber-to-Terminal
 13 portion, increased the cost from 450 million to a
 14 billion dollars, more or less. Have those increased
 15 numbers been run through the -- your IRP models to
 16 make sure that it still makes economic sense at those
 17 increased costs?
 18 THE WITNESS: The -- let me think about that
 19 for a minute.
 20 Those numbers were included in our 2010
 21 business plan update for Gateway. So they should be
 22 in our IRP update.
 23 CHAIRMAN BOYER: Okay, thank you. Costs
 24 aren't really an issue. Prudence isn't an issue in
 25 this particular hearing. But can you just tell me

46

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 materials.
 2 So that has a big impact on the commodity
 3 prices, is how much pressure we're putting on them to,
 4 to get it done. So that also is a, is a big factor in
 5 the cost, is the time frame we allow them to have.
 6 CHAIRMAN BOYER: The reduction in commodity
 7 costs, can you give me a range in terms of
 8 percentages, 1, 2, 5, 10 percent?
 9 THE WITNESS: Boy, I, Chairman, I wouldn't
 10 want to speculate on that now at this point. I --
 11 subject to check, I could get that information.
 12 CHAIRMAN BOYER: It's not relevant to this
 13 issue, I was just curious.
 14 THE WITNESS: It's a good question, however.
 15 CHAIRMAN BOYER: And a last, a last question.
 16 As I understand the Company's position is that they
 17 wish us to issue the Certificate of Convenience and
 18 Necessity, but you don't mind it being conditioned for
 19 the Tooele County segment that's still at issue before
 20 the Facilities Study and Review Board. But you want
 21 the rest to be absolute and effective immediately so
 22 that you can begin construction; is that correct?
 23 THE WITNESS: That's correct.
 24 CHAIRMAN BOYER: Does it make sense, I mean,
 25 are there portions of that, that transmission line,

48

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 but for the Tooele segment, that you can build, not
2 knowing exactly where they might be? For example,
3 where Limber might be?
4 THE WITNESS: Certainly. I think up and --
5 up to the Tooele, Tooele County line we have a pretty
6 good idea where -- we have a very good idea where the
7 line route's gonna be.

8 CHAIRMAN BOYER: Regardless of what
9 happens --

10 THE WITNESS: Yeah. I think --

11 CHAIRMAN BOYER: -- from the Tooele County
12 line north?

13 THE WITNESS: Yeah, I think that's the,
14 that's the case, yes.

15 CHAIRMAN BOYER: And so you wouldn't be
16 aligning it differently if there were a different
17 result from the Facilities Review Board?

18 THE WITNESS: If we -- depending on the
19 decision from the Facilities Review Board, we may --
20 depending on that -- what that decision tells us, we
21 may build some options in our contract to allow for
22 route variances as we go forward at the, at the county
23 line.

24 That may be prudent. We have to look and see
25 what that is. But that would be something we would

49

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 com -- we don't want any surprises on that.

2 Q. One other question, and that goes to
3 Mr. Ginsberg asked you some questions about -- that
4 again went to the fact that Limber-to-Terminal wasn't
5 in the current IRP documents that have been provided.

6 Talk, if you would, about -- you talked about
7 how this is an interrelated project. And the reason
8 that you sought certification for all these pieces is
9 the interrelationship there. Could you explain how
10 they are interrelated in an operational sense?

11 A. Yeah, briefly, I -- let me do that briefly.
12 The Limber-to-Terminal piece provides a number of
13 benefits to the electric system. And one is that it,
14 it ties Mona into Terminal strongly.

15 In doing that it also provides backup
16 capability between our Terminal substations, and our
17 Oquirrh substations, and our Camp Williams
18 substations. So it, it provides a transmission backup
19 capability or redundancy through the Valley.

20 The other thing the project does when it
21 connects Limber-to-Terminal -- a very important
22 piece -- is that's also a backup for our lines from
23 Terminal-to-Ben Lomond that we just finished.

24 And so in the event we have system
25 disturbances or parts of our system out between Ben

51

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 strongly consider.

2 CHAIRMAN BOYER: Okay, thank you.

3 THE WITNESS: If it didn't follow our
4 preferred route.

5 CHAIRMAN BOYER: Thank you, Mr. Gerrard.
6 Redirect, Mr. Smith?

7 MR. SMITH: Yeah, just a couple.

8 REDIRECT EXAMINATION

9 BY MR. SMITH:

10 Q. A few minutes ago Chairman Boyer asked you a
11 question about the fact that -- and if -- I hope I get
12 this right. The fact that Limber-to-Terminal is
13 outside of the -- your current planning period
14 indicates that there's no current need.

15 What's your view in terms of the future need?
16 In other words, in terms of are you confident that the
17 Limber-to-Terminal piece is going to be necessary in
18 the future? Is there any doubt in your mind on that?

19 A. No, there's not. It's just a matter of
20 timing. It will be needed in this Valley. And I
21 think it would be imprudent for the Company to not
22 have shown our total plan, and what our intentions
23 are, and what our needs are in that regard so people
24 can plan. Whether it's state, federal, local. They
25 can see what our, what our plans are, and they're

50

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Lomond and Terminal, now north of the airport, we now
2 have a strong tie to Terminal, right in the heart of
3 the Valley, clear to Mona. That provides redundancy
4 and backup. So it's serving several different
5 integrated functions, as well as serving customer load
6 on peak demand.

7 Q. And isn't --

8 A. As do all of our interconnected transmission
9 lines.

10 (There was an interruption in the
11 proceedings.)

12 (A recess was taken from 10:10 to 10:18 a.m.)

13 CHAIRMAN BOYER: Okay, let's go back on the
14 record. And I apologize, we interrupted you in
15 mid-question, Mr. Smith. So maybe --

16 MR. SMITH: I have, I have no clue even where
17 it was, so I'm gonna -- I'll ask it differently.

18 CHAIRMAN BOYER: Maybe just start all over
19 again.

20 Q. (By Mr. Smith) Mr. Gerrard, during the break
21 were you able to get some clarification in terms of
22 what the Company has done in Tooele County with regard
23 to permitting for the Limber-to-Terminal segment, and
24 then also the status of Salt Lake County?

25 A. Yes, I did. I visited with our permitting

52

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 folks who were in the room during the break. And in
2 regards to the project we did submit a permit
3 application to Tooele County for the full project,
4 including the Limber-to-Terminal piece of the project.
5 And at that time we were told that those had
6 a statute of expiration or a period of expiration, and
7 that it was too early to seek those. So we did put --
8 we did apply for those permits through Tooele County,
9 and suggested that we would come back later -- a later
10 date for the Limber-Terminal piece.

11 Second, I was also able to clarify for the
12 Commission that -- or the Division that we don't -- we
13 do not need a permit from Salt Lake County for, for
14 either of the projects, Limber -- Limber to Terminal
15 or Limber to Oquirrh. Is that -- that was your
16 question?

17 **Q.** Yes. One question, and I think this may have
18 been clarified, but let's, let's -- this relates to
19 the two substations in question, Clover and Limber.
20 And I believe you've indicated that the plans call for
21 their full completion at some time in the future that
22 isn't presently really pinned down.

23 What about portions of it? Will, will
24 portions of those substations be built in the interim
25 with some degree of certainty?

53

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 believe having that certificate for this project in
2 its entirety reduces risk to the project. It gives
3 our Company better certainty.
4 We can, we can anchor this project so that we
5 have a robust plan, if you will, going forward. And
6 reduced risks and certainty, in my experience,
7 translates to lower costs for our Company and our
8 customers.

9 We don't have to plan for more unexpected
10 things. So I think there's a, there's a significant
11 benefit to having this in hand, and knowing what our
12 plan is going forward, and everybody can see that.

13 Also, I mentioned that we have no -- Rocky
14 Mountain Power has no issues or problems with updating
15 the Division or the Commission with our progress as we
16 go forward. It's prudent that we review our plans
17 going forward and make sure they're still correct and
18 the timing is right.

19 That's what we're talking about, is timing.
20 So we have no issue in coming back and sharing our
21 plans.

22 **Q.** Is the concern really that the Company would
23 rather have a procedure that requires it to come back,
24 as opposed to one that would allow the certificate to
25 just simply lapse?

55

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 **A.** Yeah, the question on Limber substation and
2 Mona -- and I think Commissioner Campbell asked a
3 similar question. Both the stations at Limber and at
4 Mona will have multiple voltages, multiple
5 transformations. In other words, they're staged
6 500 kV, 345, and 138 kV. And all of that will not be
7 built at the same time.

8 We've staged this project I think in an
9 excellent way, where we build just what we need at the
10 time so we don't incur costs sooner. But I fully
11 expect that Limber and Clover will need to be
12 constructed with the lower voltages in place first,
13 and then the 500-kV size portions of the station in
14 the time frames that are in the IRP, in the IRP
15 exhibits that were handed out by Mr. Ginsberg.

16 **Q.** Okay. And now one final question. It goes
17 to the need for a CPCN -- or the Company's need for a
18 CPCN for the Limber-to-Terminal piece. Could you
19 address, just in general terms, why the Company deems
20 it important that it get a certificate, even if it's
21 subject to the Company providing updated information
22 and further review? Why it's important that it
23 receive the CPCN at this point in time?

24 **A.** Yes, certainly. I think -- I covered this a
25 little bit, but maybe I'll expand it a little bit. I

54

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 **A.** Yeah. I think just, just letting it maybe
2 terminate as a sunset is not the best approach. I
3 think we should dialogue about whether it goes away or
4 not as a utility and as a Division.

5 **MR. SMITH:** Thank you. That concludes our
6 redirect.

7 **MR. GINSBERG:** I just have one or two
8 questions, if I could.

9 **CHAIRMAN BOYER:** Well, at some point we have
10 to cut it off. But go ahead, Mr. Ginsberg.

11 **MR. GINSBERG:** It's related to the -- that's
12 all right. I'll pass.

13 **CHAIRMAN BOYER:** Okay. Thank you,
14 Mr. Gerrard, you may step down.

15 Let's hear now from Dr. Zenger.

16 **THE WITNESS:** Thank you.

17 **MR. SMITH:** I did offer his testimony, didn't
18 I?

19 **MR. GINSBERG:** I'm not sure.

20 **CHAIRMAN BOYER:** Actually, you did not.

21 **MR. SMITH:** Well, let me --

22 **CHAIRMAN BOYER:** This would be a good time to
23 do that.

24 **MR. SMITH:** Yes. Let me offer the direct
25 testimony, which is RMP-2, and then the exhibits are

56

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 RMP-2.1 through 2.6. And then R -- his rebuttal is
2 RMP-3, with Exhibits 3.1 through 3.4. Offer those
3 into evidence.

4 CHAIRMAN BOYER: Thank you.

5 Are there objections to the admission of
6 Mr. Gerrard's direct and rebuttal?

7 MR. GINSBERG: No.

8 CHAIRMAN BOYER: They are admitted, together
9 with exhibits.

10 MR. SMITH: Thank you.

11 (Exhibit Nos. RMP-2, RMP-2.1 through RMP-2.6,
12 RMP-3, and RMP-3.1 through 3.4 were admitted.)

13 CHAIRMAN BOYER: Ms. Zenger, let's swear you
14 in.

15 (Dr. Zenger was sworn.)

16 CHAIRMAN BOYER: Thank you, please be seated.

17 JONI S. ZENGER, Ph.D.,

18 called as a witness, having been duly sworn,
19 was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. GINSBERG:

22 Q. All set? Would you state your name for the
23 record?

24 A. Joni S. Zenger.

25 Q. And you have filed testimony in this

57

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Q. (By Mr. Ginsberg) Can you provide a summary
2 of your testimony, and any additional comments you
3 want to make in response to the comments of
4 Mr. Gerrard made with respect to your recommendations?

5 A. Yes, thank you. In my direct testimony that
6 was filed on March 30, 2010, I presented the
7 Division's analysis supporting the need for the
8 proposed CPCN.

9 The Division determined that the construction
10 of the transmission and its associated facilities
11 meets the statutory public convenience and necessity
12 requirement, is in the public interest, and it will
13 benefit Utah ratepayers.

14 The Division recommends the Commission grant
15 the CPN for a period of five years, conditioned on the
16 Company acquiring all necessary and required permits.
17 The Division determined that the Company needs to
18 report to the Commission once all permits that have --
19 that are required have been obtained.

20 In light of the pending outcome of the
21 petition before the Utility Facility Review Board on
22 the siting in Docket 10-035-39 the Division recommends
23 that the CPCN not be granted until the matter has been
24 resolved. And that the Company needs to report to the
25 Commission any changes to the current CPCN application

59

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 proceeding, both direct and rebuttal; is that correct?

2 A. Correct.

3 Q. And the direct testimony has been marked as
4 DPU Exhibit 1, with Exhibit 1.1 through 1.5. And your
5 rebuttal testimony was marked as DPU Exhibit 1.9-SR,
6 is that?

7 A. One-point-zero-SR.

8 Q. One-point-zero-SR? And do you have any
9 corrections to make to any of those?

10 A. No.

11 Q. Any of those exhibits? Or testimony?

12 A. No.

13 Q. Okay. And if those questions were asked to
14 you today, that would be the answers you would give?

15 A. Yes.

16 MR. GINSBERG: With that I'd ask that her
17 premarked testimony, DPU Exhibit 1, and 1.1-SR, and
18 the accompanying exhibits be admitted.

19 CHAIRMAN BOYER: Any objection to the
20 admission of Dr. Zenger's direct and surrebuttal
21 testimony?

22 MR. SMITH: No objection.

23 CHAIRMAN BOYER: They are admitted.
24 (Exhibit Nos. DPU-1.0 through 1.5 and
25 DPU-1.9SR were admitted.)

58

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 based on the results of that proceeding.

2 Mr. Gerrard clarifies in his rebuttal
3 testimony the costs of the project and the uncertainty
4 surrounding the in-service dates of portions of this
5 project. In the Company's originally-filed response
6 the project costs were estimated at around \$450
7 million.

8 In the supplemental response the project
9 costs were estimated at approximately \$1 billion. The
10 additional costs relate to portions of the project
11 that are not scheduled to be completed at the same
12 time as the transmission line for Mona to Limber to
13 Oquirrh.

14 Those portions of the project included in the
15 additional costs identified by Mr. Gerrard have very
16 uncertain in-service dates. In fact the
17 Limber-to-Terminal transmission line has no in-service
18 date, and was not included in planned transmission in
19 the 2008 IRP or the 2008 IRP update.

20 Due to uncertainties surrounding portions of
21 this project the Division determined to add in
22 surrebuttal, which was filed on May 18th, that
23 requests that the Commission limit the duration of the
24 proposed CPCN to five years.

25 If portions of the project have not been

60

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 constructed within five years of the date of the
2 issuance of the CPCN, the Division believes the
3 Company needs to reapply for another certificate and
4 show that public convenience and necessity still
5 exists.

6 The only remaining issues before the
7 Commission with respect to the CPCN are the reporting
8 requirements that I have just described, the timing of
9 the project, and the need for the Company to file
10 usage information in future CPCN applications as well
11 as cost recovery cases.

12 Now, the Company announced its \$6 billion
13 Energy Gateway Transmission project in 2007. The
14 Company's 2008 IRP contains an entire separate
15 chapter, which is Chapter 10, that outlines the
16 Company's transmission expansion plan.

17 The Company is planning on building
18 approximately 2,000 miles of transmission lines in its
19 jurisdictional serving area, therefore we know that
20 the Company plans to build a substantial amount of
21 transmission facilities in the coming years.

22 For a transmission line it's necessary for
23 the Commission and parties to have information as to
24 where the electricity will go and who will or will not
25 use it. Where it is known that certain kinds of

61

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 County CUP has a limit of two years, we feel that
2 five years is very reasonable. And there's need -- if
3 in five years that this line is not built, a new CPCN
4 should be filed.

5 There may other parties that want to
6 intervene in the docket. There may be new
7 environmental standards. The load and growth needs
8 may have varied dramatically. And things change a
9 lot.

10 And so therefore, in order to actually
11 determine whether present or future public convenience
12 and necessity does require construction of new
13 facilities, the Division believes that a full CPCN
14 filing should be made in five years, or ten, whenever
15 that date becomes known.

16 The next issue that I will bring up is an
17 issue that the Division agrees with Mr. Gerrard's
18 proposal, in that we know that the BLM has been
19 working for years and years on the NEPA process to
20 come up with the Draft Environmental Statement and
21 Final Environmental Statement, and in the fall, the
22 Record of Decision.

23 And so the Division does not want it to hold
24 the Company back from its plans, and realizes that
25 they need to obtain EPC contracts and get construction

63

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 information will be needed by the regulators to make a
2 decision, that information should be provided up
3 front.

4 The Division believes that it is entirely
5 appropriate for the Commission to require the Company
6 to provide such information in future cases. The
7 information we request is the planned usage of the
8 transmission line between retail, and in-state, and
9 out-of-state wholesale customer groups.

10 This information is necessary to determine
11 the overall projected need for a line or -- of a given
12 capacity, as well as to determine whether there exists
13 public convenience and necessity for Utah for that
14 line.

15 Now, the remainder of my comments are -- I
16 would like to address points that Mr. Gerrard brought
17 up today on the stand here. The Division does not
18 agree with the Company's proposal to provide a letter
19 in five years down the road or so whenever a project
20 is ready to begin construction or to be reevaluated.

21 We believe the statute is quite clear on the
22 Commission's ability to not grant a certif --
23 certificate if all permits are required, or to put
24 conditions on a certificate granting. The fact that
25 the local governments, Mr. Gerrard mentioned Tooele

62

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 contacts -- contracts in place. And so we believe
2 that the condition does not need to be granted on the
3 Record of Decision.

4 However, as I described in rebuttal
5 testimony, if something changes in the Record of
6 the Div -- of Decision we feel that immediately the
7 Company would need to notify the Commission and the
8 Division of any change.

9 The next topic I want to address from
10 Mr. Gerrard is the Energy Gateway Project as a whole.
11 I was one of the first people that began working on
12 this as part of the NTTG process, and was trying for
13 years and years to help get transmission built.

14 Other than the Populus-to-Terminal line we
15 haven't had significant transmission built in the
16 state for about 20 years. So we're in new stepping
17 grounds and we're finding out new things that may be
18 required or that we may need to look at. And one of
19 those is this Mona-to-Oquirrh line.

20 We -- through our analysis of this project we
21 determined that this was separate than the
22 Populus-to-Terminal CPCN, because in that case the
23 100 percent full -- all, all load from that
24 transmission line was going to serve network load
25 growth in Northern Utah and parts of Idaho. There

64

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 were no wholesale sales, no market purchases. It was
2 solely to serve load in Utah.

3 And now we're finding transmission lines have
4 multiple purposes. Reliability, which has been talked
5 about in the Facility Review Board hearing, is one of
6 the greater ones. But also to serve wholesale markets
7 and to serve set -- meet market sales outside of Utah.

8 So we're learning that these -- this type of
9 information is necessary. And that's why in my
10 rebuttal testimony I emphasize the need that the
11 Company needs to provide when -- during a CPCN
12 application. And also in -- if there's, if there's a
13 single-item rate case, like the Ben Lomond case or the
14 one coming up in August? There's not a lot of time
15 for discovery in those.

16 And so we already know up front, the
17 regulators know that we're gonna be looking at this
18 information: Who's using the line, where it's --
19 where is it going to, and who's using it? And so this
20 reporting requirement we think is very prescient. And
21 we would hope the Commissioners would agree and
22 require that.

23 And it appears the Company's is in agreement
24 with us on the other reporting requirements that you
25 all read in the testimony, so I won't reiterate those

65

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 knows.

2 THE WITNESS: No. I, I am aware that that's
3 not specifically stated. But there is language that
4 states that the Commission may make an order
5 declaring, upon application, certain conditions. And
6 designate the public utility to apply those conditions
7 for a certificate.

8 Q. (By Mr. Smith) But isn't that conditions --
9 in this case, related to this proposal, what you're
10 proposing are conditions that don't relate at all to
11 this case but would relate to other CPCN cases or a
12 cost recovery case. They're different cases, aren't
13 they, not the same?

14 A. Right. I'm, I'm talking about only in the
15 event that there's a CPCN filed for a transmission
16 project.

17 Q. But if -- the conditions that 54-4-25 allows
18 the Commission to place on a CPCN application relates
19 only to the CPCN that's before them, doesn't it?

20 MR. GINSBERG: I think you're asking for a
21 legal conclusion here.

22 THE WITNESS: I'll let, I'll let our
23 attorneys file that in their legal briefs.

24 MR. SMITH: Okay.

25 Q. (By Mr. Smith) Now, with regard to a

67

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 here. So that, that concludes my comments.

2 MR. GINSBERG: Okay. Dr. Zenger is available
3 for questions.

4 MR. SMITH: Okay.

5 CHAIRMAN BOYER: Cross examination,
6 Mr. Smith?

7 MR. SMITH: Yeah, I have a few questions.

8 CROSS EXAMINATION

9 BY MR. SMITH:

10 Q. Dr. Zenger, let's talk first about this
11 proposal of the Division that would require the
12 Company to file, in future CPCN cases and in future
13 cost recovery cases, this what I'll call "relative use
14 information."

15 A. Uh-huh.

16 Q. Do you acknowledge that there's nothing in
17 Section 54-4-25 that would require that part of the
18 CPCN filing?

19 A. I read that right before I came in. And --

20 MR. GINSBERG: I think you're asking her for
21 a legal conclusion about what the statute says.

22 MR. SMITH: Well, Dr. Zenger provided a lot
23 of the legal stuff. I'm just asking her if she was
24 aware that --

25 CHAIRMAN BOYER: We'll let her answer if she

66

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 mandated requirement that this type of information be
2 filed in a cost recovery proceeding, is it your
3 understanding that that would probably be a rate case?

4 A. It could be a single-item rate case as well,
5 with a shortened time frame.

6 Q. But aren't single-item rate cases typically
7 frowned on? And doesn't the Company typically ask for
8 cost recovery for new facilities in general rate
9 cases?

10 A. Well, gen -- yeah, in general in general rate
11 cases. However, the first two single-item rate cases
12 involved transmission lines. The one in February and
13 the one in August.

14 Q. Okay. Let me ask you this. Let's -- didn't
15 the Commission just go through a fairly lengthy
16 rulemaking process to set forth in rules what had to
17 be required in rate case filings? The so-called
18 Complete Filing Rule?

19 A. Yes. That was the big filing requirements
20 rule -- rulemaking procedure, yes.

21 Q. And that was a rulemaking proceeding that
22 allowed all potentially-affected parties to comment,
23 and then amendment, and so on, correct?

24 A. Correct.

25 Q. But you're proposing here that the Commission

68

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 in this docket impose filing requirements in other
2 cases, without going through the rulemaking process?
3 **A.** This, this is very narrow scope. We're
4 talking about just transmission line, transmission
5 projects. And it only applies to the Company. It had
6 not come to light until we actually had this case and
7 realized that, Wow, 100 percent of the, the use for
8 this line is not going to Native Utahans. So we, you
9 know, we weren't even aware of this issue at that
10 time.

11 **Q.** But you were able to determine the
12 information through discovery, were you not, and
13 obtain what you needed?

14 **A.** We were. We were. But like I say, it
15 took -- it takes two to three times and -- to get the
16 information, to ask the right question, and to get the
17 follow-up questions answered.

18 And I think if this information were
19 automatically provided with the CPCN for a
20 transmission project, when the -- when a single-item
21 rate case comes up the regulators would always --
22 already have it. Because you know it's something the
23 Board is gonna be looking at, and it would -- I think
24 it would streamline the process.

25 **Q.** Let's turn to another area if we could. Now,
69

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Division, whoever, could -- and the Commission or
2 other parties could look at that information. And
3 then based on that determine that, you know, enough
4 changes have taken place that a certificate proceeding
5 should then take place.

6 But if, after reviewing it, they determine
7 that things look okay, that the certificate is still
8 appropriate, in that case we wouldn't have to have a
9 proceeding. And I don't, I don't understand why that
10 proposal wouldn't work just as well, and avoid a
11 proceeding that might prove to be completely
12 unnecessary.

13 **A.** Well, now, now I can respond with a legal
14 question to you. I don't see that option anywhere in
15 54-4-25 to provide a letter down the road for, you
16 know, a major transmission project.

17 **Q.** Well, wouldn't it be one of those conditions
18 that the Commission could impose upon the CPCN?
19 You've indicated that the Commission can provide a
20 C -- or grant a CPCN subject to conditions.

21 And what I think Mr. Gerrard is suggesting is
22 one of those conditions would be that, say four
23 and-a-half years after the issuance of the CPCN, the
24 Company would be required to file with the Commission
25 and the Division a list of information.

71

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 as I read your testimony you have no qualms in stating
2 that the Mona-to-Oquirrh line is -- meets all of the
3 requirements statute that the need is fairly close and
4 that the certificate should be granted for that?

5 **A.** Yes.

6 **Q.** Now, what -- the Limber and Clover
7 substations, while I think Mr. Gerrard talked about
8 them not being completed in totality -- we don't know
9 the end date when they'll be completed in totality, do
10 you understand and agree that portions of those
11 substations will need to be built fairly quickly to
12 accommodate either the Mona-to-Oquirrh project or
13 others that will be coming shortly thereafter?

14 **A.** Yes.

15 **Q.** Okay. I'd like to talk to you about this
16 five-year proposal. That the CPCN lasts only five
17 years. And I'm trying to see why the Company's
18 proposal isn't reasonable.

19 What I believe the Company has proposed is
20 that the Commission, in its order in this case, could
21 set a date certain when the Company should file
22 whatever information is needed. I think Mr. Gerrard
23 indicated, you know, the Commission can determine
24 whenever that information is needed.

25 Say it's in four and-a-half years. The
70

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 That would then be reviewed by the Division
2 or other parties, and a determination could then be
3 made that we do or don't need to have a further
4 proceeding. Why -- isn't that the kind of condition
5 that the Commission could put on a CPCN?

6 **A.** Yeah, perhaps they could. However, I just
7 wonder why, why not just file the CPCN? Because
8 the -- I know the Division would want all the same
9 information to go -- in five or ten years from now to
10 look at the need, and the load growth, and the
11 capacity deficit, and, you know, do a full analysis.

12 So we would need all the information you'd be
13 filing anyway for a CPCN, so I, I don't understand,
14 you know, the Company's objection.

15 **Q.** Well, I believe the Company's objection is,
16 Why have a contested proceeding if one isn't
17 necessary? Because this is a little different. This
18 isn't a brand new issue. This -- the Commission's
19 already heard about Limber-to-Terminal, where it fits
20 into the plans, and hopefully will grant a CPCN that
21 will allow the Company to do that.

22 And so that's different than coming in for a
23 completely brand new CPCN. Why do you need to have a
24 full proceeding if you review it and say everything
25 looks fine? That's -- it's the question of why you

72

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 have a mandated proceeding that I think is the
2 Company's concern. And I'm trying to understand why
3 that is a problem to the Division.
4 **A.** Well, I think it's problematic. First
5 because it's not just that we don't know -- we, we
6 think that something's gonna happen around 2010 when
7 Gateway West is built or Gateway South, but we don't
8 know --

9 MR. GINSBERG: Did you mean 2020?

10 THE WITNESS: Pardon me?

11 MR. GINSBERG: Did you mean 2020?

12 THE WITNESS: Two thousand nineteen, excuse
13 me. But we, we -- some portions of the project have
14 no date. And so it just doesn't seem like a good
15 public policy to recommend a line be built if there's
16 not even a date. Or we won't -- still won't even know
17 where that line will be going exactly.

18 **Q.** (By Mr. Smith) Well, but couldn't the --
19 part of the request for information be precisely where
20 the line will be going?

21 **A.** Yeah. It would be. If, if in seven years
22 you haven't built the Limber piece you'd have to file
23 that same information, yes.

24 **Q.** But my question is, Why do we have to have a
25 formal proceeding when proceeding informally could

73

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 **Q.** Well, but if -- that's a different case. If
2 they came in and did that --
3 **A.** Yeah.
4 **Q.** -- the Division has the right to say, We
5 disagree, don't they?

6 **A.** Yeah. I'll, I'll agree to disagree with you.

7 **Q.** Okay. Final area, I was a little unclear,
8 your proposal was that the CPCN be issued
9 coincident -- or subject to the Tooele permit. And
10 Mr. Gerrard suggested that we should time that at the
11 same time as the Board decision. Does the Division
12 oppose that?

13 **A.** I, I initially wrote in my testimony that the
14 Commission should not -- should grant the condition --
15 the certificate conditioned upon the Company receiving
16 the Tooele -- all permits, the Tooele, before they
17 grant blanket approval.

18 And again, the Division recognizes the need
19 for the Company to plan. These things can't be built
20 overnight. And we wouldn't want the court process to
21 hold up the project any further. So we, we would, we
22 would be willing to accept the Utility Facilities
23 Review Board's decision.

24 And then, you know, rather than wait the
25 additional 60 days to actually get the permit, you

75

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 achieve substantially the same result?

2 MR. GINSBERG: I think he's already asked the
3 question a number of times.

4 THE WITNESS: I could come up with more
5 reasons if you want.

6 CHAIRMAN BOYER: Let's hear your last reason
7 and then maybe move on, Mr. Smith.

8 MR. SMITH: Okay.

9 THE WITNESS: It's the Division's
10 recommendation that we stick with the five years.
11 There may -- like I say, there may be other entities
12 that might want to intervene due to extremely
13 different conditions in ten years.

14 **Q.** (By Mr. Smith) Okay. And --

15 **A.** They wouldn't have had the opportunity here.

16 **Q.** Well, I think we're talking Mr. Gerrard's
17 proposal would be a public filing of information that
18 would be available to other parties. If that were the
19 case, would that meet the concern about third parties
20 not having sufficient information?

21 **A.** That, that would probably meet that concern.
22 But it wouldn't address the concern that we don't want
23 the Company coming in at the end of the year and
24 filing for Gateway West, which isn't gonna be built
25 for ten years, but we want the certificate now.

74

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 know, let the -- if the Company wants to, you know,
2 look at the options when they get the results of that
3 and file any changes with us, we would be amenable to
4 that.

5 MR. SMITH: That's all from Rocky Mountain
6 Power.

7 CHAIRMAN BOYER: Thank you Mr. Smith.
8 Commissioner Allen?

9 COMMISSIONER ALLEN: Thank you, Mr. Chair.
10 Dr. Zenger, on this five-year cap I guess I'm
11 just not quite clear. And maybe I've just forgotten,
12 I have read it. But what kind of problems, what's the
13 parade of horrors that a five-year sunset prevents?

14 THE WITNESS: The five-year prevents, if, if
15 the Company still had the same plan as they did now to
16 build let's say the Limber substation or the Clover
17 one? And, and -- but they don't even start building
18 it?

19 We think that in five years there's gonna be
20 different regulatory policies, environmental laws.
21 There will be different load, load balances. There
22 may be more load growth. It may require a higher -- a
23 500-kV line. It may not require a 345 certain --
24 through certain portions or segments.

25 So the, the project would be kind of

76

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 indeterminant. And it would be hard to make a
2 recommendation for you to issue a con -- a CPCN to
3 build a project that we don't know when or where it's
4 gonna go in.

5 COMMISSIONER ALLEN: Do we have a history of
6 providing sunset dates on CPCNs that you know of?

7 THE WITNESS: No. I -- none that I know of.
8 We could ask our attorney.

9 COMMISSIONER ALLEN: And is there a reason
10 why the Company, knowing that they have to some -- at
11 some point seek cost recovery during general rate
12 cases, so-called single-item rate cases, is there not
13 reason why your concerns couldn't be met when they
14 seek recovery? That they know that they have to prove
15 those things up, those changes, those?

16 THE WITNESS: Yes, they would have to. It's
17 just I don't think -- the Division wouldn't want to
18 put ratepayers at risk if, you know, they end up
19 building it a whole different direction or something
20 and the costs are a lot higher.

21 COMMISSIONER ALLEN: Okay, thank you.

22 CHAIRMAN BOYER: Commissioner Campbell?

23 COMMISSIONER CAMPBELL: My questions also
24 deal with the five-year condition that you propose.
25 If the Company -- this is a, this is a hypothetical.

77

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Any redirect, Mr. Ginsberg?

2 REDIRECT EXAMINATION

3 BY MR. GINSBERG:

4 Q. You've -- you were asked a question with
5 respect to these sunset provisions and. Have you ever
6 run across the -- at least the other transmission line
7 that I think you worked on, where there was
8 essentially no known in-service date like there is for
9 the Limber-to-Terminal piece?

10 A. No. Like I mentioned, the only one that's --
11 the only transmission that's -- significant
12 transmission that's been built was that
13 Populus to Terminal. And I wrote the dates in my
14 testimony.

15 Once the CPCN was granted, they began
16 construction. And the whole project was expected to
17 be finished by the end of the year. I've never -- so
18 no, I have not.

19 Q. There was no piece hanging out there with an
20 unknown in-service date?

21 A. No.

22 Q. Or a piece that had not been permitted yet at
23 all?

24 A. No.

25 Q. Like Limber to Terminal?

79

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 If the Company were able to build everything within
2 five years -- the Clover substation, the Limber
3 substation, and Limber-to-Terminal -- it's your
4 testimony that they ought to have a CPCN for all of
5 that?

6 THE WITNESS: Yes.

7 COMMISSIONER CAMPBELL: So how does that
8 relate to their inability -- now, let me add on now
9 their inability to get permits for pieces of that
10 because they're not ready to build them?

11 So, so your, your attorney asked a number of
12 questions related to the Limber-to-Terminal piece.
13 And I'm just curious if you're -- so your five-year
14 requirement has nothing to do with overall need of the
15 whole project? You -- as of today you would see a
16 need for the, for the overall project?

17 THE WITNESS: Right, right. And if I heard
18 it correctly, Mr. Gerrard said that they would not
19 have to have a CPCN for the Terminal piece.

20 COMMISSIONER CAMPBELL: Well, let me, let
21 me -- I've got two questions for attorneys, and I
22 think I'm gonna save those for the attorneys.

23 THE WITNESS: Okay.

24 CHAIRMAN BOYER: Okay. And I have no
25 questions, Dr. Zenger.

78

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 A. No.

2 MR. GINSBERG: Okay, thank you.

3 CHAIRMAN BOYER: Okay. Thank you,
4 Dr. Zenger. You are excused.

5 Commissioner Allen has a question or two that
6 should be directed to Counsel, and then -- Campbell.
7 I'm sorry, I was looking at Allen and thinking
8 Campbell.

9 The parties have asked for an opportunity to
10 make closing legal arguments. And so we'll deal with
11 Commissioner Campbell's questions. Then we'll take a
12 short break. We'll come back and we'll hear those
13 arguments. Then we'll be in recess until the 5:00
14 public witness hearing. And proceed on that, on that
15 basis.

16 But I'm thinking that in terms of your legal
17 arguments 10 or 15 minutes ought to be sufficient per
18 side, you think, or less?

19 MR. SMITH: I think that's -- Mr. Moscon's
20 gonna give it, but I think we're talking 10 --

21 CHAIRMAN BOYER: Very well then. If
22 Mr. Moscon chooses --

23 MR. MOSCON: Sure, 15 minutes, absolutely.

24 CHAIRMAN BOYER: Great. Then if Mr. Moscon
25 chooses to split his time ten and five, or whatever,

80

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 that will be fine with us as well.
 2 Okay. With that, Commissioner Campbell?
 3 COMMISSIONER CAMPBELL: Let me -- my question
 4 comes down to what the statute requires as it relates
 5 to permits. And I'm just trying to get clear in my
 6 mind what permits have not been yet requested.
 7 So, and so maybe my first two questions are a
 8 little factual before I get to the legal question.
 9 But the first is, is a permit required from Tooele
 10 County to build from Limber to Terminal?
 11 MR. MOSCON: Yes.
 12 COMMISSIONER CAMPBELL: And has that been
 13 requested?
 14 MR. MOSCON: Yes and no. Originally --
 15 COMMISSIONER CAMPBELL: Has it been
 16 withdrawn? I mean --
 17 MR. MOSCON: Yes. Originally the Company
 18 went to Tooele County seeking a permit for the entire
 19 project.
 20 Tooele County indicated back to the Company,
 21 Hey, our permits only last for a year, so since you're
 22 not planning on building that segment within a year it
 23 doesn't do you any good to even ask for the permit.
 24 Because whether we give it to you or not now, you're
 25 going to have to come back again later.

81

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 say if he has a different interpretation.
 2 But yes, I would state that, as has been
 3 pointed out by the Division through their testimony,
 4 some of these processes take a long time. The Company
 5 has been in the process of trying to obtain all of the
 6 permits.
 7 They have approached the County. And it's
 8 the County that came back and said, We want you to
 9 proceed on this piece first and come back on that
 10 piece. But they've been in the process.
 11 COMMISSIONER CAMPBELL: Is it your
 12 interpretation, Mr. Ginsberg, that they are in the
 13 process of obtaining the permit for Limber to
 14 Terminal?
 15 MR. GINSBERG: Well, it was actually the
 16 first I heard this morning that they had actually
 17 applied for the permit. I hadn't even understood that
 18 they even applied. So, you know, I'd always viewed
 19 the statute that you could issue a certificate while
 20 permits were pending.
 21 Now, whether that falls into the
 22 classification of a pending permit, the party could
 23 argue it either way.
 24 I think our problem that we were faced with
 25 was when you had a project, this segment of this

83

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 So the Company then just sought the permit
 2 for the portion that it was seeking to build now.
 3 COMMISSIONER CAMPBELL: So that is not a
 4 pending permit as it stands right now?
 5 MR. MOSCON: It's not a pending permit.
 6 Whether the application is in process, or the Company
 7 in process of obtaining it, I guess you could mince
 8 words with --
 9 COMMISSIONER CAMPBELL: Okay, that's my
 10 question. Because I'm looking at 4-A-i, right? Or
 11 4-A-1:
 12 "Each Applicant for a certificate
 13 shall file evidence as required by the
 14 Commission to show that the Applicant
 15 has received or is in the process of
 16 obtaining the required consent,
 17 franchise, or permit with the proper
 18 county, city, or other public
 19 authority."
 20 And I'm struggling with the legal question,
 21 have you legally met that for the Limber-to-Terminal
 22 piece of this certificate?
 23 MR. MOSCON: And you're jumping into one of
 24 the things I would cover in my topics, so I'll try and
 25 abbreviate this for the answer and let Mr. Ginsberg

82

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 transmission line, Limber to Terminal, which, you
 2 know, we understood that -- we weren't sure that
 3 they'd even applied for the permits for that portion,
 4 or it required something --
 5 When something is so uncertain we could have
 6 either approached it by saying, Well, that should just
 7 be left out of the certificate at this point and maybe
 8 they shouldn't even ask for it.
 9 Or we came up with this other alternative in
 10 saying -- and this is I think where you get hung up.
 11 But where we said, Well, we've looked at the
 12 broad-brush needs for the project. And this little
 13 piece is in there at a high level.
 14 So why don't we go ahead and give them the
 15 certificate, but then say that if it's not built
 16 within the five years then they should have to come in
 17 and reapply for a certificate. I think we could have
 18 gone either way.
 19 And I think, since they'd applied for it
 20 using -- including Limber to Terminal, and at a high
 21 level when you look at the Gateway project on the maps
 22 and in the very high level that little piece is there,
 23 we went ahead and said, Well, give them the
 24 certificate. So.
 25 COMMISSIONER CAMPBELL: My second question

84

Kelly L. Wilburn, CSR, RPR
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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 deals with whether a decision by the Utility
2 Facilities Review Board meets the requirements in
3 4-A-ii, right? Where it says during the process of
4 obtaining the consent, franchise, or permit, it can be
5 conditioned upon.

6 And the question is, is a decision by the
7 Review Board receipt of the consent, franchise, or
8 permit? Or, or does -- legally do we really have to
9 wait till 60 days till the County actually responds to
10 the Board's decision?

11 MR. MOSCON: My understanding or
12 interpretation is that as far -- the statute regarding
13 the Facility Review Board is clear that the County
14 shall -- and the language is mandatory -- issue a
15 permit consistent with that Board's decision within
16 60 days.

17 So I think that a permit and a decision by
18 the Board are not the same thing, but the Board can
19 direct what the permit will state.

20 As far that specific sub-ii goes, I would say
21 that you could say that the Applicant is in the
22 process of obtaining the permit once the decision of
23 the Review Board is made because we know that the
24 permit must be issued within 60 days.

25 There, however, is also farther down, C-3,
85

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 we'll hear closing arguments.
2 (A recess was taken from 11:05 to 11:18 a.m.)
3 CHAIRMAN BOYER: Let's go back on the record.
4 And now we'll hear from Mr. Moscon first, and then
5 Mr. Ginsberg.

6 MR. MOSCON: Thank you, Mr. Chairman.
7 CHAIRMAN BOYER: Do you wish to divide your
8 time, Mr. Moscon?

9 MR. MOSCON: Yeah. If I could save four
10 minutes for rebuttal, please. Thank you.

11 I appreciate the time and attention of the
12 Commissioners in this matter. I know my client does
13 as well and the Division does as well. As I've
14 reviewed the materials and sat here I think it's clear
15 that both sides before the Commission today agree that
16 there is a need for this project.

17 In other words, there's not a dispute about
18 whether to issue a certificate. It's really only a
19 question about certain parameters or conditions that
20 should be applied to the certificate, or whether those
21 conditions should be attached. And so I'd just like
22 to focus my thoughts on those one by one.

23 The first is a question of inclusion of the
24 Limber-to-Terminal piece. And it ties into this
25 five-year piece. And I'm paraphrasing, of course, but
87

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 which is the section that describes the fact that the
2 certificate can describe construction on portions of
3 the line.

4 So I think what the recommendation was, or
5 the concern the County -- or that the Company had was,
6 Hey, we're not saying that Tooele's not going to abide
7 by the order. That they're gonna do something
8 outlandish.

9 But if that were to happen, we need this
10 project going. And we can't have -- we, we shouldn't
11 have to stop and wait down in Moab, and Juab County,
12 and Utah County until all permits are in hand. So you
13 should issue the certificate now. And if worse came
14 to worse we could start building in the South, coming
15 up, and get to the Tooele County line.

16 Again, I'm not saying that will happen. But
17 if there was a certificate issued that said, Don't do
18 anything until you get all permits in your hand, and
19 in the event that there was something unusual -- that
20 Tooele County refused to follow the order of the Board
21 or something like that and we couldn't get started
22 down below -- then there could be problems. If that
23 answers your question.

24 CHAIRMAN BOYER: Okay. Thank you for that.
25 Let's take a ten-minute recess, and then
86

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 the argument seems to be that everyone agrees there's
2 a present need right now -- maybe yesterday -- to get
3 the Mona or -- Mona-to-Oquirrh piece. But the piece
4 from Limber-to-Terminal is in the future, therefore
5 don't issue the certificate.

6 And I think the best answer to that comes
7 directly from the statute, which states that this
8 Commission should issue a certificate if there's a
9 demonstration, and I quote:

10 "That present or future public
11 convenience and necessity does or will
12 require the construction."

13 So this Commission is not limited by a
14 demonstration of existing present need. In fact, the
15 statute is clear that we -- it wants the Company
16 looking into the future and planning projects in an
17 integrated way as it has done here.

18 It is to look to the future. And a
19 certificate should issue if there's a demonstration of
20 evidence that the Company will need to construct this
21 project.

22 Mr. Gerrard's testimony was unequivocal that
23 the critical load area, that the Salt Lake Valley as a
24 whole, including the Tooele area, will need the
25 Limber-to-Terminal piece. That that is not an
88

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 equivocal thing. It's not something that's in the --
2 up in the air.
3 What's left in the air is the Company has
4 simply stated, We want to, for the protection of our
5 ratepayers, to not invest the capital before it is
6 absolutely needed. However, when those needs come,
7 they come quickly.

8 People come in with a large project. A large
9 industrial project could come into a county and say,
10 We want to attach, we want to be involved. And if
11 there's not sufficient, you know, energy available out
12 of say the Terminal or Limber substation, the Company
13 will need to act quickly to get that up to speed.

14 If it needs to take another year to start a
15 new certificate process and do this all over again,
16 then it is damaging not only the ratepayers, the new
17 customers trying to get on, the economic development
18 of communities.

19 Also I'll point out when you do projects that
20 way, when you're trying to build them yesterday, it's
21 more expensive to ratepayers. Because when you can't
22 plan and get the best contracts, and you're having to
23 hurry and do things quickly, it's always done in a way
24 that is less beneficial to the ratepayers as a whole.

25 There is a need for this project. The

89

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 indicates that the certificate can limit construction
2 to a portion of a contemplated line or system.
3 Therefore what we suggest is that the Commission enter
4 its order now.

5 Again, we recognize it's prudent to wait for
6 the decision of the Facility Review Board. But upon
7 decision of that Board a certificate should state that
8 the Company, at its discretion, can begin construction
9 on any part of the line where it has, you know, the
10 requisite permit in place.

11 That way the Company could start building in
12 Utah County, or Juab County, or outside of Mona, or in
13 Salt Lake County. And it would not be potentially
14 held hostage by the actions of one county that's
15 refusing to issue a permit, which could jeopardize the
16 construction time frame of the entire line.

17 I think that, again, the -- Section C-3 of
18 the statute clearly identifies that the Commission
19 should allow the certificate, notwithstanding that one
20 permit. And all the other areas of the project that
21 have been permitted should be able to proceed
22 accordingly.

23 And I believe that Dr. Zenger's testimony
24 clarified that, again on the issue of the ROD and the
25 BLM, that certain steps such as surveying and these

91

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 project was defined and identified as an integrated
2 whole. And the Limber-to-Terminal piece or segment is
3 part of this project. It is appropriate for the
4 certificate to include that.

5 Although it's not required that the Company
6 issue further reports and data, in order to help ease
7 some of the concerns of the Division the Company is
8 willing, as a compromise, to have this Commission's
9 certificate be conditioned upon a filing by the, by
10 the Company, in some time that the Commission deems
11 appropriate -- three, four, five years -- showing what
12 their current projections are. Will it be 2019, will
13 it be 2015, will it be 2016?

14 And if at that time there's a problem, a
15 third party or the Division could open a docket. But
16 there should not be a hesitancy to issue the
17 certificate for that portion of the project.

18 The second real area of contention is, again,
19 on the issue of permits. And it's one of the things
20 that Commissioner Campbell was asking questions on.
21 The statute, again, is clear that the certificate
22 should issue for an entire project as long as there is
23 evidence that the Applicant is in the process of
24 obtaining the permits.

25 I also pointed to Section C-3, which

90

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 other -- contracting, that that should not be held up.
2 And I think the Division and the Company are in accord
3 as far as that goes.

4 The third area of dispute relies to this
5 required filing of data for usage for the project.
6 And as came out in the exchange between Mr. Smith and
7 Dr. Zenger, it should be clear to the Commission that
8 the Company is troubled by this for several reasons.

9 First and foremost, as the initial filings in
10 this docket indicated -- the scheduling order and in
11 fact the statutes describing what this is about -- the
12 certificate process is limited solely to need. Issues
13 of cost, all these other things, are not appropriate
14 in this docket.

15 They may well be appropriate in other dockets
16 in rate cases or the like, but it does not belong in
17 this case. To the extent that there is a question of
18 how this information would tie into need the Division
19 or an interested party can make a data request and ask
20 the Company for this information, as happened in this
21 case.

22 The Division asked for this data, and it was
23 provided. So there does not need to be an order
24 conditioning the certificate on production of this
25 information.

92

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 To the extent the request asks the Commission
2 to make a rule going forward for all other certificate
3 filings, again, we think that that is procedurally
4 improper on a number of grounds.

5 As indicated first of all, that would amount
6 to rulemaking. And there is, as I'm sure the
7 Commission is aware, a developed set of case law and
8 statutory law about the process that must be gone
9 through in order to get into rulemaking.

10 I'm also remained, in fact, of this
11 Commission's order in the Populus-to-Terminal
12 certificate, where it was not the same request, but
13 outside parties wanted certain filing requirements.

14 And this Commission in its order declined to
15 do so. Saying, We want to approach these on a
16 case-by-case basis. And we don't want to make a rule
17 on this case saying what should happen in every case.
18 That's not what's best for the citizens of this state.
19 That's not what's best for the Commission.

20 And that same situation would apply here.
21 Right now there's been data provided. There's an
22 unequivocal assertion of need for the project that's
23 at issue. And to the extent that there's any
24 information that would be lacking in a, in a rate case
25 or a cost recovery case, that information could be

93

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 recovery of these facilities.

2 I think it's clear that -- I think there
3 should be no question that the Commission has the
4 authority to require the Company to file whatever
5 information they think is relevant for the
6 determination of a certificate, or for cost recovery.

7 And when the Division tells you that they
8 think that it's important that that information be
9 provided up front, I think the Commission should give
10 that view of the Division important consideration in
11 reaching its decision.

12 The idea that somehow this is rulemaking I
13 think is -- the Commission clearly has the authority
14 to adopt in the proceedings, if you look at the
15 rulemaking act. And if they thought that it had some
16 general applicability and should apply to other
17 utilities, has the authority to then turn it into a
18 rule within 120 days without doing anything improper.

19 What is driving this issue is that -- the
20 enormous investment that's being made in the
21 transmission projects that the Company is planning.
22 And it is, in our mind, completely relevant to
23 determine whether need is -- exists to determine who
24 is gonna be using the capacity on that transmission
25 line. Whether it's retail, wholesale, or other types

95

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 requested and would be properly before the body at
2 that time.

3 But it is not necessary at this time.
4 Therefore it would simply, again, cloud the issue. It
5 would be a rulemaking obligation that we think is
6 improper. And it's simply beyond the scope of the
7 current proceedings.

8 When the Commission stops and focuses on what
9 is before it today, it is simply the need for the
10 project. I think there's no dispute that the need
11 exists. The testimony was unequivocal. There has
12 been no contrary evidence to that matter. And there
13 should not be any conditions that go beyond the need
14 of this project.

15 Therefore, unless there are other questions
16 of the Commission, I'll reserve the remainder of my
17 time to respond. Thank you.

18 CHAIRMAN BOYER: Thank you, Mr. Moscon.
19 Mr. Ginsberg?

20 MR. GINSBERG: Thank you. Let -- I -- let me
21 start with the last discussion that was made with
22 respect to this additional reporting requirement that
23 the Division has asked that the Commission make part
24 of a requirement when the Company files for additional
25 certificates for transmission facilities and for cost

94

Kelly L. Wilburn, CSR, RPR
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(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 of customers.

2 The second issue that I wanted to discuss
3 deals with this five year. I think it's highly
4 unusual. We've been through a number of certificate
5 proceedings on generating plants, transmission lines,
6 where a certificate is being requested with absolutely
7 no in-service date.

8 Not even, not even one that is -- you could
9 even say which is in the future, when it's even
10 outside of the planning horizon that the Company has
11 set up within its own IRP process.

12 It seems to us highly unusual that a
13 Commission would give an unconditional certificate
14 without any opportunity to re-look at it if the -- in
15 some reasonable period of time when the project, as I
16 think became clear when we went through the IRP,
17 hadn't gone through the IRP process.

18 The Limber-to-Terminal piece is outside of
19 the planning horizon of all the documentation that's
20 provided to the, to the parties in reviewing the IRP.

21 So it seems to us we're faced with like a
22 couple of different choices when we basically focus on
23 the fact that there's no known in-service date for
24 this Limber-to-Terminal piece. We could have excluded
25 it from the certificate altogether. Or we could have

96

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 come up with this recommendation that, if it's not
2 built within a reasonable period of time, that they
3 should have to re-show the need for that project.
4 And the difference between making them have
5 to actually file for a, a amendment or application for
6 their certificate and just filing a report we think is
7 a significant difference. Where the Division, and the
8 Commission, and others who might want to would then
9 have the opportunity to re-look at this
10 Limber-to-Terminal piece in light of conditions that,
11 you know, might be out as far as 2020 or 2025, since
12 there is no known in-service date.

13 The final area, that I think that there's
14 probably really no disagreement on, although I think I
15 heard the Company indicate that they want the
16 Commission to grant the permit -- the certificate
17 immediately, and then --

18 We think that the Utility Facility Review
19 Board's potential decision is so overriding and
20 significant in this process that the certificate
21 should wait at least through that decision. And not
22 grant -- give them -- have some construction that's
23 going on today.

24 That decision is coming out in the next
25 30 days, and at that point we can evaluate where we

97

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 simply has not stated it's 2017 or 2019.
2 But the Commission can appreciate, if a large
3 industrial customer wanted to move in to say Tooele
4 County area and brought in the need to build up those
5 substations and put that line in, there will be time
6 necessary to get that line up and operational.

7 But to have to first go through an entire
8 filing process to get a certificate process,
9 et cetera, is not only an additional time constraint
10 and expense constraint, it is simply unnecessary.

11 And I would say it's the very reason that the
12 code is written as it is, which is when a utility --
13 as the Company -- can show a future need. We know
14 this is coming. Our engineers have looked at the
15 data. We've done the studies. We know it's coming.
16 We have this window. It will be somewhere in this
17 time frame. We don't know the exact date yet.

18 That is sufficient for a certificate, if it's
19 a present need or a future need. It needs to be built
20 now, or it will be built in the future. That's what
21 the code tells you is sufficient to grant a
22 certificate.

23 Therefore with that authority, the
24 certificate should issue. And it does not need any of
25 these sunseting things.

99

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 are. But I think I heard indication that they were
2 asking that the certificate be granted today, when the
3 recommendation that I heard Mr. Gerrard make was that
4 they're willing to accept the fact that the
5 certificate should be issued when the Facility -- the
6 Facilities Review Board decision comes out. Thank
7 you.

8 CHAIRMAN BOYER: Thank you, Mr. Ginsberg.
9 Mr. Moscon?

10 MR. MOSCON: Thank you. Very quickly, in
11 order of the points made. On the reporting
12 requirements, if this Commission is considering making
13 that filing requirement in the order I ask it review
14 Utah Code 63G-3-201, et cetera, regarding rulemaking,
15 et cetera, because, again, I think the Commission's
16 being invited down a slippery slope that will have
17 implications beyond this case.

18 On the five-year-window horizon, again,
19 there's a concern that the Company maybe is really not
20 even serious about this line yet and it's not even on
21 its planning horizon.

22 That is belied by the fact that the Company
23 actually went to Tooele County and tried to permit the
24 Limber-to-Terminal piece. It is in the process of
25 this piece. It is part of the overall plan. And it

98

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Again, if in -- we arbitrarily say five years
2 now. And four and-a-half years into it, you know,
3 something comes down on the horizon, but we've already
4 got this five-year thing in place. It's just an
5 arbitrary line that's been drawn, five years. And it
6 doesn't make sense. It's not needed.

7 Finally, I also want to clarify, we are
8 happy, or I -- if I misspoke, I should clarify my own
9 comments. The certificate decision can wait the
10 Facility Review Board decision. The Company does not
11 plan on taking steps or action prior to June 21st.

12 However, just clarifying, the concern is we
13 cannot have this certificate conditioned upon the
14 Company first getting all of the permits, including
15 the Tooele County permit, and then filing a subsequent
16 report, and then being some further action by the
17 Commission.

18 Because even in the best-case scenario that
19 puts us one, two, three, four months down the road,
20 and the Company cannot get started. And in a
21 worst-case scenario, again, if Tooele County were to
22 take some unforeseen step it could jeopardize a lot of
23 need for this route.

24 So again, we hope that the Commission will
25 issue a certificate granting the Certificate of Public

100

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Need and Convenience for the project, including the
2 Limber-to-Terminal section, the entire project as
3 planned.
4 That the Com -- if the Board wishes -- excuse
5 me. If the Commission wishes, it can condition that
6 on a filing by the Company at a time the Commission
7 feels is appropriate -- two, three, five, seven years
8 out -- of when its timeline is. An updated needs
9 assessment. We're, we're happy to do that. We're not
10 trying to hide our cards.

11 But the certificate, under the authority
12 given to this Commission by the statute, should be
13 issued for the entire project, and without a
14 sunset period over the project. And we cannot
15 have one permit able to highjack the process as a
16 whole. Thank you very much.

17 CHAIRMAN BOYER: Okay. Thank you all for
18 your participation. We'll recess until 5:00 this
19 afternoon. See you back here then.

20 (A recess was taken from
21 11:38 a.m. to 5:06 p.m.)

22 CHAIRMAN BOYER: Let's go back on the record.
23 And let it reflect that this is the time and place
24 duly noticed for the hearing testimony from public
25 witnesses in the Certificate of Convenience and

101

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 relative usage reporting at this point in this docket.
2 We want to underscore that the certificate
3 includes the Limber and Clover substations, as
4 currently planned and detailed by Mr. Gerrard in his
5 testimony.

6 The portions of the transmission line that
7 are subject to permitting in Tooele County are
8 approved, but conditioned upon obtaining the necessary
9 permits.

10 And to the extent that the Company believes
11 it's prudent, it can commence construction, or issue
12 RFPs, or whatever portion of the process it wants to
13 do on those portions of the transmission line for
14 which it has received permits at this point in time.

15 And I think that nails down all of the
16 issues.

17 Mr. Smith?

18 MR. SMITH: Well, one thing, just so I'm
19 clear. One issue was the -- whether the CPCN will be
20 deemed -- for the items you've identified will be
21 deemed granted as of the date of the Review Board
22 decision, or we --

23 CHAIRMAN BOYER: It will be deemed granted
24 today.

25 MR. SMITH: Okay. Okay.

103

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 Necessity Hearing in Docket 09-035-54.

2 And Ms. Murray has already signalled me that
3 there are no members of the public here who wish to
4 speak. And we have no end time on this particular
5 hearing, so we're gonna proceed.

6 And we're prepared to rule from the Bench now
7 on the certificate proceeding. And the -- a written
8 order will follow in due course with more detail and
9 rationale, but it will go as follows:

10 We're going to approve the Certificate of
11 Convenience and Necessity, with the following
12 provisos:

13 Number one, we're not persuaded that the
14 Company has met the burden of proving that the
15 Limber-to-Terminal portion of the transmission line,
16 particularly where there's no in-service date of yet,
17 is currently necessary and/or for the convenience of
18 the general public.

19 Secondly, by eliminating that portion of the
20 certificate from the proceeding here we see no need to
21 put a five-year term on the certificate. Nor do we
22 see a need for additional reporting in three, five, or
23 six years, as proposed by the Company bringing in new
24 information.

25 We've determined that we'll not require any

102

Kelly L. Wilburn, CSR, RPR
DepomaxMerit

(May 24, 2010 - Rocky Mountain Power - 09-035-54)

1 CHAIRMAN BOYER: We'll wait and see what the
2 Board does.

3 MR. SMITH: Okay.

4 CHAIRMAN BOYER: By the 21st.
5 Unless there are any questions or necessity
6 for any clarification, that will be our ruling. And
7 we'll follow up with an order here in due course.

8 MR. SMITH: Thank you very much.

9 CHAIRMAN BOYER: Thank you all for your
10 participation.

11 (The hearing was concluded at 5:10 p.m.)
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104

Kelly L. Wilburn, CSR, RPR
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STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

This is to certify that the foregoing proceedings were taken before me, KELLY L. WILBURN, a Certified Shorthand Reporter and Registered Professional Reporter in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting. And that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered 1 through 104, inclusive.

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

SIGNED ON THIS 29th DAY OF May, 2010.

Kelly L. Wilburn, CSR, RPR
Utah CSR No. 109582-7801

\$	2007 [1] - 61:13 2008 [7] - 33:1, 37:8, 37:12, 38:1, 60:19, 61:14 2009 [1] - 7:10 2010 [7] - 4:1, 8:6, 37:9, 37:13, 46:20, 59:6, 73:6 2013 [8] - 13:10, 13:15, 13:20, 14:1, 17:1, 25:19, 30:21 2015 [2] - 41:16, 90:13 2016 [1] - 90:13 2017 [3] - 21:8, 25:10, 99:1 2019 [15] - 25:10, 27:1, 27:4, 34:19, 36:19, 36:25, 39:10, 39:13, 39:19, 40:25, 43:15, 45:22, 46:6, 90:12, 99:1 2020 [4] - 41:15, 73:9, 73:11, 97:11 2025 [3] - 13:1, 39:15, 97:11 21st [4] - 18:18, 18:21, 100:11, 104:4 24 [2] - 4:1, 7:12 258 [1] - 33:6 28-2 [1] - 11:12 28-3 [1] - 11:12 280 [1] - 34:2	4-A-ii [1] - 85:3 450 [1] - 46:13	69:11, 78:1, 91:21, 101:15 absolute [1] - 48:21 absolutely [3] - 80:23, 89:6, 96:6 accept [2] - 75:22, 98:4 accepted [1] - 31:20 Access [1] - 11:10 accommodate [1] - 70:12 accompanying [1] - 58:18 accomplish [1] - 21:17 accord [1] - 92:2 accordingly [2] - 14:19, 91:22 accurate [2] - 8:12, 8:17 accurately [1] - 46:8 achieve [1] - 74:1 acknowledge [1] - 66:16 acquired [1] - 15:20 acquiring [1] - 59:16 act [4] - 29:25, 89:13, 95:15 action [11] - 32:25, 33:17, 33:19, 33:24, 36:21, 37:8, 37:11, 38:25, 39:9, 100:11, 100:16 Action [1] - 38:1 actions [1] - 91:14 actively [1] - 13:19 activities [2] - 19:4, 30:10 actual [1] - 13:7 add [3] - 17:22, 60:21, 78:8 adding [2] - 46:10, 46:11 additional [9] - 29:24, 59:2, 60:10, 60:15, 75:25, 94:22, 94:24, 99:9, 102:22 address [10] - 6:21, 7:1, 15:25, 17:12, 20:15, 22:13, 54:19, 62:16, 64:9, 74:22 addressed [1] - 22:23 adds [1] - 18:2 adequate [1] - 11:13 adjusted [1] - 31:3 admission [5] - 9:7, 43:20, 45:24, 57:5, 58:20 admitted [15] - 6:6, 6:7, 6:8, 9:10, 9:14,	9:16, 9:18, 43:17, 43:22, 43:23, 57:8, 57:12, 58:18, 58:23, 58:25 adopt [1] - 95:14 advance [1] - 13:20 advantage [1] - 22:14 affect [3] - 31:15, 31:17, 31:22 affected [1] - 68:22 affects [1] - 31:8 affirm [1] - 29:16 afternoon [1] - 101:19 agencies [1] - 14:18 ago [2] - 47:15, 50:10 agree [10] - 15:10, 15:21, 20:9, 20:11, 40:21, 62:18, 65:21, 70:10, 75:6, 87:15 agreed [2] - 18:21, 29:8 agreement [1] - 65:23 agrees [5] - 15:2, 15:5, 15:16, 63:17, 88:1 ahead [10] - 16:21, 19:3, 29:18, 29:20, 30:13, 31:3, 37:25, 56:10, 84:14, 84:23 air [2] - 89:2, 89:3 airport [1] - 52:1 aligning [1] - 49:16 Allen [2] - 10:3, 80:7 allow [6] - 18:25, 48:5, 49:21, 55:24, 72:21, 91:19 allowed [1] - 68:22 allows [1] - 67:17 alternative [4] - 21:16, 31:20, 31:21, 84:9 alternatives [2] - 35:8, 35:19 altogether [2] - 31:23, 96:25 aluminum [1] - 47:9 amenable [1] - 76:3 amendment [2] - 68:23, 97:5 American [1] - 10:25 amount [2] - 61:20, 93:5 analysis [5] - 8:17, 39:18, 59:7, 64:20, 72:11 anchor [1] - 55:4 and-a-half [3] -
\$450 [1] - 60:6				
'				
'19 [1] - 21:8				
0				
09-035-54 [2] - 4:4, 102:1				
1				
1 [3] - 7:24, 48:8, 60:9 1.0 [1] - 37:23 1.1 [1] - 58:4 1.1-SR [1] - 58:17 1.5 [2] - 58:4, 58:24 1.9-SR [2] - 37:24, 58:5 1/2 [1] - 23:14 10 [5] - 40:14, 48:8, 61:15, 80:17, 80:20 10-035-39 [1] - 59:22 100 [2] - 64:23, 69:7 10:10 [1] - 52:12 10:18 [1] - 52:12 11:05 [1] - 87:2 11:18 [1] - 87:2 11:38 [1] - 101:21 120 [1] - 95:18 12th [3] - 15:8, 18:18, 18:20 138 [2] - 44:24, 54:6 138-kV [1] - 26:9 1407 [1] - 7:4 15 [4] - 20:23, 40:14, 80:17, 80:23 16 [1] - 8:4 181 [1] - 24:13 18th [1] - 60:22				
1				
2				
2 [5] - 7:15, 11:10, 38:2, 43:20, 48:8 2,000 [1] - 61:18 2.1 [3] - 7:17, 7:25, 9:3 2.10 [1] - 13:8 2.2 [1] - 40:4 2.6 [4] - 7:17, 7:25, 9:3, 57:1 20 [1] - 64:16 2005 [1] - 10:17				
2				
3				
3 [4] - 38:18, 38:22, 43:18, 43:20 3.1 [4] - 8:8, 9:4, 23:9, 57:2 3.4 [5] - 8:8, 9:4, 23:9, 57:2, 57:12 30 [2] - 59:6, 97:25 31 [1] - 37:13 31st [2] - 37:10, 38:25 345 [7] - 25:21, 25:25, 26:2, 44:23, 54:6, 76:23 345-kV [2] - 26:10, 26:21 345-to-138-kV [1] - 45:8				
3				
3				
4				
4 [1] - 8:5 4,400 [1] - 13:1 4-A-1 [1] - 82:11 4-A-i [1] - 82:10				
4				
5				
5 [1] - 48:8 500 [4] - 25:24, 44:23, 44:25, 54:6 500-kV [8] - 19:16, 25:2, 25:12, 25:22, 26:7, 26:13, 54:13, 76:23 500/345 [1] - 4:8 54-4-25 [3] - 66:17, 67:17, 71:15 5:00 [2] - 80:13, 101:18 5:06 [1] - 101:21 5:10 [1] - 104:11				
5				
6				
6 [3] - 7:12, 7:25, 61:12 60 [4] - 75:25, 85:9, 85:16, 85:24 60-day [1] - 17:14 63G-3-201 [1] - 98:14 66 [2] - 34:20, 34:23				
6				
7				
7,000 [1] - 13:2				
7				
8				
80 [2] - 12:15				
8				
9				
9 [1] - 23:14 90 [1] - 23:11 925 [1] - 7:1 9:05 [1] - 4:1				
9				
A				
a.m. [3] - 52:12, 87:2, 101:21 A.M. [1] - 4:1 abbreviate [1] - 82:25 abide [1] - 86:6 ability [3] - 19:2, 19:6, 62:22 able [8] - 42:17, 47:22, 52:21, 53:11,				
A				

<p>70:25, 71:23, 100:2 Annex [1] - 24:22 announced [1] - 61:12 annually [3] - 29:12, 29:13, 45:12 answer [8] - 23:8, 23:19, 30:5, 46:4, 47:18, 66:25, 82:25, 88:6 answered [1] - 69:17 answers [3] - 8:24, 58:14, 86:23 anyway [1] - 72:13 Apologies [1] - 18:23 apologize [1] - 52:14 appeal [3] - 17:20, 18:1, 18:13 appear [1] - 37:1 appearances [1] - 5:1 applicability [1] - 95:16 Applicant [5] - 5:4, 82:12, 82:14, 85:21, 90:23 application [7] - 53:3, 59:25, 65:12, 67:5, 67:18, 82:6, 97:5 Application [1] - 4:5 applications [1] - 61:10 applied [5] - 83:17, 83:18, 84:3, 84:19, 87:20 applies [1] - 69:5 apply [4] - 53:8, 67:6, 93:20, 95:16 appreciate [3] - 16:1, 87:11, 99:2 appreciates [1] - 16:1 approach [2] - 56:2, 93:15 approached [2] - 83:7, 84:6 appropriate [7] - 62:5, 71:8, 90:3, 90:11, 92:13, 92:15, 101:7 approval [2] - 14:8, 75:17 approvals [1] - 18:3 approve [1] - 102:10 approved [1] - 103:8 arbitrarily [1] - 100:1 arbitrary [1] - 100:5 area [19] - 12:13, 12:17, 12:19, 12:24, 12:25, 13:3, 13:16,</p>	<p>23:13, 26:9, 26:18, 61:19, 69:25, 75:7, 88:23, 88:24, 90:18, 92:4, 97:13, 99:4 areas [1] - 91:20 argue [1] - 83:23 argument [3] - 17:12, 23:23, 88:1 arguments [4] - 22:23, 80:10, 80:13, 80:17 aside [1] - 28:13 assertion [1] - 93:22 assessment [1] - 101:9 assets [1] - 22:21 associated [1] - 59:10 attach [1] - 89:10 attached [3] - 7:12, 8:4, 87:21 attention [1] - 87:11 attorney [2] - 77:8, 78:11 attorneys [3] - 67:23, 78:21, 78:22 August [2] - 65:14, 68:13 authority [8] - 10:24, 31:24, 82:19, 95:4, 95:13, 95:17, 99:23, 101:11 Authorizing [1] - 4:7 automatic [1] - 32:6 automatically [2] - 21:18, 69:19 available [5] - 13:10, 23:25, 66:2, 74:18, 89:11 avoid [1] - 71:10 aware [5] - 42:9, 66:24, 67:2, 69:9, 93:7</p>	<p>79:15 begin [5] - 19:1, 29:20, 48:22, 62:20, 91:8 beginning [1] - 24:13 belied [1] - 98:22 believes [5] - 22:13, 61:2, 62:4, 63:13, 103:10 belong [1] - 92:16 below [1] - 86:22 Ben [1] - 51:23 Ben Lomond [3] - 12:17, 51:25, 65:13 Bench [1] - 102:6 beneficial [1] - 89:24 benefit [2] - 55:11, 59:13 benefits [2] - 42:15, 51:13 best [8] - 27:5, 47:24, 56:2, 88:6, 89:22, 93:18, 93:19, 100:18 best-case [1] - 100:18 better [1] - 55:3 between [10] - 12:17, 25:10, 25:23, 39:24, 51:16, 51:25, 62:8, 92:6, 97:4 beyond [3] - 94:6, 94:13, 98:17 bid [6] - 16:17, 30:9, 30:14, 47:8, 47:22 bidding [1] - 29:21 bids [2] - 16:24, 47:10 big [3] - 48:2, 48:4, 68:19 billion [3] - 46:14, 60:9, 61:12 bit [8] - 24:17, 35:22, 43:10, 45:23, 47:17, 47:19, 54:25 blanket [1] - 75:17 BLM [7] - 20:1, 20:5, 20:6, 20:13, 29:25, 63:18, 91:25 Board [21] - 15:7, 16:13, 17:13, 18:18, 20:11, 21:5, 31:12, 31:24, 32:3, 48:20, 69:23, 75:11, 85:7, 85:18, 85:23, 86:20, 91:7, 101:4, 103:21, 104:2 Board's [7] - 17:5, 17:16, 17:20, 75:23, 85:10, 85:15, 97:19 body [1] - 94:1</p>	<p>bottom [1] - 33:8 Boulevard [1] - 7:2 Boy [1] - 48:9 brand [2] - 72:18, 72:23 Brandon [1] - 28:8 break [4] - 24:18, 52:20, 53:1, 80:12 brief [1] - 9:22 briefly [2] - 51:11 briefs [1] - 67:23 bring [2] - 31:14, 63:16 bringing [1] - 102:23 broad [1] - 84:12 broad-brush [1] - 84:12 brought [2] - 62:16, 99:4 Bruce [1] - 5:14 brush [1] - 84:12 build [20] - 14:2, 19:10, 21:6, 25:2, 42:1, 42:6, 45:5, 45:6, 49:1, 49:21, 54:9, 61:20, 76:16, 77:3, 78:1, 78:10, 81:10, 82:2, 89:20, 99:4 building [8] - 34:10, 44:22, 61:17, 76:17, 77:19, 81:22, 86:14, 91:11 built [37] - 19:15, 21:1, 21:3, 25:1, 25:7, 25:11, 26:5, 26:10, 26:11, 26:17, 34:12, 35:18, 40:13, 41:7, 41:14, 41:15, 43:4, 45:5, 45:22, 53:24, 54:7, 63:3, 64:13, 64:15, 70:11, 73:7, 73:15, 73:22, 74:24, 75:19, 79:12, 84:15, 97:2, 99:19, 99:20 burden [1] - 102:14 business [3] - 6:21, 6:25, 46:21 BY [6] - 6:19, 24:6, 50:9, 57:21, 66:9, 79:3</p>	<p>45:14, 80:6, 80:8 Campbell's [1] - 80:11 canceled [1] - 22:11 canceling [1] - 22:15 cannot [3] - 100:13, 100:20, 101:14 cap [2] - 47:11, 76:10 capability [2] - 51:16, 51:19 capacity [5] - 12:20, 13:9, 62:12, 72:11, 95:24 capital [1] - 89:5 cards [1] - 101:10 case [27] - 6:10, 8:3, 11:9, 33:19, 42:8, 49:14, 64:22, 65:13, 67:9, 67:11, 67:12, 69:6, 70:20, 71:8, 74:19, 75:1, 92:17, 92:21, 93:7, 93:16, 93:17, 93:25, 98:17, 100:18, 100:21 case-by-case [1] - 93:16 cases [15] - 23:3, 61:11, 62:6, 66:12, 66:13, 67:11, 67:12, 68:6, 68:9, 68:11, 69:2, 77:12, 92:16 Cedar [1] - 45:9 centerline [2] - 16:17, 30:8 Central [3] - 12:2, 12:8, 43:2 certain [10] - 21:23, 29:21, 61:25, 67:5, 70:21, 76:23, 76:24, 87:19, 91:25, 93:13 certainly [1] - 54:24 Certainly [2] - 45:18, 49:4 certainty [4] - 16:16, 53:25, 55:3, 55:6 certif [1] - 62:22 Certificate [5] - 4:6, 48:17, 100:25, 101:25, 102:10 certificate [91] - 4:19, 10:14, 13:23, 15:6, 15:17, 15:22, 16:13, 16:20, 17:5, 18:24, 20:11, 20:18, 20:20, 20:22, 21:22, 22:11, 29:23, 30:3, 30:6, 30:11, 31:6, 31:11, 31:14, 32:5, 32:7, 32:10, 34:8, 40:11, 41:5, 41:19, 54:20, 55:1, 55:24,</p>
B		C		
<p>backup [4] - 51:15, 51:18, 51:22, 52:4 balances [1] - 76:21 Based [1] - 22:7 based [3] - 47:1, 60:1, 71:3 basis [4] - 11:21, 31:3, 80:15, 93:16 bear [2] - 10:12, 32:14 became [1] - 96:16 become [1] - 25:22 becomes [1] - 63:15 began [2] - 64:11,</p>			<p>C-3 [3] - 85:25, 90:25, 91:17 calculations [1] - 22:4 California [1] - 47:17 Camp Williams [1] - 51:17 Campbell [4] - 10:3,</p>	

<p>61:3, 62:23, 62:24, 67:7, 70:4, 71:4, 71:7, 74:25, 75:15, 82:12, 82:22, 83:19, 84:7, 84:15, 84:17, 84:24, 86:2, 86:13, 86:17, 87:18, 87:20, 88:5, 88:8, 88:19, 89:15, 90:4, 90:9, 90:17, 90:21, 91:1, 91:7, 91:19, 92:12, 92:24, 93:2, 93:12, 95:6, 96:4, 96:6, 96:13, 96:25, 97:6, 97:16, 97:20, 98:2, 98:5, 99:8, 99:18, 99:22, 99:24, 100:9, 100:13, 100:25, 101:11, 102:7, 102:20, 102:21, 103:2</p> <p>certificated [1] - 12:4</p> <p>certificates [1] - 94:25</p> <p>certification [1] - 51:8</p> <p>cetera [3] - 98:14, 98:15, 99:9</p> <p>Chair [1] - 76:9</p> <p>Chairman [3] - 7:16, 48:9, 87:6</p> <p>Chairman Boyer [73] - 4:3, 4:12, 4:17, 5:9, 5:16, 6:2, 6:5, 6:9, 6:12, 7:19, 7:22, 9:6, 9:9, 9:16, 9:18, 10:2, 10:7, 18:16, 24:2, 37:19, 37:23, 43:19, 43:22, 43:25, 44:4, 44:9, 45:16, 45:19, 46:3, 46:10, 46:23, 48:6, 48:12, 48:15, 48:24, 49:8, 49:11, 49:15, 50:2, 50:5, 50:10, 52:13, 52:18, 56:9, 56:13, 56:20, 56:22, 57:4, 57:8, 57:13, 57:16, 58:19, 58:23, 66:5, 66:25, 74:6, 76:7, 77:22, 78:24, 80:3, 80:21, 80:24, 86:24, 87:3, 87:7, 94:18, 98:8, 101:17, 101:22, 103:23, 104:1, 104:4, 104:9</p> <p>change [5] - 30:23, 31:1, 46:7, 63:8, 64:8</p> <p>changed [1] - 39:23</p> <p>changes [9] - 15:11, 22:10, 31:15, 42:18, 59:25, 64:5, 71:4, 76:3, 77:15</p>	<p>chapter [1] - 61:15</p> <p>Chapter [1] - 61:15</p> <p>check [2] - 28:21, 48:11</p> <p>choices [1] - 96:22</p> <p>chooses [2] - 80:22, 80:25</p> <p>chose [1] - 32:1</p> <p>cite [1] - 42:8</p> <p>cities [1] - 28:25</p> <p>citizens [2] - 10:20, 93:18</p> <p>city [1] - 82:18</p> <p>City [4] - 18:8, 18:10, 18:15, 45:9</p> <p>clarification [2] - 52:21, 104:6</p> <p>clarified [2] - 53:18, 91:24</p> <p>clarifies [1] - 60:2</p> <p>clarify [5] - 23:5, 35:22, 53:11, 100:7, 100:8</p> <p>clarifying [1] - 100:12</p> <p>clarity [1] - 44:22</p> <p>classification [1] - 83:22</p> <p>clear [13] - 29:19, 52:3, 62:21, 76:11, 81:5, 85:13, 87:14, 88:15, 90:21, 92:7, 95:2, 96:16, 103:19</p> <p>clearly [5] - 13:11, 21:10, 40:23, 91:18, 95:13</p> <p>client [1] - 87:12</p> <p>close [1] - 70:3</p> <p>closing [1] - 80:10</p> <p>closing arguments [1] - 87:1</p> <p>cloud [1] - 94:4</p> <p>Clover [19] - 14:3, 20:25, 24:20, 24:24, 26:12, 44:12, 44:13, 44:17, 44:19, 44:23, 45:7, 45:14, 46:11, 53:19, 54:11, 70:6, 76:16, 78:2, 103:3</p> <p>clue [1] - 52:16</p> <p>Code [1] - 98:14</p> <p>code [2] - 99:12, 99:21</p> <p>coincident [2] - 16:13, 75:9</p> <p>coined [1] - 12:13</p> <p>colleague [1] - 28:7</p> <p>Com [1] - 101:4</p> <p>com [1] - 51:1</p> <p>comfortable [2] - 16:21, 30:7</p>	<p>coming [11] - 5:13, 55:20, 61:21, 65:14, 70:13, 72:22, 74:23, 86:14, 97:24, 99:14, 99:15</p> <p>commence [1] - 103:11</p> <p>comment [3] - 9:23, 15:14, 68:22</p> <p>comments [5] - 59:2, 59:3, 62:15, 66:1, 100:9</p> <p>Commission [58] - 4:22, 10:23, 12:4, 14:25, 15:11, 21:24, 22:8, 40:11, 53:12, 55:15, 59:14, 59:18, 59:25, 60:23, 61:7, 61:23, 62:5, 64:7, 67:4, 67:18, 68:15, 68:25, 70:20, 70:23, 71:1, 71:18, 71:19, 71:24, 72:5, 75:14, 82:14, 87:15, 88:8, 88:13, 90:10, 91:3, 91:18, 92:7, 93:1, 93:7, 93:14, 93:19, 94:8, 94:16, 94:23, 95:3, 95:9, 95:13, 96:13, 97:8, 97:16, 98:12, 99:2, 100:17, 100:24, 101:5, 101:6, 101:12</p> <p>Commission's [6] - 20:19, 62:22, 72:18, 90:8, 93:11, 98:15</p> <p>Commissioner [1] - 80:11</p> <p>Commissioner Allen [8] - 44:6, 44:8, 76:8, 76:9, 77:5, 77:9, 77:21, 80:5</p> <p>Commissioner Campbell [18] - 44:9, 44:10, 45:4, 45:20, 54:2, 77:22, 77:23, 78:7, 78:20, 81:2, 81:3, 81:12, 81:15, 82:3, 82:9, 83:11, 84:25, 90:20</p> <p>Commissioners [3] - 44:5, 65:21, 87:12</p> <p>commodities [1] - 47:2</p> <p>commodity [2] - 48:2, 48:6</p> <p>communicate [1] - 42:15</p> <p>communities [2] - 14:20, 89:18</p> <p>Company [88] - 5:19, 11:4, 14:14, 15:2,</p>	<p>15:4, 15:10, 15:16, 15:23, 16:1, 16:5, 16:15, 18:25, 20:2, 20:9, 21:16, 21:22, 22:25, 23:21, 31:25, 41:2, 42:16, 50:21, 52:22, 54:19, 54:21, 55:3, 55:7, 55:22, 59:16, 59:17, 59:24, 61:3, 61:9, 61:12, 61:17, 61:20, 62:5, 63:24, 64:7, 65:11, 66:12, 68:7, 69:5, 70:19, 70:21, 71:24, 72:21, 74:23, 75:15, 75:19, 76:1, 76:15, 77:10, 77:25, 78:1, 81:17, 81:20, 82:1, 82:6, 83:4, 86:5, 88:15, 88:20, 89:3, 89:12, 90:5, 90:7, 90:10, 91:8, 91:11, 92:2, 92:8, 92:20, 94:24, 95:4, 95:21, 96:10, 97:15, 98:19, 98:22, 99:13, 100:10, 100:14, 100:20, 101:6, 102:14, 102:23, 103:10</p> <p>company [1] - 6:25</p> <p>Company's [18] - 14:6, 14:15, 16:12, 17:24, 42:1, 42:21, 42:23, 48:16, 54:17, 60:5, 61:14, 61:16, 62:18, 65:23, 70:17, 72:14, 72:15, 73:2</p> <p>company's [2] - 10:16, 11:10</p> <p>Complete [1] - 68:18</p> <p>completed [5] - 12:5, 44:21, 60:11, 70:8, 70:9</p> <p>completely [3] - 71:11, 72:23, 95:22</p> <p>completion [2] - 12:5, 53:21</p> <p>Complicated [1] - 10:6</p> <p>compromise [1] - 90:8</p> <p>con [2] - 41:22, 77:2</p> <p>concern [14] - 41:13, 41:25, 42:1, 42:6, 42:21, 42:22, 55:22, 73:2, 74:19, 74:21, 74:22, 86:5, 98:19, 100:12</p> <p>concerns [4] - 21:12, 22:14, 77:13, 90:7</p> <p>conclude [2] - 15:13, 23:23</p>	<p>concluded [1] - 104:11</p> <p>concludes [2] - 56:5, 66:1</p> <p>conclusion [2] - 66:21, 67:21</p> <p>concrete [2] - 47:2, 47:8</p> <p>condition [5] - 64:2, 72:4, 75:14, 77:24, 101:5</p> <p>conditional [2] - 27:19, 28:16</p> <p>conditioned [13] - 16:5, 18:3, 20:10, 20:12, 29:23, 30:3, 48:18, 59:15, 75:15, 85:5, 90:9, 100:13, 103:8</p> <p>conditioning [1] - 92:24</p> <p>Conditioning [1] - 15:5</p> <p>conditions [21] - 4:19, 9:23, 11:4, 15:1, 15:3, 17:22, 20:6, 62:24, 67:5, 67:6, 67:8, 67:10, 67:17, 71:17, 71:20, 71:22, 74:13, 87:19, 87:21, 94:13, 97:10</p> <p>conductor [1] - 47:9</p> <p>confident [1] - 50:16</p> <p>connected [1] - 23:15</p> <p>connects [1] - 51:21</p> <p>consent [3] - 82:16, 85:4, 85:7</p> <p>consider [1] - 50:1</p> <p>consideration [1] - 95:10</p> <p>considering [1] - 98:12</p> <p>consistent [1] - 85:15</p> <p>consisting [1] - 8:4</p> <p>consists [1] - 7:11</p> <p>constraint [2] - 99:9, 99:10</p> <p>construct [3] - 19:3, 19:6, 88:20</p> <p>constructed [8] - 14:16, 20:21, 21:19, 25:24, 26:1, 35:9, 54:12, 61:1</p> <p>constructor [1] - 47:24</p> <p>construction [26] - 13:19, 16:24, 16:25, 17:1, 19:11, 19:23, 22:3, 29:20, 34:11,</p>
---	---	---	---	---

<p>34:18, 47:22, 47:25, 48:22, 59:9, 62:20, 63:12, 63:25, 79:16, 86:2, 88:12, 91:1, 91:8, 91:16, 97:22, 103:11</p> <p>Construction [1] - 4:7</p> <p>contacts [1] - 64:1</p> <p>contains [1] - 61:14</p> <p>contemplated [1] - 91:2</p> <p>contention [1] - 90:18</p> <p>contested [3] - 5:20, 20:17, 72:16</p> <p>continue [2] - 17:25, 37:11</p> <p>continuously [1] - 26:2</p> <p>contract [3] - 19:10, 19:11, 49:21</p> <p>contracting [1] - 92:1</p> <p>contractor [1] - 47:24</p> <p>contracts [3] - 63:25, 64:1, 89:22</p> <p>contrary [1] - 94:12</p> <p>control [1] - 47:21</p> <p>convenience [6] - 59:11, 61:4, 62:13, 63:11, 88:11, 102:17</p> <p>Convenience [5] - 4:6, 48:17, 101:1, 101:25, 102:11</p> <p>convenient [2] - 7:22, 46:1</p> <p>convention [1] - 7:16</p> <p>cor [1] - 8:21</p> <p>Corporation [1] - 10:25</p> <p>Correct [2] - 58:2, 68:24</p> <p>correct [27] - 7:13, 8:6, 8:20, 24:22, 25:6, 25:14, 25:20, 26:7, 26:14, 26:19, 26:22, 26:25, 30:2, 30:4, 33:11, 33:16, 34:9, 35:6, 37:3, 39:4, 40:2, 43:10, 48:22, 48:23, 55:17, 58:1, 68:23</p> <p>corrections [2] - 8:10, 58:9</p> <p>correctly [2] - 36:10, 78:18</p> <p>cost [19] - 8:17, 8:18, 8:19, 22:4, 36:6, 46:13, 47:2, 47:20, 48:5, 61:11, 66:13,</p>	<p>67:12, 68:2, 68:8, 77:11, 92:13, 93:25, 94:25, 95:6</p> <p>costs [12] - 17:3, 46:17, 47:6, 48:7, 54:10, 55:7, 60:3, 60:6, 60:9, 60:10, 60:15, 77:20</p> <p>Costs [1] - 46:23</p> <p>Counsel [1] - 80:6</p> <p>counsel [4] - 17:11, 17:18, 22:23, 23:5</p> <p>Counties [1] - 19:2</p> <p>counties [1] - 28:25</p> <p>county [4] - 49:22, 82:18, 89:9, 91:14</p> <p>County [12] - 19:1, 28:10, 83:7, 83:8, 85:9, 85:13, 86:5, 86:11, 86:12, 91:12</p> <p>County's [1] - 30:4</p> <p>couple [4] - 10:10, 47:7, 50:7, 96:22</p> <p>Couple [1] - 45:16</p> <p>course [6] - 14:1, 47:13, 87:25, 102:8, 104:7</p> <p>cover [5] - 10:12, 27:12, 27:15, 27:18, 82:24</p> <p>covered [1] - 54:24</p> <p>CPCN [48] - 14:11, 14:25, 16:10, 16:12, 18:2, 20:9, 21:18, 22:17, 22:19, 23:3, 44:16, 44:17, 54:17, 54:18, 54:23, 59:8, 59:23, 59:25, 60:24, 61:2, 61:7, 61:10, 63:3, 63:13, 64:22, 65:11, 66:12, 66:18, 67:11, 67:15, 67:18, 67:19, 69:19, 70:16, 71:18, 71:20, 71:23, 72:5, 72:7, 72:13, 72:20, 72:23, 75:8, 77:2, 78:4, 78:19, 79:15, 103:19</p> <p>CPCNs [1] - 77:6</p> <p>CPN [3] - 16:5, 16:8, 59:15</p> <p>critical [13] - 12:9, 12:13, 12:14, 12:17, 12:19, 12:24, 13:3, 13:15, 14:11, 16:11, 17:8, 23:13, 88:23</p> <p>cross [1] - 5:21</p> <p>cross examination [7] - 4:22, 9:5, 24:1, 24:3, 24:5, 66:5, 66:8</p> <p>CUP [1] - 63:1</p>	<p>curious [2] - 48:13, 78:13</p> <p>current [13] - 13:1, 21:8, 21:25, 25:9, 37:9, 42:23, 43:7, 50:13, 50:14, 51:5, 59:25, 90:12, 94:7</p> <p>customer [10] - 12:16, 13:13, 14:4, 23:1, 23:2, 23:12, 52:5, 62:9, 99:3</p> <p>customers [13] - 11:5, 11:18, 11:19, 13:15, 17:10, 35:25, 36:7, 41:3, 42:10, 42:13, 55:8, 89:17, 96:1</p> <p>customers' [1] - 35:13</p> <p>cut [1] - 56:10</p>	<p>20:4, 20:13, 29:15, 29:22, 29:25, 30:3, 30:22, 31:1, 31:2, 31:7, 31:11, 32:5, 32:7, 32:10, 49:19, 49:20, 62:2, 75:11, 75:23, 85:1, 85:6, 85:10, 85:15, 85:17, 85:22, 91:6, 91:7, 95:11, 97:19, 97:21, 97:24, 98:6, 100:9, 100:10, 103:22</p> <p>decisions [1] - 17:20</p> <p>declaring [1] - 67:5</p> <p>declined [2] - 42:11, 93:14</p> <p>deemed [3] - 103:20, 103:21, 103:23</p> <p>deems [2] - 54:19, 90:10</p> <p>defer [1] - 28:7</p> <p>deferred [1] - 35:9</p> <p>deficit [1] - 72:11</p> <p>defined [1] - 90:1</p> <p>definite [1] - 25:18</p> <p>definitely [2] - 16:24, 17:1</p> <p>degree [2] - 16:22, 53:25</p> <p>delay [3] - 16:23, 17:17, 18:2</p> <p>delayed [3] - 19:23, 25:12, 25:13</p> <p>delaying [1] - 16:20</p> <p>delegating [1] - 10:24</p> <p>deliver [1] - 12:20</p> <p>delivery [2] - 11:15, 47:25</p> <p>demand [5] - 12:16, 12:25, 14:4, 23:12, 52:6</p> <p>demands [3] - 11:3, 12:23, 45:12</p> <p>demonstrated [3] - 13:5, 13:11, 13:12</p> <p>demonstration [3] - 88:9, 88:14, 88:19</p> <p>depart [1] - 13:8</p> <p>dependent [2] - 16:9, 25:3</p> <p>describe [5] - 11:24, 12:12, 14:15, 17:18, 86:2</p> <p>described [4] - 12:22, 36:9, 61:8, 64:4</p> <p>describes [2] - 10:15, 86:1</p> <p>describing [1] - 92:11</p>	<p>description [4] - 38:2, 38:17, 39:1, 39:20</p> <p>descriptive [1] - 34:3</p> <p>design [2] - 16:17, 30:9</p> <p>designate [1] - 67:6</p> <p>detail [2] - 11:24, 102:8</p> <p>detailed [1] - 103:4</p> <p>determination [4] - 22:6, 22:9, 72:2, 95:6</p> <p>determine [10] - 36:6, 62:10, 62:12, 63:11, 69:11, 70:23, 71:3, 71:6, 95:23</p> <p>determined [5] - 59:9, 59:17, 60:21, 64:21, 102:25</p> <p>developed [1] - 93:7</p> <p>development [3] - 21:9, 42:3, 89:17</p> <p>dialogue [1] - 56:3</p> <p>difference [2] - 97:4, 97:7</p> <p>different [12] - 49:16, 52:4, 67:12, 72:17, 72:22, 74:13, 75:1, 76:20, 76:21, 77:19, 83:1, 96:22</p> <p>Different [1] - 6:10</p> <p>differently [2] - 49:16, 52:17</p> <p>Direct [1] - 9:2</p> <p>direct [15] - 5:14, 7:11, 8:14, 9:9, 10:15, 32:12, 32:20, 37:23, 56:24, 57:6, 58:1, 58:3, 58:20, 59:5, 85:19</p> <p>DIRECT EXAMINATION [2] - 6:18, 57:20</p> <p>directed [1] - 80:6</p> <p>direction [1] - 77:19</p> <p>directly [4] - 23:13, 23:16, 47:18, 88:7</p> <p>disagree [2] - 75:5, 75:6</p> <p>disagreement [1] - 97:14</p> <p>disagrees [1] - 15:23</p> <p>discovery [2] - 65:15, 69:12</p> <p>discretion [1] - 91:8</p> <p>discretionary [1] - 23:17</p> <p>discuss [1] - 96:2</p> <p>discussed [2] - 34:14, 35:17</p> <p>discussing [1] - 12:9</p>
--	---	---	---	--

<p>discussion [3] - 5:14, 11:12, 94:21 discussions [2] - 21:5, 28:18 dispute [3] - 87:17, 92:4, 94:10 disturbances [1] - 51:25 Div [1] - 64:6 divide [1] - 87:7 Division [44] - 5:18, 9:24, 15:24, 21:7, 21:24, 22:8, 22:24, 23:8, 53:12, 55:15, 56:4, 59:9, 59:14, 59:17, 59:22, 60:21, 61:2, 62:4, 62:17, 63:13, 63:17, 63:23, 64:8, 66:11, 71:1, 71:25, 72:1, 72:8, 73:3, 75:4, 75:11, 75:18, 77:17, 83:3, 87:13, 90:7, 90:15, 92:2, 92:18, 92:22, 94:23, 95:7, 95:10, 97:7 Division of Public Utilities [1] - 5:8 Division's [11] - 13:8, 14:24, 20:16, 20:17, 21:12, 22:13, 23:19, 29:5, 41:17, 59:7, 74:9 docket [8] - 20:20, 22:17, 63:6, 69:1, 90:15, 92:10, 92:14, 103:1 Docket [3] - 4:4, 59:22, 102:1 dockets [1] - 92:15 document [1] - 37:8 documentation [1] - 96:19 documentations [1] - 37:2 documents [1] - 51:5 dollars [1] - 46:14 done [6] - 11:25, 48:4, 52:22, 88:17, 89:23, 99:15 double [1] - 12:25 doubt [1] - 50:18 down [15] - 24:18, 33:8, 47:17, 53:22, 56:14, 62:19, 71:15, 81:4, 85:25, 86:11, 86:22, 98:16, 100:3, 100:19, 103:15 DPU [7] - 38:22, 39:6, 39:21, 43:20, 58:4, 58:5, 58:17</p>	<p>DPU-1.0 [1] - 58:24 DPU-1.9SR [1] - 58:25 DPU-2 [3] - 38:19, 43:18, 43:23 DPU-3 [2] - 38:19, 43:23 Draft [2] - 14:9, 63:20 dramatically [1] - 63:8 draw [1] - 19:14 drawn [1] - 100:5 drive [2] - 17:3, 21:9 driven [2] - 20:25, 42:2 driver [1] - 13:21 driving [1] - 95:19 drove [1] - 29:5 DTG-2 [1] - 32:13 Due [1] - 60:20 due [6] - 15:13, 18:18, 41:12, 74:12, 102:8, 104:7 duly [4] - 4:4, 6:16, 57:18, 101:24 duration [4] - 13:19, 20:18, 28:19, 60:23 during [5] - 52:20, 53:1, 65:11, 77:11, 85:3</p>	<p>end [7] - 16:19, 17:11, 70:9, 74:23, 77:18, 79:17, 102:4 Energy [6] - 10:23, 11:23, 38:17, 39:22, 61:13, 64:10 energy [1] - 89:11 engineer [1] - 19:3 engineer-procure-construct [1] - 19:3 engineers [1] - 99:14 enormous [1] - 95:20 ensure [1] - 35:4 enter [2] - 5:1, 91:3 entered [1] - 5:20 entire [14] - 8:18, 14:12, 14:15, 14:25, 21:13, 30:15, 30:24, 61:14, 81:18, 90:22, 91:16, 99:7, 101:2, 101:13 entirely [1] - 62:4 entirety [3] - 14:7, 20:12, 55:2 entities [1] - 74:11 entity [1] - 18:13 Environmental [2] - 63:20, 63:21 environmental [5] - 14:8, 21:15, 41:10, 63:7, 76:20 Environmental impact [4] - 14:9, 14:10, 15:12, 15:13 EPC [2] - 47:22, 63:25 equivocal [1] - 89:1 essential [1] - 10:18 essentially [1] - 79:8 estimate [2] - 27:5, 28:21 estimated [4] - 22:4, 24:15, 60:6, 60:9 et [3] - 98:14, 98:15, 99:9 evaluate [4] - 32:4, 33:18, 35:23, 97:25 evaluates [1] - 35:16 evaluation [1] - 35:19 event [3] - 51:24, 67:15, 86:19 evidence [6] - 9:2, 57:3, 82:13, 88:20, 90:23, 94:12 exact [1] - 99:17 exactly [4] - 17:19, 41:25, 49:2, 73:17 examined [2] - 6:17, 57:19</p>	<p>example [1] - 49:2 excellent [1] - 54:9 exchange [1] - 92:6 excluded [1] - 96:24 excuse [4] - 7:1, 28:9, 73:12, 101:4 Excuse [2] - 18:20, 37:7 excused [1] - 80:4 execute [2] - 11:4, 19:4 exhibit [3] - 32:12, 34:22 Exhibit [8] - 6:8, 9:12, 38:19, 43:23, 57:11, 58:4, 58:5, 58:24 Exhibit 1 [3] - 6:7, 58:4, 58:17 Exhibit 2 [3] - 37:20, 38:22, 39:6 Exhibit 3 [1] - 39:22 exhibits [12] - 7:12, 7:17, 8:5, 9:4, 9:11, 9:19, 37:18, 54:15, 56:25, 57:9, 58:11, 58:18 Exhibits [5] - 7:24, 9:4, 43:20, 57:2 existing [2] - 36:3, 88:14 exists [4] - 61:5, 62:12, 94:11, 95:23 expand [1] - 54:25 expansion [2] - 25:3, 61:16 expect [3] - 14:5, 42:21, 54:11 expected [4] - 11:3, 12:25, 21:7, 79:16 expense [1] - 99:10 expensive [1] - 89:21 experience [7] - 17:2, 17:13, 19:9, 19:14, 19:24, 47:1, 55:6 experts [1] - 20:2 expiration [3] - 28:19, 53:6 explain [1] - 51:9 explained [1] - 21:4 explicitly [1] - 34:16 exposure [1] - 47:11 extent [4] - 92:17, 93:1, 93:23, 103:10 extremely [1] - 74:12</p>	<p style="text-align: center;">F</p> <p>faced [2] - 83:24, 96:21 facilities [7] - 42:12, 59:10, 61:21, 63:13, 68:8, 94:25, 95:1 Facilities [4] - 15:6, 21:5, 48:20, 75:22 Facilities Review Board [6] - 29:22, 30:23, 31:7, 49:17, 49:19, 98:6 facility [4] - 12:2, 12:6, 12:7, 29:7 Facility [6] - 16:13, 17:5, 17:16, 18:17, 97:18, 98:5 Facility Review Board [6] - 13:6, 29:15, 65:5, 85:13, 91:6, 100:10 fact [13] - 20:25, 50:11, 50:12, 51:4, 60:16, 62:24, 86:1, 88:14, 92:11, 93:10, 96:23, 98:4, 98:22 factor [1] - 48:4 facts [1] - 22:18 factual [2] - 13:7, 81:8 fair [5] - 35:20, 35:21, 36:8, 36:11, 39:8 fairly [3] - 68:15, 70:3, 70:11 fall [1] - 63:21 falls [1] - 83:21 far [10] - 15:20, 28:13, 33:17, 39:11, 39:17, 47:25, 85:12, 85:20, 92:3, 97:11 February [1] - 68:12 federal [5] - 10:22, 11:1, 14:7, 14:17, 50:24 Federal [1] - 10:23 FERC [2] - 11:9, 29:12 few [2] - 50:10, 66:7 fif [1] - 36:19 file [18] - 8:3, 15:16, 15:21, 15:22, 21:23, 28:22, 31:8, 61:9, 66:12, 67:23, 70:21, 71:24, 72:7, 73:22, 76:3, 82:13, 95:4, 97:5 filed [13] - 6:6, 7:11, 27:19, 28:2, 28:16,</p>
	<p style="text-align: center;">E</p> <p>early [1] - 53:7 ease [1] - 90:6 economic [5] - 14:4, 21:9, 42:3, 46:16, 89:17 economy [1] - 47:14 effective [1] - 48:21 efficient [1] - 10:20 efforts [1] - 17:19 EIS [1] - 15:12 either [7] - 8:11, 23:15, 53:14, 70:12, 83:23, 84:6, 84:18 electric [2] - 40:20, 51:13 Electric [1] - 10:25 electrical [3] - 12:24, 40:23, 42:12 electricity [1] - 61:24 element [1] - 12:10 elements [2] - 13:25, 20:21 eliminating [1] - 102:19 emphasize [1] - 65:10</p>			

<p>28:24, 57:25, 59:6, 60:5, 60:22, 63:4, 67:15, 68:2 files [1] - 94:24 Filing [1] - 68:18 filing [16] - 41:20, 63:14, 66:18, 68:19, 69:1, 72:13, 74:17, 74:24, 90:9, 92:5, 93:13, 97:6, 98:13, 99:8, 100:15, 101:6 filings [4] - 23:3, 68:17, 92:9, 93:3 Final [3] - 14:9, 63:21, 75:7 final [6] - 17:12, 22:23, 23:23, 45:3, 54:16, 97:13 Finally [1] - 100:7 fine [2] - 72:25, 81:1 finished [2] - 51:23, 79:17 firm [1] - 5:3 First [2] - 73:4, 92:9 first [22] - 4:14, 5:10, 12:2, 12:6, 24:7, 30:20, 36:4, 38:5, 39:5, 54:12, 64:11, 66:10, 68:11, 81:7, 81:9, 83:9, 83:16, 87:4, 87:23, 93:5, 99:7, 100:14 fits [1] - 72:19 five [34] - 20:19, 21:20, 21:23, 29:9, 59:15, 60:24, 61:1, 62:19, 63:2, 63:3, 63:14, 70:16, 72:9, 74:10, 76:10, 76:13, 76:14, 76:19, 77:24, 78:2, 78:13, 80:25, 84:16, 87:25, 90:11, 96:3, 98:18, 100:1, 100:4, 100:5, 101:7, 102:21, 102:22 five-year [9] - 70:16, 76:10, 76:13, 76:14, 77:24, 78:13, 87:25, 100:4, 102:21 five-year-window [1] - 98:18 focus [2] - 87:22, 96:22 focuses [1] - 94:8 folk [1] - 12:1 folks [2] - 23:18, 53:1 follow [6] - 20:5, 50:3, 69:17, 86:20, 102:8, 104:7 follow-up [1] - 69:17</p>	<p>following [3] - 15:5, 45:19, 102:11 follows [3] - 6:17, 57:19, 102:9 forecast [2] - 39:17, 45:22 forecasted [2] - 11:3, 46:8 forecasts [3] - 13:7, 45:11, 45:13 foremost [1] - 92:9 forgotten [1] - 76:11 Fork [1] - 12:18 formal [1] - 73:25 forth [2] - 8:23, 68:16 forward [13] - 19:9, 20:8, 22:19, 31:14, 32:11, 40:24, 42:17, 49:22, 55:5, 55:12, 55:16, 55:17, 93:2 four [6] - 70:25, 71:22, 87:9, 90:11, 100:2, 100:19 frame [7] - 21:7, 36:24, 42:17, 48:5, 68:5, 91:16, 99:17 frames [1] - 54:14 franchise [3] - 82:17, 85:4, 85:7 free [1] - 10:5 front [8] - 32:18, 33:1, 33:7, 35:2, 38:22, 62:3, 65:16, 95:9 frowned [1] - 68:7 full [7] - 14:2, 53:3, 53:21, 63:13, 64:23, 72:11, 72:24 full disclosure [1] - 14:22 fully [3] - 12:22, 21:5, 54:10 functions [1] - 52:5 future [31] - 12:23, 23:3, 25:16, 25:24, 26:1, 26:5, 26:8, 26:13, 28:12, 28:13, 30:20, 33:14, 33:17, 41:3, 50:15, 50:18, 53:21, 61:10, 62:6, 63:11, 66:12, 88:4, 88:10, 88:16, 88:18, 96:9, 99:13, 99:19, 99:20</p>	<p>25:9, 25:11, 27:2, 29:11, 33:15, 38:17, 39:1, 39:22, 40:25, 41:1, 41:6, 41:11, 41:16, 43:1, 43:2, 43:3, 43:4, 43:6, 43:12, 43:14, 43:15, 44:14, 44:16, 44:24, 45:5, 45:7, 45:15, 46:21, 61:13, 64:10, 73:7, 74:24, 84:21 gen [1] - 68:10 general [8] - 23:5, 54:19, 68:8, 68:10, 77:11, 95:16, 102:18 generally [1] - 47:1 generating [1] - 96:5 generation [3] - 11:16, 11:18, 12:21 gentlemen [1] - 12:1 germane [1] - 11:11 Gerrard [32] - 4:15, 4:21, 5:12, 6:9, 6:11, 6:20, 7:9, 8:9, 9:21, 18:5, 23:25, 24:2, 24:7, 44:2, 44:7, 45:17, 50:5, 52:20, 56:14, 59:4, 60:2, 60:15, 62:16, 62:25, 64:10, 70:7, 70:22, 71:21, 75:10, 78:18, 98:3, 103:4 GERRARD [1] - 6:14 Gerrard's [5] - 9:9, 57:6, 63:17, 74:16, 88:22 GINSBERG [33] - 5:7, 6:4, 9:8, 24:4, 24:6, 32:17, 34:25, 37:17, 37:22, 37:25, 38:4, 38:6, 38:13, 38:16, 43:17, 43:24, 44:2, 56:7, 56:11, 56:19, 57:7, 57:21, 58:16, 66:2, 66:20, 67:20, 73:9, 73:11, 74:2, 79:3, 80:2, 83:15, 94:20 Ginsberg [18] - 6:3, 24:3, 32:19, 32:20, 35:3, 37:19, 38:21, 44:4, 51:3, 54:15, 56:10, 59:1, 79:1, 82:25, 83:12, 87:5, 94:19, 98:8 Given [1] - 17:8 given [2] - 62:11, 101:12 glad [1] - 29:14 gonna [14] - 35:4, 49:7, 52:17, 65:17, 69:23, 73:6, 74:24,</p>	<p>76:19, 77:4, 78:22, 80:20, 86:7, 95:24, 102:5 governments [1] - 62:25 grant [11] - 14:25, 16:4, 59:14, 62:22, 71:20, 72:20, 75:14, 75:17, 97:16, 97:22, 99:21 granted [10] - 14:12, 15:18, 21:15, 59:23, 64:2, 70:4, 79:15, 98:2, 103:21, 103:23 granting [2] - 62:24, 100:25 Great [2] - 10:9, 80:24 greater [1] - 65:6 grid [1] - 40:23 grounds [2] - 64:17, 93:4 groups [1] - 62:9 growth [12] - 13:2, 14:4, 21:8, 26:8, 26:17, 42:3, 45:11, 46:7, 63:7, 64:25, 72:10, 76:22 guess [5] - 4:14, 25:16, 44:15, 76:10, 82:7</p>	<p>hide [1] - 101:10 high [5] - 36:17, 44:19, 84:13, 84:20, 84:22 high-level [1] - 36:17 high-voltage [1] - 44:19 higher [2] - 76:22, 77:20 highjack [1] - 101:15 highly [2] - 96:3, 96:12 history [2] - 13:7, 77:5 hold [3] - 6:21, 63:23, 75:21 hooked [1] - 11:19 hope [3] - 50:11, 65:21, 100:24 hopefully [1] - 72:20 horizon [5] - 96:10, 96:19, 98:18, 98:21, 100:3 horizons [1] - 43:9 horribles [1] - 76:13 hostage [1] - 91:14 hundred [1] - 19:16 hung [1] - 84:10 hurry [1] - 89:23 hypothetical [1] - 77:25</p>
	<p style="text-align: center;">G</p>		<p style="text-align: center;">H</p>	<p style="text-align: center;">I</p>
	<p>Gate [1] - 44:24 Gateway [41] - 11:23, 12:2, 12:8, 13:22, 25:4, 25:5,</p>	<p>49:7, 52:17, 65:17, 69:23, 73:6, 74:24,</p>	<p>half [3] - 70:25, 71:23, 100:2 hand [4] - 30:6, 55:11, 86:12, 86:18 handed [1] - 54:15 hanging [1] - 79:19 happy [2] - 100:8, 101:9 hard [1] - 77:1 hear [8] - 4:13, 4:20, 4:21, 56:15, 74:6, 80:12, 87:1, 87:4 heard [9] - 10:3, 36:10, 44:13, 72:19, 78:17, 83:16, 97:15, 98:1, 98:3 hearing [7] - 4:4, 46:25, 65:5, 80:14, 101:24, 102:5, 104:11 Hearing [1] - 102:1 hearings [1] - 10:4 heart [1] - 52:2 hedge [1] - 47:10 held [2] - 91:14, 92:1 help [2] - 64:13, 90:6 helps [1] - 47:20 hesitancy [1] - 90:16</p>	<p>Idaho [1] - 64:25 idea [3] - 49:6, 95:12 identification [1] - 38:20 identified [3] - 60:15, 90:1, 103:20 identifies [1] - 91:18 ii [1] - 85:20 immediately [3] - 48:21, 64:6, 97:17 impact [3] - 17:10, 32:1, 48:2 implications [1] - 98:17 important [9] - 11:14, 13:17, 16:19, 17:8, 51:21, 54:20, 54:22, 95:8, 95:10 impose [2] - 69:1, 71:18 improper [3] - 93:4, 94:6, 95:18 imprudent [1] - 50:21 in-service [21] - 13:20, 17:2, 24:15,</p>

<p>24:19, 26:24, 27:1, 27:5, 29:3, 39:12, 39:23, 40:12, 60:4, 60:16, 60:17, 79:8, 79:20, 96:7, 96:23, 97:12, 102:16</p> <p>in-service-date [1] - 28:23</p> <p>in-state [1] - 62:8</p> <p>inability [2] - 78:8, 78:9</p> <p>inaccurate [1] - 39:17</p> <p>inasmuch [1] - 37:20</p> <p>include [6] - 30:8, 39:7, 39:18, 39:25, 41:17, 90:4</p> <p>included [9] - 33:1, 33:24, 39:6, 39:9, 44:16, 44:18, 46:20, 60:14, 60:18</p> <p>includes [2] - 34:6, 103:3</p> <p>including [9] - 16:6, 17:19, 18:3, 27:16, 53:4, 84:20, 88:24, 100:14, 101:1</p> <p>inclusion [1] - 87:23</p> <p>incomplete [1] - 41:2</p> <p>increase [1] - 8:17</p> <p>increased [3] - 46:13, 46:14, 46:17</p> <p>incur [1] - 54:10</p> <p>indeed [1] - 9:25</p> <p>independent [1] - 22:9</p> <p>indeterminant [1] - 77:1</p> <p>indicate [3] - 26:16, 27:8, 97:15</p> <p>indicated [13] - 18:13, 18:15, 18:17, 24:25, 28:11, 32:21, 40:9, 53:20, 70:23, 71:19, 81:20, 92:10, 93:5</p> <p>indicates [3] - 26:23, 50:14, 91:1</p> <p>indication [1] - 98:1</p> <p>indications [1] - 45:13</p> <p>indirectly [1] - 23:16</p> <p>industrial [2] - 89:9, 99:3</p> <p>infor [1] - 23:6</p> <p>informally [1] - 73:25</p> <p>information [43] - 8:14, 8:16, 22:3, 22:5, 22:21, 22:25, 23:7, 29:6, 29:9, 48:11, 54:21, 61:10, 61:23,</p>	<p>62:1, 62:2, 62:6, 62:7, 62:10, 65:9, 65:18, 66:14, 68:1, 69:12, 69:16, 69:18, 70:22, 70:24, 71:2, 71:25, 72:9, 72:12, 73:19, 73:23, 74:17, 74:20, 92:18, 92:20, 92:25, 93:24, 93:25, 95:5, 95:8, 102:24</p> <p>informed [4] - 17:24, 17:25, 20:2, 28:17</p> <p>initial [2] - 22:15, 92:9</p> <p>input [1] - 36:4</p> <p>integral [3] - 26:14, 32:23, 40:20</p> <p>integrated [4] - 10:16, 52:5, 88:17, 90:1</p> <p>Integrated [5] - 35:23, 36:5, 36:18, 36:24, 37:9</p> <p>intend [3] - 14:22, 19:4, 21:6</p> <p>intent [1] - 14:2</p> <p>intentionally [1] - 28:24</p> <p>intentions [1] - 50:22</p> <p>interconnected [1] - 52:8</p> <p>interest [1] - 59:12</p> <p>interested [1] - 92:19</p> <p>interim [1] - 53:24</p> <p>interpretation [3] - 83:1, 83:12, 85:12</p> <p>interrelated [2] - 51:7, 51:10</p> <p>interrelationship [1] - 51:9</p> <p>interrupt [2] - 18:5, 18:16</p> <p>interrupted [1] - 52:14</p> <p>interrupting [1] - 37:7</p> <p>interruption [1] - 52:10</p> <p>intervene [2] - 63:6, 74:12</p> <p>invest [1] - 89:5</p> <p>investment [2] - 40:13, 95:20</p> <p>invited [1] - 98:16</p> <p>involved [2] - 68:12, 89:10</p> <p>IRP [26] - 32:16, 32:17, 32:22, 32:23, 33:1, 33:22, 34:15, 34:21, 34:22, 35:15, 37:4, 38:1, 38:25,</p>	<p>39:24, 46:15, 46:22, 51:5, 54:14, 60:19, 61:14, 96:11, 96:16, 96:17, 96:20</p> <p>issuance [7] - 16:9, 18:24, 20:20, 30:4, 32:6, 61:2, 71:23</p> <p>issue [43] - 16:18, 16:23, 17:15, 17:22, 19:7, 20:17, 22:22, 22:24, 28:18, 40:11, 45:23, 46:24, 48:13, 48:17, 48:19, 55:20, 63:16, 63:17, 69:9, 72:18, 77:2, 83:19, 85:14, 86:13, 87:18, 88:5, 88:8, 88:19, 90:6, 90:16, 90:19, 90:22, 91:15, 91:24, 93:23, 94:4, 95:19, 96:2, 99:24, 100:25, 103:11, 103:19</p> <p>issued [10] - 15:10, 15:22, 20:4, 31:6, 31:11, 75:8, 85:24, 86:17, 98:5, 101:13</p> <p>issues [4] - 10:13, 55:14, 61:6, 103:16</p> <p>Issues [1] - 92:12</p> <p>issuing [1] - 15:17</p> <p>item [7] - 22:20, 65:13, 68:4, 68:6, 68:11, 69:20, 77:12</p> <p>items [1] - 103:20</p> <p>itself [1] - 7:24</p>	<p>known [5] - 61:25, 63:15, 79:8, 96:23, 97:12</p> <p>knows [1] - 67:1</p> <p>kV [9] - 4:8, 25:24, 25:25, 44:23, 44:24, 44:25, 54:6</p>	<p>34:17, 36:12, 36:15, 36:22, 36:23, 39:7, 39:12, 39:25, 40:10, 40:19, 41:7, 41:14, 41:18, 42:1, 42:25, 43:8, 43:11, 44:12, 45:21, 46:12, 49:3, 50:12, 50:17, 51:4, 51:12, 51:21, 52:23, 53:4, 53:10, 53:14, 53:15, 53:19, 54:1, 54:3, 54:11, 54:18, 60:12, 60:17, 70:6, 72:19, 73:22, 76:16, 78:2, 78:3, 78:12, 79:9, 79:25, 81:10, 82:21, 83:13, 84:1, 84:20, 87:24, 88:4, 88:25, 89:12, 90:2, 96:18, 96:24, 97:10, 98:24, 101:2, 102:15, 103:3</p> <p>Limber-Terminal [2] - 28:15, 53:10</p> <p>Limber-to-Terminal [45] - 21:2, 27:18, 27:25, 29:1, 29:4, 33:23, 34:13, 34:17, 36:15, 36:22, 36:23, 39:7, 39:25, 40:10, 41:14, 41:18, 42:25, 43:8, 43:11, 45:21, 46:12, 50:12, 50:17, 51:4, 51:12, 51:21, 52:23, 53:4, 54:18, 60:17, 72:19, 78:3, 78:12, 79:9, 82:21, 87:24, 88:4, 88:25, 90:2, 96:18, 96:24, 97:10, 98:24, 101:2, 102:15</p> <p>limit [3] - 60:23, 63:1, 91:1</p> <p>limitations [2] - 19:6, 19:8</p> <p>limited [2] - 88:13, 92:12</p> <p>limits [2] - 13:7, 13:9</p> <p>line [44] - 19:16, 21:14, 24:13, 25:21, 25:22, 25:23, 25:25, 26:6, 26:20, 26:21, 28:12, 28:15, 33:24, 34:7, 34:10, 34:14, 40:19, 44:11, 45:20, 49:5, 49:7, 49:12, 49:23, 62:11, 62:14, 63:3, 64:14, 64:19, 65:18, 69:8, 70:2, 73:15, 73:17, 73:20, 76:23, 86:3, 86:15, 91:2, 91:9, 91:16,</p>
			L	
			<p>lack [2] - 22:17</p> <p>lacking [1] - 93:24</p> <p>land [1] - 14:19</p> <p>land-use [1] - 14:19</p> <p>language [2] - 67:3, 85:14</p> <p>lapse [1] - 55:25</p> <p>large [4] - 42:13, 89:8, 99:2</p> <p>larger [1] - 17:17</p> <p>last [12] - 19:15, 20:15, 22:20, 33:8, 34:24, 42:25, 47:6, 48:15, 74:6, 81:21, 94:21</p> <p>lasts [1] - 70:16</p> <p>law [5] - 5:3, 10:23, 11:2, 93:7, 93:8</p> <p>laws [1] - 76:20</p> <p>lead [2] - 11:5, 13:18</p> <p>learning [1] - 65:8</p> <p>least [4] - 19:22, 42:9, 79:6, 97:21</p> <p>left [2] - 84:7, 89:3</p> <p>legal [11] - 17:19, 22:22, 66:21, 66:23, 67:21, 67:23, 71:13, 80:10, 80:16, 81:8, 82:20</p> <p>legally [2] - 82:21, 85:8</p> <p>lengthy [1] - 68:15</p> <p>less [2] - 80:18, 89:24</p> <p>letter [2] - 62:18, 71:15</p> <p>letting [1] - 56:1</p> <p>level [5] - 25:13, 36:17, 84:13, 84:21, 84:22</p> <p>licensed [1] - 11:9</p> <p>lies [1] - 12:16</p> <p>light [5] - 5:23, 9:1, 59:20, 69:6, 97:10</p> <p>Limber [84] - 14:2, 21:1, 21:2, 25:17, 25:24, 26:1, 26:4, 26:20, 27:12, 27:16, 27:18, 27:25, 28:15, 29:1, 29:4, 30:20, 33:23, 34:4, 34:13,</p>	
		J		
		<p>jeopardize [2] - 91:15, 100:22</p> <p>JONI [1] - 57:17</p> <p>Joni [1] - 57:24</p> <p>Juab [3] - 19:1, 86:11, 91:12</p> <p>jumping [1] - 82:23</p> <p>June [3] - 15:8, 18:18, 100:11</p> <p>jurisdictional [1] - 61:19</p> <p>justified [1] - 35:5</p>		
		K		
		<p>key [3] - 12:7, 12:12, 16:10</p> <p>kind [3] - 72:4, 76:12, 76:25</p> <p>kinds [1] - 61:25</p> <p>knowing [3] - 49:2, 55:11, 77:10</p>		

<p>98:20, 99:5, 99:6, 100:5 line's [1] - 28:10 lines [6] - 51:22, 52:9, 61:18, 65:3, 68:12, 96:5 liquid [1] - 36:2 list [1] - 71:25 listed [1] - 40:25 lists [1] - 33:12 load [23] - 12:13, 12:17, 12:21, 12:24, 13:15, 21:8, 23:12, 23:13, 26:8, 26:17, 42:2, 45:11, 46:7, 52:5, 63:7, 64:23, 64:24, 65:2, 72:10, 76:21, 76:22, 88:23 loads [1] - 11:16 Local [1] - 26:8 local [6] - 14:17, 25:1, 26:9, 45:8, 50:24, 62:25 Lomond [1] - 51:23 long-term [1] - 13:25 look [19] - 32:10, 32:25, 33:8, 35:8, 37:11, 39:5, 39:20, 45:11, 49:24, 64:18, 71:2, 71:7, 72:10, 76:2, 84:21, 88:18, 95:14, 96:14, 97:9 looked [2] - 84:11, 99:14 looking [7] - 40:6, 45:10, 65:17, 69:23, 80:7, 82:10, 88:16 looks [2] - 42:25, 72:25 lower [2] - 54:12, 55:7 lowering [1] - 47:6 lowest [1] - 36:6 lowest-cost [1] - 36:6</p>	<p>37:13, 38:25, 59:6 mark [5] - 7:14, 7:23, 8:7, 38:1 marked [7] - 7:20, 37:17, 38:19, 38:22, 39:21, 58:3, 58:5 market [2] - 65:1, 65:7 markets [3] - 36:2, 65:6 material [1] - 22:9 materially [2] - 30:23, 31:17 materials [2] - 48:1, 87:14 Matt Moscon [1] - 5:5 matter [4] - 50:19, 59:23, 87:12, 94:12 Matter [1] - 4:5 MAY [1] - 4:1 mean [4] - 48:24, 73:9, 73:11, 81:16 means [2] - 11:17, 39:14 meant [1] - 18:8 meet [6] - 11:21, 12:23, 35:12, 65:7, 74:19, 74:21 meets [4] - 11:3, 59:11, 70:2, 85:2 megawatts [2] - 13:1, 13:2 members [1] - 102:3 mentioned [7] - 16:7, 18:25, 45:11, 47:21, 55:13, 62:25, 79:10 met [4] - 17:23, 77:13, 82:21, 102:14 Michael Ginsberg [1] - 5:7 mid [1] - 52:15 mid-question [1] - 52:15 might [16] - 5:10, 15:18, 17:20, 20:6, 21:9, 26:16, 31:12, 31:15, 31:22, 41:3, 49:2, 49:3, 71:11, 74:12, 97:8, 97:11 miles [2] - 19:16, 61:18 million [2] - 46:13, 60:7 mince [1] - 82:7 mind [4] - 48:18, 50:18, 81:6, 95:22 minute [3] - 27:7, 46:19, 86:25 minutes [5] - 10:10, 50:10, 80:17, 80:23,</p>	<p>87:10 missed [1] - 19:22 missing [1] - 38:12 misspoke [1] - 100:8 Moab [1] - 86:11 models [1] - 46:15 moment [4] - 10:12, 24:9, 32:15, 43:24 Mona [31] - 4:7, 14:1, 19:17, 21:2, 22:1, 23:9, 24:21, 24:22, 25:16, 25:23, 30:16, 30:18, 30:19, 33:9, 33:23, 34:4, 36:12, 40:22, 44:20, 45:1, 51:14, 52:3, 54:2, 54:4, 60:12, 64:19, 70:2, 70:12, 88:3, 91:12 Mona to Oquirrh [1] - 12:8 Mona-Oquirrh [9] - 4:7, 14:1, 19:17, 22:1, 23:9, 30:18, 40:22, 44:20, 45:1 Mona-to [1] - 33:23 Mona-to-Limber-to-Oquirrh [1] - 36:12 Mona-to-Oquirrh [7] - 21:2, 30:16, 33:9, 64:19, 70:2, 70:12, 88:3 month [1] - 8:3 months [2] - 17:7, 100:19 more or less [1] - 46:14 morning [3] - 6:14, 23:24, 83:16 Moscon [6] - 80:22, 80:24, 87:4, 87:8, 94:18, 98:9 MOSCON [11] - 5:5, 80:23, 81:11, 81:14, 81:17, 82:5, 82:23, 85:11, 87:6, 87:9, 98:10 Moscon's [1] - 80:19 move [11] - 4:23, 5:25, 19:3, 19:8, 20:8, 30:13, 31:2, 32:11, 42:17, 74:7, 99:3 Moving [1] - 42:19 moving [2] - 4:14, 16:21 multiple [3] - 54:4, 65:4 Multnomah [1] - 7:1 municipalities [1] - 23:15 Murray [1] - 102:2</p>	<p>must [3] - 11:4, 85:24, 93:8</p> <p style="text-align: center;">N</p> <p>nails [1] - 103:15 name [3] - 6:20, 24:24, 57:22 named [1] - 24:23 narrow [1] - 69:3 Native [1] - 69:8 nature [3] - 19:17, 22:22, 29:3 near [3] - 12:5, 13:24, 40:21 near-term [1] - 13:24 nearly [1] - 12:25 necessary [14] - 16:6, 32:8, 45:25, 47:3, 50:17, 59:16, 61:22, 62:10, 65:9, 72:17, 94:3, 99:6, 102:17, 103:8 necessity [6] - 59:11, 61:4, 62:13, 63:12, 88:11, 104:5 Necessity [4] - 4:6, 48:18, 102:1, 102:11 need [66] - 6:10, 8:10, 10:11, 10:15, 12:22, 13:22, 14:21, 22:6, 29:5, 30:11, 40:24, 41:3, 42:24, 43:7, 45:4, 45:6, 50:14, 50:15, 53:13, 54:9, 54:11, 54:17, 59:7, 61:9, 62:11, 63:2, 63:25, 64:2, 64:7, 64:18, 65:10, 70:3, 70:11, 72:3, 72:10, 72:12, 72:23, 75:18, 78:14, 78:16, 86:9, 87:16, 88:2, 88:14, 88:20, 88:24, 89:13, 89:25, 92:12, 92:18, 92:23, 93:22, 94:9, 94:10, 94:13, 95:23, 97:3, 99:4, 99:13, 99:19, 99:24, 100:23, 102:20, 102:22 Need [1] - 101:1 needed [10] - 13:10, 45:14, 46:5, 50:20, 62:1, 69:13, 70:22, 70:24, 89:6, 100:6 needs [13] - 11:21, 35:13, 50:23, 59:17, 59:24, 61:3, 63:7, 65:11, 84:12, 89:6, 89:14, 99:19, 101:8</p>	<p>NEPA [3] - 14:7, 21:14, 63:19 NERC [1] - 10:24 network [6] - 11:14, 11:15, 12:20, 12:21, 23:2, 64:24 never [2] - 25:11, 79:17 new [17] - 12:22, 20:22, 35:24, 37:11, 42:10, 63:3, 63:6, 63:12, 64:16, 64:17, 68:8, 72:18, 72:23, 89:15, 89:16, 102:23 next [8] - 4:20, 16:16, 30:7, 31:3, 33:12, 63:16, 64:9, 97:24 nineteen [1] - 73:12 No. 1 [1] - 5:24 non [2] - 23:2, 23:17 non-discretionary [1] - 23:17 non-PacifiCorp [1] - 23:2 nondiscriminatory [3] - 11:13, 11:14, 11:20 none [1] - 77:7 normally [1] - 4:13 north [2] - 49:12, 52:1 North [2] - 7:4, 10:24 Northeast [1] - 7:1 Northern [2] - 13:3, 64:25 Nos [5] - 9:12, 38:19, 43:23, 57:11, 58:24 notes [1] - 18:23 nothing [2] - 66:16, 78:14 notice [2] - 20:4, 20:5 noticed [2] - 4:4, 101:24 notify [1] - 64:7 notwithstanding [1] - 91:19 November [2] - 7:10, 12:6 NTTG [1] - 64:12 Number [1] - 102:13 number [7] - 33:4, 47:16, 51:12, 74:3, 78:11, 93:4, 96:4 numbers [2] - 46:15, 46:20</p> <p style="text-align: center;">O</p> <p>objection [6] - 9:7,</p>
---	--	---	---	---

<p>43:21, 58:19, 58:22, 72:14, 72:15 objections [2] - 43:19, 57:5 obligated [2] - 10:19, 23:17 obligation [1] - 94:5 obtain [4] - 20:22, 63:25, 69:13, 83:5 obtained [1] - 59:19 obtaining [7] - 82:7, 82:16, 83:13, 85:4, 85:22, 90:24, 103:8 occurred [1] - 22:10 occurring [1] - 33:13 October [1] - 15:14 Offer [1] - 57:2 offer [3] - 5:23, 56:17, 56:24 office [2] - 7:3, 7:5 official [1] - 24:24 once [2] - 59:18, 85:22 Once [2] - 31:2, 79:15 One [5] - 51:2, 53:17, 58:7, 58:8, 103:19 one [43] - 14:1, 14:10, 15:21, 15:25, 18:3, 19:20, 19:22, 24:20, 28:5, 28:9, 28:11, 33:9, 37:6, 38:8, 38:11, 42:9, 44:10, 51:13, 54:16, 55:24, 56:7, 64:11, 64:18, 65:5, 65:14, 68:12, 68:13, 71:17, 71:22, 72:16, 76:17, 79:10, 82:23, 87:22, 90:19, 91:14, 91:19, 96:8, 100:19, 101:15, 102:13, 103:18 One-point-zero-SR [2] - 58:7, 58:8 ones [1] - 65:6 Open [1] - 11:10 open [2] - 15:14, 90:15 opening [1] - 22:16 operate [1] - 44:25 operated [2] - 25:25, 26:2 operating [1] - 11:3 operational [2] - 51:10, 99:6 opinion [2] - 46:6, 47:13 opportunity [5] - 4:22, 74:15, 80:9, 96:14, 97:9 oppose [1] - 75:12</p>	<p>opposed [1] - 55:24 opposes [2] - 15:3, 23:21 option [1] - 71:14 options [3] - 35:23, 49:21, 76:2 Oquirrh [26] - 4:7, 14:1, 19:17, 21:2, 22:1, 23:9, 25:17, 26:1, 30:16, 30:18, 30:20, 33:9, 34:4, 34:7, 36:12, 40:22, 44:20, 45:1, 51:17, 53:15, 60:13, 64:19, 70:2, 70:12, 88:3 Oquirrh-to-Terminal [1] - 34:7 order [19] - 12:23, 18:18, 41:12, 63:10, 67:4, 70:20, 86:7, 86:20, 90:6, 91:4, 92:10, 92:23, 93:9, 93:11, 93:14, 98:11, 98:13, 102:8, 104:7 Oregon [2] - 7:2, 19:15 original [2] - 8:20, 39:24 Originally [2] - 81:14, 81:17 originally [1] - 60:5 originally-filed [1] - 60:5 otherwise [1] - 22:11 ought [2] - 78:4, 80:17 out-of-state [1] - 62:9 outcome [1] - 59:20 outlandish [1] - 86:8 outline [1] - 23:22 outlines [1] - 61:15 outlining [1] - 21:24 outside [14] - 10:21, 20:21, 34:18, 39:10, 39:11, 42:4, 43:8, 50:13, 65:7, 91:12, 93:13, 96:10, 96:18 outstanding [3] - 27:9, 27:21, 28:12 overall [5] - 32:2, 62:11, 78:14, 78:16, 98:25 overnight [1] - 75:20 overriding [1] - 97:19 own [4] - 36:3, 47:13, 96:11, 100:8</p>	<p style="text-align: center;">P</p> <p>p.m [2] - 101:21, 104:11 Pacific [2] - 6:25, 7:7 PacifiCorp [5] - 6:22, 6:24, 11:9, 23:2, 23:13 package [1] - 16:18 packages [2] - 30:9, 30:14 page [9] - 20:23, 33:4, 33:6, 33:12, 34:2, 34:20, 34:23, 39:5 page 2 [1] - 39:21 Page 7 [1] - 16:7 page 8 [2] - 24:7, 24:11 pages [2] - 7:12, 8:4 paperwork [1] - 10:8 parade [1] - 76:13 paragraph [2] - 24:13, 34:24 paragraphs [1] - 11:11 parameters [1] - 87:19 paraphrasing [1] - 87:25 Pardon [1] - 73:10 part [20] - 15:23, 23:4, 23:6, 23:7, 26:14, 31:14, 32:23, 34:8, 40:18, 40:20, 40:23, 44:17, 64:12, 66:17, 73:19, 90:3, 91:9, 94:23, 98:25 participation [2] - 101:18, 104:10 particular [2] - 46:25, 102:4 particularly [2] - 47:17, 102:16 parties [12] - 5:21, 22:17, 61:23, 63:5, 68:22, 71:2, 72:2, 74:18, 74:19, 80:9, 93:13, 96:20 parts [5] - 13:14, 14:16, 29:21, 51:25, 64:25 party [4] - 4:14, 83:22, 90:15, 92:19 pass [1] - 56:12 patterns [1] - 46:8 Pause [2] - 37:16, 44:1 peak [1] - 52:6 pending [7] - 15:18,</p>	<p>15:21, 59:20, 82:4, 82:5, 83:20, 83:22 People [1] - 89:8 people [3] - 28:17, 50:23, 64:11 per [1] - 80:17 percent [7] - 12:15, 23:11, 23:14, 48:8, 64:23, 69:7 percentages [1] - 48:8 perhaps [1] - 72:6 period [11] - 17:8, 17:14, 25:25, 29:9, 34:18, 50:13, 53:6, 59:15, 96:15, 97:2, 101:14 permit [45] - 16:6, 16:9, 17:15, 17:22, 18:10, 20:13, 22:15, 27:9, 27:10, 27:12, 27:24, 27:25, 28:1, 28:3, 28:11, 30:4, 40:9, 53:2, 53:13, 75:9, 75:25, 81:9, 81:18, 81:23, 82:1, 82:4, 82:5, 82:17, 83:13, 83:17, 83:22, 85:4, 85:8, 85:15, 85:17, 85:19, 85:22, 85:24, 91:10, 91:15, 91:20, 97:16, 98:23, 100:15, 101:15 permits [31] - 15:18, 15:20, 16:6, 21:15, 22:5, 27:8, 27:19, 27:21, 27:23, 28:16, 28:18, 53:8, 59:16, 59:18, 62:23, 75:16, 78:9, 81:5, 81:6, 81:21, 83:6, 83:20, 84:3, 86:12, 86:18, 90:19, 90:24, 100:14, 103:9, 103:14 permitted [2] - 79:22, 91:21 permitting [4] - 41:10, 52:23, 52:25, 103:7 persuaded [1] - 102:13 petition [1] - 59:21 Ph.D [1] - 57:17 pick [1] - 31:24 picture [2] - 37:4, 41:2 piece [45] - 14:2, 20:15, 27:19, 29:1, 29:4, 34:17, 36:12, 36:13, 36:15, 36:23, 40:1, 41:14, 41:18, 42:25, 43:1, 43:8,</p>	<p>43:11, 50:17, 51:12, 51:22, 53:4, 53:10, 54:18, 73:22, 78:12, 78:19, 79:9, 79:19, 79:22, 82:22, 83:9, 83:10, 84:13, 84:22, 87:24, 87:25, 88:3, 88:25, 90:2, 96:18, 96:24, 97:10, 98:24, 98:25 pieces [4] - 8:11, 39:6, 51:8, 78:9 pinned [1] - 53:22 place [11] - 4:3, 20:6, 39:23, 54:12, 64:1, 67:18, 71:4, 71:5, 91:10, 100:4, 101:23 plan [29] - 10:19, 11:2, 11:5, 11:21, 11:22, 11:23, 12:7, 13:20, 14:19, 16:18, 32:25, 33:25, 36:21, 37:11, 38:25, 39:9, 40:20, 46:21, 50:22, 50:24, 55:5, 55:9, 55:12, 61:16, 75:19, 76:15, 89:22, 98:25, 100:11 Plan [6] - 35:23, 36:5, 36:19, 36:24, 37:10, 38:1 planned [8] - 22:3, 26:24, 34:12, 41:7, 60:18, 62:7, 101:3, 103:4 planning [12] - 7:7, 11:1, 35:15, 43:8, 50:13, 61:17, 81:22, 88:16, 95:21, 96:10, 96:19, 98:21 plans [16] - 14:18, 14:19, 14:20, 17:25, 33:18, 33:19, 35:12, 37:8, 41:2, 50:25, 53:20, 55:16, 55:21, 61:20, 63:24, 72:20 plants [2] - 36:3, 96:5 pleading [1] - 10:8 point [19] - 7:9, 10:22, 19:14, 37:6, 37:20, 41:6, 42:11, 45:15, 48:10, 54:23, 56:9, 58:7, 58:8, 77:11, 84:7, 89:19, 97:25, 103:1, 103:14 pointed [2] - 83:3, 90:25 points [2] - 62:16, 98:11 policies [1] - 76:20 policy [1] - 73:15</p>
--	---	--	---	---

<p>Populus [5] - 12:3, 47:7, 64:14, 64:22, 93:11</p> <p>Populus to Terminal [1] - 79:13</p> <p>Populus-Terminal [1] - 47:7</p> <p>Populus-to-Terminal [4] - 12:3, 64:14, 64:22, 93:11</p> <p>portion [18] - 14:1, 33:24, 34:7, 34:8, 34:13, 35:16, 40:10, 44:19, 45:7, 45:8, 46:13, 82:2, 84:3, 90:17, 91:2, 102:15, 102:19, 103:12</p> <p>portions [19] - 14:13, 25:3, 33:14, 43:6, 48:25, 53:23, 53:24, 54:13, 60:4, 60:10, 60:14, 60:20, 60:25, 70:10, 73:13, 76:24, 86:2, 103:6, 103:13</p> <p>Portland [1] - 7:2</p> <p>posed [1] - 23:8</p> <p>position [3] - 6:21, 42:16, 48:16</p> <p>possibilities [1] - 33:13</p> <p>possible [1] - 18:25</p> <p>potential [2] - 18:2, 97:19</p> <p>potentially [2] - 68:22, 91:13</p> <p>potentially-affected [1] - 68:22</p> <p>Power [2] - 6:25, 7:8</p> <p>Power's [1] - 16:20</p> <p>pre [1] - 6:6</p> <p>pre-filed [1] - 6:6</p> <p>precisely [1] - 73:19</p> <p>preferred [1] - 50:4</p> <p>premarked [1] - 58:17</p> <p>prepared [3] - 9:22, 42:7, 102:6</p> <p>preparing [1] - 30:9</p> <p>prescient [1] - 65:20</p> <p>present [5] - 63:11, 88:2, 88:10, 88:14, 99:19</p> <p>presented [1] - 59:6</p> <p>presently [1] - 53:22</p> <p>president [1] - 7:6</p> <p>pressure [2] - 16:25, 48:3</p> <p>pretty [2] - 39:16, 49:5</p> <p>prevents [2] - 76:13, 76:14</p>	<p>previous [1] - 24:23</p> <p>prices [5] - 47:8, 47:9, 47:19, 48:3</p> <p>primarily [1] - 22:22</p> <p>problem [6] - 29:17, 41:23, 41:24, 73:3, 83:24, 90:14</p> <p>problematic [1] - 73:4</p> <p>problems [3] - 55:14, 76:12, 86:22</p> <p>procedurally [1] - 93:3</p> <p>procedure [3] - 21:17, 55:23, 68:20</p> <p>proceed [10] - 4:13, 4:24, 5:10, 16:15, 20:3, 20:5, 80:14, 83:9, 91:21, 102:5</p> <p>proceeding [20] - 7:10, 20:6, 23:7, 25:4, 30:7, 58:1, 60:1, 68:2, 68:21, 71:4, 71:9, 71:11, 72:4, 72:16, 72:24, 73:1, 73:25, 102:7, 102:20</p> <p>proceedings [4] - 52:11, 94:7, 95:14, 96:5</p> <p>process [35] - 14:7, 14:8, 15:13, 21:14, 32:22, 32:23, 35:15, 36:13, 36:21, 63:19, 64:12, 68:16, 69:2, 69:24, 75:20, 82:6, 82:7, 82:15, 83:5, 83:10, 83:13, 85:3, 85:22, 89:15, 90:23, 92:12, 93:8, 96:11, 96:17, 97:20, 98:24, 99:8, 101:15, 103:12</p> <p>processes [1] - 83:4</p> <p>procure [1] - 19:3</p> <p>production [1] - 92:24</p> <p>professional [1] - 46:6</p> <p>progress [1] - 55:15</p> <p>Project [1] - 64:10</p> <p>project [124] - 8:18, 8:19, 10:11, 10:16, 11:24, 12:3, 12:5, 12:8, 12:12, 13:10, 13:18, 13:21, 13:24, 13:25, 14:6, 14:10, 14:12, 14:13, 14:15, 14:25, 16:3, 16:11, 16:21, 17:3, 17:8, 19:4, 19:9, 19:15, 19:18, 19:24, 20:3, 20:7, 20:21, 21:13, 21:25, 22:1, 23:10,</p>	<p>24:14, 24:20, 25:4, 29:11, 29:21, 30:8, 30:13, 30:15, 30:24, 31:2, 31:9, 31:13, 31:22, 32:2, 32:11, 32:21, 33:15, 38:17, 39:2, 41:9, 41:11, 41:16, 42:9, 42:17, 43:1, 44:14, 45:2, 47:5, 51:7, 51:20, 53:2, 53:3, 53:4, 54:8, 55:1, 55:2, 55:4, 60:3, 60:5, 60:6, 60:8, 60:10, 60:14, 60:21, 60:25, 61:9, 61:13, 62:19, 64:20, 67:16, 69:20, 70:12, 71:16, 73:13, 75:21, 76:25, 77:3, 78:15, 78:16, 79:16, 81:19, 83:25, 84:12, 84:21, 86:10, 87:16, 88:21, 89:8, 89:9, 89:25, 90:1, 90:3, 90:17, 90:22, 91:20, 92:5, 93:22, 94:10, 94:14, 96:15, 97:3, 101:1, 101:2, 101:13, 101:14</p> <p>projected [3] - 27:3, 27:4, 62:11</p> <p>projections [3] - 42:24, 43:7, 90:12</p> <p>projects [9] - 29:11, 42:24, 47:4, 47:16, 53:14, 69:5, 88:16, 89:19, 95:21</p> <p>proper [1] - 82:17</p> <p>properly [1] - 94:1</p> <p>property [1] - 19:18</p> <p>proposal [12] - 20:18, 23:21, 31:5, 62:18, 63:18, 66:11, 67:9, 70:16, 70:18, 71:10, 74:17, 75:8</p> <p>propose [1] - 77:24</p> <p>proposed [14] - 9:24, 15:1, 25:24, 29:16, 30:19, 31:19, 33:14, 34:3, 35:17, 47:16, 59:8, 60:24, 70:19, 102:23</p> <p>proposes [3] - 21:16, 21:21, 22:24</p> <p>proposing [3] - 22:22, 67:10, 68:25</p> <p>propound [1] - 8:22</p> <p>protection [1] - 89:4</p> <p>prove [2] - 71:11, 77:14</p> <p>provide [17] - 10:1, 10:19, 11:17, 15:10, 19:2, 22:2, 22:25,</p>	<p>23:17, 25:1, 29:6, 29:14, 59:1, 62:6, 62:18, 65:11, 71:15, 71:19</p> <p>provided [9] - 32:3, 51:5, 62:2, 66:22, 69:19, 92:23, 93:21, 95:9, 96:20</p> <p>provider [1] - 10:18</p> <p>provides [4] - 51:12, 51:15, 51:18, 52:3</p> <p>providing [3] - 11:12, 54:21, 77:6</p> <p>proving [1] - 102:14</p> <p>provisions [1] - 79:5</p> <p>provisos [1] - 102:12</p> <p>Prudence [1] - 46:24</p> <p>prudent [6] - 28:22, 35:11, 49:24, 55:16, 91:5, 103:11</p> <p>public [13] - 59:11, 59:12, 61:4, 62:13, 63:11, 67:6, 73:15, 74:17, 82:18, 88:10, 101:24, 102:3, 102:18</p> <p>Public [1] - 100:25</p> <p>public witness [1] - 80:14</p> <p>published [1] - 33:22</p> <p>purchases [3] - 36:1, 36:2, 65:1</p> <p>purpose [1] - 21:18</p> <p>purposes [1] - 65:4</p> <p>put [11] - 5:25, 16:25, 35:14, 36:23, 47:22, 53:7, 62:23, 72:5, 77:18, 99:5, 102:21</p> <p>puts [3] - 30:12, 42:16, 100:19</p> <p>putting [3] - 16:3, 28:12, 48:3</p>	<p style="text-align: center;">R</p> <p>range [1] - 48:7</p> <p>rate [7] - 68:6, 68:8, 68:10, 68:11, 77:11, 77:12, 92:16</p> <p>rate case [6] - 65:13, 68:3, 68:4, 68:17, 69:21, 93:24</p> <p>ratepayers [6] - 59:13, 77:18, 89:5, 89:16, 89:21, 89:24</p> <p>rather [4] - 32:5, 41:19, 55:23, 75:24</p> <p>rationale [1] - 102:9</p> <p>re [3] - 96:14, 97:3, 97:9</p> <p>re-look [2] - 96:14, 97:9</p> <p>re-show [1] - 97:3</p> <p>reaching [1] - 95:11</p> <p>read [8] - 10:7, 34:24, 35:1, 35:6, 65:25, 66:19, 70:1, 76:12</p> <p>ready [2] - 62:20, 78:10</p> <p>real [2] - 10:10, 90:18</p> <p>realized [1] - 69:7</p> <p>realizes [1] - 63:24</p> <p>really [7] - 46:24, 53:22, 55:22, 85:8, 87:18, 97:14, 98:19</p> <p>reapply [2] - 61:3, 84:17</p> <p>reason [10] - 12:14, 12:19, 28:15, 44:18, 47:12, 51:7, 74:6, 77:9, 77:13, 99:11</p> <p>reasonable [4] - 63:2, 70:18, 96:15, 97:2</p> <p>reasons [4] - 23:22, 40:24, 74:5, 92:8</p> <p>rebuttal [15] - 8:3, 8:15, 9:10, 15:19, 16:2, 24:8, 46:11, 57:1, 57:6, 58:1, 58:5, 60:2, 64:4, 65:10, 87:10</p> <p>Rebuttal [1] - 9:3</p> <p>rec [1] - 29:18</p> <p>receipt [3] - 15:6, 20:10, 85:7</p> <p>receive [2] - 16:12, 54:23</p> <p>received [3] - 38:3, 82:15, 103:14</p> <p>receiving [2] - 16:6,</p>
		Q	<p>qualms [1] - 70:1</p> <p>questions [22] - 4:23, 8:23, 23:8, 44:3, 44:6, 44:11, 45:16, 51:3, 56:8, 58:13, 66:3, 66:7, 69:17, 77:23, 78:12, 78:21, 78:25, 80:11, 81:7, 90:20, 94:15, 104:5</p> <p>quickly [7] - 10:10, 10:13, 70:11, 89:7, 89:13, 89:23, 98:10</p> <p>quite [3] - 47:15, 62:21, 76:11</p> <p>quote [1] - 88:9</p>	

<p>75:15 recently [1] - 17:14 recess [6] - 52:12, 80:13, 86:25, 87:2, 101:18, 101:20 recognize [2] - 19:5, 91:5 recognizes [1] - 75:18 recommend [2] - 19:5, 73:15 recommenda [1] - 17:6 recommendation [11] - 20:25, 22:19, 28:25, 29:5, 41:17, 41:21, 74:10, 77:2, 86:4, 97:1, 98:3 recommendations [2] - 15:24, 59:4 recommended [1] - 14:24 recommending [1] - 17:4 recommends [2] - 59:14, 59:22 record [18] - 5:2, 5:13, 5:20, 6:1, 10:11, 15:9, 18:19, 20:1, 20:3, 20:13, 24:24, 29:25, 30:3, 30:22, 52:14, 57:23, 87:3, 101:22 Record [3] - 63:22, 64:3, 64:5 recovery [10] - 61:11, 66:13, 67:12, 68:2, 68:8, 77:11, 77:14, 93:25, 95:1, 95:6 Redirect [1] - 50:6 redirect [3] - 4:23, 56:6, 79:1 REDIRECT EXAMINATION [2] - 50:8, 79:2 reduced [1] - 55:6 reduces [1] - 55:2 reduction [1] - 48:6 redundancy [2] - 51:19, 52:3 reevaluate [1] - 35:4 reevaluated [1] - 62:20 referred [1] - 38:24 referring [3] - 24:12, 28:14, 40:4 reflect [1] - 101:23 refresh [1] - 29:13 refreshed [1] - 29:9 refused [1] - 86:20</p>	<p>refusing [1] - 91:15 regard [3] - 50:23, 52:22, 67:25 Regarding [1] - 20:1 regarding [2] - 85:12, 98:14 regardless [2] - 31:6, 32:7 Regardless [1] - 49:8 regards [2] - 22:15, 53:2 regularly [1] - 35:11 regulators [3] - 62:1, 65:17, 69:21 Regulatory [1] - 10:23 regulatory [1] - 76:20 reiterate [1] - 65:25 relate [4] - 60:10, 67:10, 67:11, 78:8 related [5] - 44:11, 44:14, 56:11, 67:9, 78:12 relates [3] - 53:18, 67:18, 81:4 relative [5] - 22:20, 23:1, 23:6, 66:13, 103:1 relevant [4] - 22:5, 48:12, 95:5, 95:22 Reliability [2] - 10:25, 65:4 reliability [1] - 45:10 reliable [1] - 10:20 relies [1] - 92:4 remain [1] - 13:4 remainder [2] - 62:15, 94:16 remained [1] - 93:10 remaining [1] - 61:6 remarks [1] - 23:24 report [8] - 21:23, 22:7, 31:8, 41:20, 59:18, 59:24, 97:6, 100:16 reporting [7] - 61:7, 65:20, 65:24, 94:22, 98:11, 102:22, 103:1 reports [1] - 90:6 Request [1] - 13:8 request [6] - 23:20, 62:7, 73:19, 92:19, 93:1, 93:12 requested [5] - 31:25, 81:6, 81:13, 94:1, 96:6 requests [3] - 21:7, 21:11, 60:23 require [13] - 11:2,</p>	<p>21:22, 22:16, 62:5, 63:12, 65:22, 66:11, 66:17, 76:22, 76:23, 88:12, 95:4, 102:25 required [17] - 20:22, 22:25, 27:16, 28:5, 29:12, 59:16, 59:19, 62:23, 64:18, 68:17, 71:24, 81:9, 82:13, 82:16, 84:4, 90:5, 92:5 requirement [8] - 11:6, 59:12, 65:20, 68:1, 78:14, 94:22, 94:24, 98:13 requirements [9] - 13:24, 61:8, 65:24, 68:19, 69:1, 70:3, 85:2, 93:13, 98:12 requires [4] - 13:18, 13:19, 55:23, 81:4 requisite [1] - 91:10 reserve [1] - 94:16 resolved [2] - 19:7, 59:24 resource [3] - 14:20, 35:24, 37:4 Resource [5] - 35:23, 36:5, 36:19, 36:24, 37:10 resources [3] - 12:21, 35:24, 36:6 respect [4] - 59:4, 61:7, 79:5, 94:22 respond [2] - 71:13, 94:17 responds [1] - 85:9 response [4] - 23:11, 59:3, 60:5, 60:8 rest [1] - 48:21 result [3] - 17:20, 49:17, 74:1 results [2] - 60:1, 76:2 retail [5] - 11:18, 23:2, 23:12, 62:8, 95:25 Review [13] - 17:13, 17:16, 18:17, 20:10, 31:12, 32:3, 35:12, 48:20, 75:23, 85:7, 85:23, 97:18, 103:21 review [5] - 29:11, 54:22, 55:16, 72:24, 98:13 reviewed [4] - 22:11, 37:8, 72:1, 87:14 reviewing [2] - 71:6, 96:20 RFPs [1] - 103:12 rights [1] - 19:18</p>	<p>risk [7] - 13:14, 13:15, 17:3, 30:12, 31:3, 55:2, 77:18 risk-adjusted [1] - 31:3 risks [3] - 19:12, 19:25, 55:6 Rives [2] - 5:4, 5:6 RMP [1] - 6:7 RMP-1 [1] - 6:8 RMP-2 [5] - 7:24, 9:3, 9:12, 56:25, 57:11 RMP-2.1 [3] - 9:12, 57:1, 57:11 RMP-2.6 [2] - 9:12, 57:11 RMP-3 [5] - 8:8, 9:4, 9:13, 57:2, 57:12 RMP-3.1 [2] - 9:13, 57:12 RMP-3.4 [1] - 9:13 road [3] - 62:19, 71:15, 100:19 robust [1] - 55:5 Rocky Mountain [1] - 16:20 Rocky Mountain Power [19] - 4:5, 5:6, 5:24, 6:21, 6:24, 7:5, 7:7, 7:15, 10:17, 11:8, 11:22, 15:4, 21:21, 22:12, 23:14, 30:6, 31:19, 55:13, 76:5 ROD [1] - 91:24 room [1] - 53:1 route [8] - 29:16, 31:18, 31:20, 31:21, 31:25, 49:22, 50:4, 100:23 route's [1] - 49:7 Rule [1] - 68:18 rule [5] - 68:20, 93:2, 93:16, 95:18, 102:6 rulemaking [10] - 68:16, 68:20, 68:21, 69:2, 93:6, 93:9, 94:5, 95:12, 95:15, 98:14 rules [1] - 68:16 ruling [3] - 18:1, 104:6 run [2] - 46:15, 79:6</p>	<p>Salt Lake County [6] - 27:16, 28:5, 28:9, 52:24, 53:13, 91:13 sat [1] - 87:14 satisfactory [1] - 6:2 save [2] - 78:22, 87:9 scenario [2] - 100:18, 100:21 schedule [4] - 19:12, 20:8, 25:9, 31:15 scheduled [6] - 25:7, 26:5, 26:21, 43:3, 43:11, 60:11 schedules [1] - 22:3 scheduling [1] - 92:10 scope [3] - 30:24, 69:3, 94:6 season [1] - 16:25 seasons [1] - 19:23 seated [2] - 6:13, 57:16 second [7] - 12:7, 12:9, 20:17, 38:7, 84:25, 90:18, 96:2 Second [3] - 11:8, 15:9, 53:11 Secondly [1] - 102:19 section [3] - 19:20, 86:1, 101:2 Section [4] - 11:10, 66:17, 90:25, 91:17 secured [3] - 19:18, 19:21, 19:22 see [19] - 14:18, 24:15, 24:18, 30:25, 33:11, 34:4, 45:4, 45:6, 45:12, 46:5, 49:24, 50:25, 55:12, 70:17, 71:14, 78:15, 102:20, 102:22, 104:1 See [1] - 101:19 seek [3] - 53:7, 77:11, 77:14 seeking [2] - 81:18, 82:2 seem [1] - 73:14 segment [10] - 17:9, 28:17, 35:14, 45:21, 48:19, 49:1, 52:23, 81:22, 83:25, 90:2 Segment [2] - 34:4, 39:22 segments [8] - 21:19, 21:25, 22:16, 24:14, 24:19, 35:4, 35:9, 76:24 selected [1] - 31:21 sending [1] - 30:15 sense [7] - 32:4,</p>
S				
<p>safe [1] - 10:20 sales [2] - 65:1, 65:7 Salt Lake [3] - 19:1, 25:18, 88:23 Salt Lake City [1] - 7:3</p>				

<p>40:16, 40:17, 46:16, 48:24, 51:10, 100:6 separate [2] - 61:14, 64:21 serious [2] - 17:10, 98:20 seriously [1] - 11:7 serve [6] - 36:6, 42:10, 64:24, 65:2, 65:6, 65:7 served [2] - 11:6, 23:13 service [35] - 10:18, 10:19, 10:20, 11:15, 13:13, 13:14, 13:16, 13:20, 17:2, 23:17, 24:15, 24:19, 26:6, 26:24, 27:1, 27:4, 27:5, 28:23, 29:3, 39:12, 39:23, 40:12, 42:11, 42:14, 45:9, 60:4, 60:16, 60:17, 79:8, 79:20, 96:7, 96:23, 97:12, 102:16 services [1] - 6:24 serving [4] - 12:13, 52:4, 52:5, 61:19 set [7] - 8:23, 57:22, 65:7, 68:16, 70:21, 93:7, 96:11 seven [2] - 73:21, 101:7 several [4] - 14:17, 15:1, 52:4, 92:8 shall [2] - 82:13, 85:14 sharing [1] - 55:20 short [4] - 10:12, 11:17, 11:23, 80:12 short-term [1] - 11:23 shortened [1] - 68:5 shortly [1] - 70:13 show [5] - 8:18, 61:4, 82:14, 97:3, 99:13 showed [1] - 39:18 showing [1] - 90:11 shown [1] - 50:22 shows [1] - 39:22 side [1] - 80:18 sides [1] - 87:15 signalled [1] - 102:2 significant [5] - 55:10, 64:15, 79:11, 97:7, 97:20 Significantly [1] - 19:23 similar [4] - 19:16, 26:12, 41:4, 54:3 simply [7] - 55:25,</p>	<p>89:4, 94:4, 94:6, 94:9, 99:1, 99:10 single [9] - 13:25, 27:24, 28:1, 65:13, 68:4, 68:6, 68:11, 69:20, 77:12 single-item [6] - 65:13, 68:4, 68:6, 68:11, 69:20, 77:12 site [6] - 22:18, 25:16, 26:1, 26:13, 27:12, 30:20 Siting [4] - 15:6, 16:13, 18:17, 21:5 siting [1] - 59:22 situation [1] - 93:20 six [3] - 21:23, 34:21, 102:23 Sixty [1] - 34:21 Sixty-six [1] - 34:21 size [2] - 13:1, 54:13 slides [2] - 10:5, 10:6 slip [1] - 17:9 slippery [1] - 98:16 slope [1] - 98:16 slowed [1] - 47:17 Smith [18] - 4:9, 5:2, 5:11, 8:1, 8:9, 9:21, 50:6, 52:15, 52:20, 66:6, 67:8, 67:25, 73:18, 74:7, 74:14, 76:7, 92:6, 103:17 SMITH [43] - 4:11, 4:16, 5:3, 5:12, 5:18, 6:19, 7:14, 7:21, 7:23, 8:7, 9:1, 9:15, 9:17, 9:20, 18:21, 23:25, 32:16, 38:3, 38:5, 38:7, 38:10, 43:21, 50:7, 50:9, 52:16, 56:5, 56:17, 56:21, 56:24, 57:10, 58:22, 66:4, 66:7, 66:9, 66:22, 67:24, 74:8, 76:5, 80:19, 103:18, 103:25, 104:3, 104:8 Smith's [1] - 28:8 so-called [2] - 68:17, 77:12 softened [2] - 47:12, 47:19 softening [1] - 47:8 solely [2] - 65:2, 92:12 something's [1] - 73:6 sometime [1] - 45:22 somewhere [1] - 99:16 soon [2] - 18:24, 21:9</p>	<p>sooner [7] - 21:10, 26:10, 42:2, 42:6, 42:20, 45:14, 54:10 sorry [2] - 38:6, 80:7 sort [2] - 28:12, 45:24 Sort [1] - 45:19 sorts [1] - 47:3 sought [3] - 14:8, 51:8, 82:1 South [21] - 7:1, 25:5, 25:9, 25:11, 27:2, 40:25, 41:1, 41:6, 41:11, 41:16, 43:3, 43:14, 43:15, 44:14, 44:16, 44:24, 45:5, 45:7, 45:15, 73:7, 86:14 southern [2] - 44:20, 45:2 Spanish [1] - 12:18 specific [1] - 85:20 specifically [1] - 67:3 speculate [1] - 48:10 speed [1] - 89:13 spent [1] - 16:2 split [1] - 80:25 SR [2] - 58:7, 58:8 stage [1] - 30:21 staged [2] - 54:5, 54:8 staging [1] - 26:3 staking [2] - 16:17, 30:8 stand [1] - 62:17 standards [2] - 11:1, 63:7 stands [1] - 82:4 start [7] - 37:20, 52:18, 76:17, 86:14, 89:14, 91:11, 94:21 started [3] - 19:19, 86:21, 100:20 starting [1] - 16:16 state [18] - 6:20, 10:18, 10:21, 12:14, 12:16, 14:17, 23:18, 45:3, 50:24, 57:22, 62:8, 62:9, 64:16, 83:2, 85:19, 91:7, 93:18 statement [2] - 35:20, 35:21 Statement [4] - 14:9, 14:10, 63:20, 63:21 states [3] - 16:4, 67:4, 88:7 stating [2] - 45:21, 70:1 station [3] - 26:7,</p>	<p>26:10, 54:13 stations [1] - 54:3 status [4] - 21:25, 22:4, 29:10, 52:24 statute [13] - 28:19, 53:6, 62:21, 66:21, 70:3, 81:4, 83:19, 85:12, 88:7, 88:15, 90:21, 91:18, 101:12 statutes [2] - 29:13, 92:11 statutory [2] - 59:11, 93:8 steel [2] - 47:2, 47:9 step [3] - 32:8, 56:14, 100:22 stepping [1] - 64:16 steps [5] - 16:16, 30:7, 31:3, 91:25, 100:11 stick [1] - 74:10 still [14] - 8:12, 8:20, 17:23, 27:21, 35:5, 35:12, 45:23, 46:16, 48:19, 55:17, 61:4, 71:7, 73:16, 76:15 stipulated [1] - 5:19 stipulation [2] - 5:21, 5:25 Stoel [2] - 5:4, 5:5 stop [1] - 86:11 stops [1] - 94:8 streamline [1] - 69:24 strong [2] - 14:5, 52:2 strongly [2] - 50:1, 51:14 struggling [1] - 82:20 studies [1] - 99:15 Study [1] - 48:20 stuff [2] - 32:17, 66:23 sub [2] - 7:17, 85:20 sub-exhibits [1] - 7:17 sub-ii [1] - 85:20 subject [8] - 9:5, 10:4, 28:21, 48:11, 54:21, 71:20, 75:9, 103:7 Subject [1] - 5:24 submit [2] - 9:2, 53:2 submittal [2] - 22:7, 24:23 submitted [2] - 8:16, 15:19 subsequent [3] - 15:16, 17:16, 100:15 substantial [3] -</p>	<p>13:4, 15:11, 61:20 substantially [1] - 74:1 substation [19] - 14:3, 24:20, 25:1, 25:2, 25:12, 25:17, 26:4, 26:13, 27:13, 44:13, 44:14, 44:20, 44:23, 46:12, 54:1, 76:16, 78:2, 78:3, 89:12 substations [11] - 14:3, 21:1, 51:16, 51:17, 51:18, 53:19, 53:24, 70:7, 70:11, 99:5, 103:3 sufficient [6] - 11:5, 74:20, 80:17, 89:11, 99:18, 99:21 suggest [1] - 91:3 suggested [3] - 29:18, 53:9, 75:10 suggesting [2] - 29:23, 71:21 summarize [1] - 10:10 summary [5] - 9:22, 13:21, 15:17, 24:18, 59:1 summer [1] - 19:23 sunset [4] - 56:2, 76:13, 77:6, 79:5 sunsetting [2] - 99:25, 101:14 supplemental [1] - 60:8 support [1] - 16:3 supporting [1] - 59:7 supportive [1] - 4:18 suppose [2] - 30:25, 46:12 surprises [2] - 14:22, 51:1 surrebuttal [3] - 37:24, 58:20, 60:22 surrounding [3] - 40:12, 60:4, 60:20 surveying [1] - 91:25 swear [2] - 6:10, 57:13 sworn [4] - 6:11, 6:16, 57:15, 57:18 system [12] - 7:6, 11:19, 13:9, 13:14, 13:16, 23:16, 26:15, 40:18, 51:13, 51:24, 51:25, 91:2</p>
T				
<p>Table [1] - 40:4</p>				

<p>tacit [1] - 45:24 Tariff [1] - 11:10 team [1] - 47:6 Ted Smith [1] - 5:3 Temple [1] - 7:4 ten [11] - 33:20, 33:22, 37:3, 37:4, 42:5, 63:14, 72:9, 74:13, 74:25, 80:25, 86:25 ten-minute [1] - 86:25 ten-year [3] - 37:3, 37:4, 42:5 term [5] - 11:23, 13:24, 13:25, 40:21, 102:21 Terminal [74] - 12:3, 21:2, 26:21, 27:16, 27:18, 27:25, 28:15, 29:1, 29:4, 33:23, 34:7, 34:13, 34:17, 36:13, 36:15, 36:22, 36:23, 39:7, 39:13, 39:25, 40:10, 40:19, 41:7, 41:14, 41:18, 42:2, 42:25, 43:8, 43:11, 44:12, 45:21, 46:12, 47:7, 50:12, 50:17, 51:4, 51:12, 51:14, 51:16, 51:21, 51:23, 52:1, 52:2, 52:23, 53:4, 53:10, 53:14, 54:18, 60:17, 64:14, 64:22, 72:19, 78:3, 78:12, 78:19, 79:9, 79:25, 81:10, 82:21, 83:14, 84:1, 84:20, 87:24, 88:4, 88:25, 89:12, 90:2, 93:11, 96:18, 96:24, 97:10, 98:24, 101:2, 102:15 terminal [2] - 44:20, 45:2 Terminal-to-Ben [1] - 51:23 terminate [2] - 21:19, 56:2 terms [7] - 47:24, 48:7, 50:15, 50:16, 52:21, 54:19, 80:16 testified [2] - 6:17, 57:19 testimony [62] - 4:18, 5:14, 5:19, 5:24, 6:6, 6:7, 7:11, 7:24, 8:2, 8:3, 8:11, 8:14, 8:23, 9:5, 9:22, 10:15, 13:6, 13:12, 13:22, 15:19, 16:2, 16:4, 16:8, 20:16, 20:24,</p>	<p>21:11, 22:20, 23:24, 24:8, 26:23, 28:8, 32:3, 32:13, 32:21, 37:23, 46:11, 56:17, 56:25, 57:25, 58:3, 58:5, 58:11, 58:17, 58:21, 59:2, 59:5, 60:3, 64:5, 65:10, 65:25, 70:1, 75:13, 78:4, 79:14, 83:3, 88:22, 91:23, 94:11, 101:24, 103:5 Testimony [2] - 9:2, 9:3 the court [1] - 75:20 THE WITNESS [35] - 10:9, 18:20, 18:22, 32:18, 38:9, 38:11, 38:15, 44:18, 45:6, 45:18, 46:2, 46:4, 46:18, 47:5, 48:9, 48:14, 48:23, 49:4, 49:10, 49:13, 49:18, 50:3, 56:16, 67:2, 67:22, 73:10, 73:12, 74:4, 74:9, 76:14, 77:7, 77:16, 78:6, 78:17, 78:23 thereabouts [1] - 23:15 thereafter [1] - 70:13 Therefore [4] - 91:3, 94:4, 94:15, 99:23 therefore [4] - 21:16, 61:19, 63:10, 88:4 they've [1] - 83:10 thinking [2] - 80:7, 80:16 third [3] - 74:19, 90:15, 92:4 thoughts [1] - 87:22 thousand [3] - 36:19, 37:13, 73:12 three [6] - 15:24, 69:15, 90:11, 100:19, 101:7, 102:22 tie [2] - 52:2, 92:18 ties [2] - 51:14, 87:24 time period [1] - 41:15 timeline [1] - 101:8 timing [6] - 16:10, 41:9, 50:20, 55:18, 55:19, 61:8 to-Terminal [1] - 36:13 today [14] - 8:22, 10:5, 12:9, 12:11, 13:13, 44:13, 58:14, 62:17, 78:15, 87:15, 94:9, 97:23, 98:2,</p>	<p>103:24 together [5] - 9:11, 9:18, 16:3, 16:18, 57:8 Tooele [16] - 16:7, 17:21, 18:4, 18:8, 18:10, 18:14, 26:18, 27:9, 29:24, 30:4, 49:1, 49:5, 75:9, 75:16, 88:24 Tooele County [29] - 16:9, 17:15, 17:21, 17:25, 18:6, 18:12, 19:6, 20:12, 26:8, 28:4, 28:9, 42:9, 48:19, 49:5, 49:11, 52:22, 53:3, 53:8, 62:25, 81:9, 81:18, 81:20, 86:15, 86:20, 98:23, 99:3, 100:15, 100:21, 103:7 Tooele's [1] - 86:6 took [1] - 69:15 topic [1] - 64:9 topics [1] - 82:24 total [2] - 12:16, 50:22 totality [2] - 70:8, 70:9 transformations [1] - 54:5 translates [1] - 55:7 Transmission [3] - 38:17, 39:2, 61:13 transmission [34] - 7:6, 11:1, 11:15, 11:19, 12:20, 12:23, 23:1, 23:16, 25:1, 35:22, 36:4, 39:1, 45:8, 47:4, 51:18, 52:8, 59:10, 60:18, 61:16, 61:18, 61:21, 64:13, 64:15, 65:3, 67:15, 68:12, 69:4, 69:20, 71:16, 79:11, 79:12, 94:25, 95:21, 96:5 Transmission line [28] - 4:8, 21:3, 25:15, 27:15, 29:4, 30:16, 30:19, 31:18, 33:9, 34:3, 35:17, 36:16, 39:7, 40:10, 41:18, 48:25, 60:12, 60:17, 61:22, 62:8, 64:24, 69:4, 79:6, 84:1, 95:24, 102:15, 103:6, 103:13 treated [1] - 14:6 tried [1] - 98:23 troubled [1] - 92:8 true [1] - 8:21</p>	<p>try [3] - 39:17, 47:10, 82:24 trying [9] - 42:15, 64:12, 70:17, 73:2, 81:5, 83:5, 89:17, 89:20, 101:10 turn [8] - 13:23, 17:17, 24:7, 34:2, 34:20, 44:5, 69:25, 95:17 two [20] - 11:10, 13:16, 17:7, 19:22, 28:20, 28:23, 36:19, 37:13, 38:9, 47:15, 53:19, 56:7, 63:1, 68:11, 69:15, 78:21, 80:5, 81:7, 100:19, 101:7 Two [1] - 73:12 two-year [1] - 28:23 type [4] - 23:1, 31:8, 65:8, 68:1 types [2] - 30:9, 95:25 typically [3] - 7:19, 68:6, 68:7</p> <p style="text-align: center;">U</p> <p>ultimate [1] - 25:23 ultimately [3] - 25:2, 25:22, 44:23 unable [1] - 42:10 uncertain [3] - 45:24, 60:16, 84:5 uncertainties [1] - 60:20 uncertainty [2] - 40:12, 60:3 unclear [1] - 75:7 unconditional [1] - 96:13 under [4] - 10:22, 11:9, 34:11, 101:11 underscore [1] - 103:2 understood [2] - 83:17, 84:2 underway [1] - 41:9 unequivocal [3] - 88:22, 93:22, 94:11 unexpected [1] - 55:9 unfinished [1] - 22:16 unforeseen [1] - 100:22 unknown [4] - 17:23, 29:3, 39:14, 79:20 unknowns [1] - 19:10</p>	<p>unless [1] - 94:15 Unless [1] - 104:5 unnecessary [3] - 22:18, 71:12, 99:10 unreasonable [1] - 17:22 unusual [3] - 86:19, 96:4, 96:12 up [32] - 5:13, 16:19, 17:3, 18:2, 21:14, 25:16, 49:4, 49:5, 62:2, 62:17, 63:16, 63:20, 65:14, 65:16, 69:17, 69:21, 74:4, 75:21, 77:15, 77:18, 84:9, 84:10, 86:15, 89:2, 89:13, 92:1, 95:9, 96:11, 97:1, 99:4, 99:6, 104:7 update [8] - 8:13, 29:10, 37:12, 37:14, 39:24, 46:21, 46:22, 60:19 Update [2] - 38:1, 38:25 updated [5] - 22:2, 22:4, 37:10, 54:21, 101:8 updates [3] - 8:19, 31:13, 38:24 updating [1] - 55:14 urgent [1] - 40:22 usage [4] - 61:10, 62:7, 92:5, 103:1 Utah [11] - 13:3, 15:6, 19:1, 59:13, 62:13, 64:25, 65:2, 65:7, 86:12, 91:12, 98:14 Utahans [1] - 69:8 utilities [1] - 95:17 Utility [2] - 75:22, 97:18 utility [4] - 11:2, 56:4, 67:6, 99:12 Utility Facilities Review Board [1] - 85:1 Utility Facility Review Board [1] - 59:21 utilized [1] - 12:22</p> <p style="text-align: center;">V</p> <p>Valley [5] - 25:18, 50:20, 51:19, 52:3, 88:23 variances [1] - 49:22 varied [1] - 63:8 various [2] - 24:14,</p>
--	--	--	---	--

<p>24:19 varying [1] - 21:25 verbal [3] - 38:2, 38:16, 39:20 viability [1] - 31:22 vice [1] - 7:6 view [5] - 16:11, 16:12, 20:10, 50:15, 95:10 viewed [1] - 83:18 visited [1] - 52:25 voltage [1] - 44:19 voltages [2] - 54:4, 54:12</p>	<p>54:5, 82:8, 87:17 worse [2] - 86:13, 86:14 worst [1] - 100:21 worst-case [1] - 100:21 Wow [1] - 69:7 written [5] - 8:12, 8:23, 18:23, 99:12, 102:7 wrote [2] - 75:13, 79:13</p>
W	Y
<p>wait [7] - 75:24, 85:9, 86:11, 91:5, 97:21, 100:9, 104:1 waited [1] - 19:21 waiting [1] - 29:24 waive [1] - 5:21 wants [3] - 76:1, 88:15, 103:12 warranted [1] - 35:10 Welcome [1] - 4:9 welcome [1] - 4:9 West [6] - 7:4, 41:11, 43:4, 43:12, 73:7, 74:24 whole [9] - 15:23, 64:10, 77:19, 78:15, 79:16, 88:24, 89:24, 90:2, 101:16 wholesale [4] - 62:9, 65:1, 65:6, 95:25 Williams [2] - 5:15, 5:22 Williams' [1] - 6:6 willing [3] - 75:22, 90:8, 98:4 window [5] - 17:1, 28:24, 42:5, 98:18, 99:16 wish [3] - 48:17, 87:7, 102:3 wishes [2] - 101:4, 101:5 withdrawn [1] - 81:16 witness [3] - 5:10, 6:16, 57:18 witnesses [2] - 4:14, 101:25 wonder [1] - 72:7 word [1] - 11:14 words [7] - 16:8, 29:17, 40:15, 50:16,</p>	<p>year [25] - 12:6, 15:8, 15:14, 16:19, 28:23, 37:3, 37:4, 37:10, 42:5, 70:16, 74:23, 76:10, 76:13, 76:14, 77:24, 78:13, 79:17, 81:21, 81:22, 87:25, 89:14, 96:3, 98:18, 100:4, 102:21 years [43] - 14:17, 20:19, 21:20, 21:23, 28:20, 29:10, 33:20, 33:22, 40:14, 47:7, 47:15, 59:15, 60:24, 61:1, 61:21, 62:19, 63:1, 63:2, 63:3, 63:14, 63:19, 64:13, 64:16, 70:17, 70:25, 71:23, 72:9, 73:21, 74:10, 74:13, 74:25, 76:19, 78:2, 84:16, 90:11, 100:1, 100:2, 100:5, 101:7, 102:23 yesterday [3] - 42:14, 88:2, 89:20 your Honor [1] - 9:1</p>
Z	Z
	<p>Zenger [15] - 4:18, 4:24, 20:22, 56:15, 57:13, 57:15, 57:24, 66:2, 66:10, 66:22, 76:10, 78:25, 80:4, 92:7 ZENGER [1] - 57:17 Zenger's [5] - 16:1, 20:16, 37:21, 58:20, 91:23 zero [2] - 58:7, 58:8</p>