

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Voluntary  
Request of Rocky Mountain Power for  
Approval of Resource Decision to  
Construct Selective Catalytic  
Reduction Systems on Jim Bridger  
Units 3 and 4

Docket No: 12-035-92

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PREHEARING CONFERENCE  
SIERRA CLUB MOTION TO STAY  
BEFORE THE PUBLIC SERVICE COMMISSION  
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TAKEN AT: Heber M. Wells Building  
160 East 300 South  
Salt Lake City, Utah

DATE: February 6, 2013

TIME: 9:00 a.m.

REPORTED BY: Kellie Peterson, RPR

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Pre-Hearing Conference

February 6, 2013

PROCEEDINGS

COMMISSIONER CLARK: Good morning, ladies and gentlemen. My name is David Clark; to my left is Chairman Ron Allen; to his left is Commissioner Thad LeVar. Chairman Allen has asked that I serve as the hearing officer in our prehearing conference this morning.

This is the time and place dually noticed for a prehearing conference of docket No. 12-035-92, in the matter of the voluntary request of Rocky Mountain Power for approval of resource decision to construct selective catalytic reduction systems on Jim Bridger units 3 and four. And we are here today specifically to address Sierra Club's motion for a stay or continuance, and the filing date, EPA action that was filed December 21, 2012, and a number of responsive filings.

Let's begin by taking the appearances of counsel. I believe we have some folks on the phone. We will begin with the people in the room, however, and turn first to the applicant in this matter.

MR. MOSCON: Matt Moscon and Daniel Solander for Rocky Mountain Power.

COMMISSIONER CLARK: Thank you.

MR. JETTER: Justin Jetter for the Division of Public Utilities.

1 MR. PROCTOR: Paul Proctor for the Office of  
2 Consumer Services.

3 MR. DODGE: Gary Dodge on behalf of UAE.

4 COMMISSIONER CLARK: And that concludes the  
5 parties in the room. Would those on the phone please identify  
6 themselves?

7 MR. RITCHIE: Good afternoon. Travis Ritchie with  
8 the Sierra Club. Can you folks hear me okay?

9 COMMISSIONER CLARK: Yes, we can now. Would  
10 you spell your name, please?

11 MR. RITCHIE: My name is T-R-A-V-I-S, last name,  
12 Ritchie, R-I-T-C-H-I-E.

13 COMMISSIONER CLARK: And, Mr. Ritchie, are you  
14 serving as counsel for Sierra Club today?

15 MR. RITCHIE: Yes, I the attorney of record for  
16 this, along with Gloria Smith for this proceeding.

17 COMMISSIONER CLARK: Thank you, Mr. Ritchie.

18 MR. MICHAEL: And this is Steve Michael,  
19 representing Western Resource Advocates, and Nancy Kelly is  
20 on the phone, as well; also with WRA.

21 COMMISSIONER CLARK: Mr. Michael, will you be  
22 presenting argument today?

23 MR. MICHAEL: Very briefly yes.

24 COMMISSIONER CLARK: Anyone else on the  
25 phone? Thank you very much. What we propose to do today is

1 hear from first the moving party, the Sierra Club, followed by  
2 Rocky Mountain Power, and then the Division, the Office, UAE,  
3 and WRA. Any comments or objections to that order or  
4 process?

5 All right. Mr. Ritchie?

6 MR. RITCHIE: Thank you, Your Honor. I will rely  
7 primarily on our written filings that have already been submitted  
8 and any others the parties that have filed, as well. I will sum  
9 up, the request that Sierra Club is making is simply to stay this  
10 proceeding, or to postpone it without prejudice, until such time  
11 as we have more clarity from EPA's proposed and eventual final  
12 ruling.

13 EPA has delayed that deadline. They are now  
14 proposing to issue a draft rule, or a proposed rule, in March of  
15 2013, with a final rule to follow in September of 2013. I think  
16 most of the parties in their papers have acknowledged that the  
17 delay by EPA creates a situation where there could be a  
18 potential conflict between the Wyoming requirements that  
19 PacifiCorp is pursuing right now with the SCR and the specific  
20 emissions limits at Jim Bridger 3 and 4, and if there is a conflict  
21 between EPA and Wyoming requirements, it can potentially lead  
22 to wasted or inefficient use of funds.

23 We think it's more prudent to avoid that situation  
24 and to--by postponing this. We also think that going forward  
25 and potentially having to do this all over again, if there is

1 something different with EPA's requirements, is a waste of  
2 parties' time and Commission's time.

3 We would note, you know, the Wyoming deadline,  
4 while they are in the settlement agreement, and that is, you  
5 know, we acknowledge that is binding, we also think it is quite  
6 likely that those deadlines could be postponed if PacifiCorp  
7 requested it and worked with the Wyoming Department of  
8 Environmental Quality to seek a postponement in light of EPA's  
9 decision.

10 At this time, we haven't seen any evidence that  
11 PacifiCorp has asked for that, that they want that, and we think  
12 that a simple postponement under Wyoming's requirements  
13 could alleviate a lot of the uncertainties that have been  
14 identified in this proceeding. And with that, you know, we will  
15 rest on our papers that we put forward.

16 COMMISSIONER CLARK: Thank you, Mr. Ritchie.  
17 Mr. Moscon?

18 MR. MOSCON: Thank you. If it please the  
19 Commission, my client is opposed to the Sierra Club's motion on  
20 a number of grounds. We believe that the Sierra Club's motion  
21 is based on a faulty premise. It assumes that because of EPA's  
22 delayed action, the company's deadlines for completing the SCR  
23 project are likewise delayed.

24 In their moving papers, they indicate that because  
25 of the delay, the company will, and I quote, be able to install the



1 controls at a later date as long as it meets a five-year  
2 compliance window of 2018, and we are here today to tell you  
3 that is false.

4 As was indicated I think in Mr. Ritchie's comments,  
5 the company is under independent obligations to complete the  
6 SCR project, or otherwise meet associated unit specific  
7 emission limits under Wyoming law by December, 2015 for unit  
8 3, and December, 2016 for unit 4.

9 As was just conceded, one, but not the only legal  
10 requirement, comes in the settlement agreement that the  
11 company has with the DEQ, which is enforceable as a matter, in  
12 district court, and that is a binding on the company. The  
13 Wyoming sip itself also has these deadlines.

14 What the Sierra Club, in essence, is asking this  
15 Commission to do is to force the company, and its ratepayers,  
16 to gamble, to say, let's not go forward on the assumption that  
17 what the EPA does will change deadlines and change  
18 requirements. Even though we don't know right now whether  
19 those requirements are going to be changed or deadlines are  
20 going to be modified, they might be, so let's wait and see. But  
21 that request puts the risk on the company and its ratepayers  
22 because if deadlines are not extended, or if the State  
23 independently seeks to enforce deadlines, then the company  
24 and its rate payers will have paid a significant penalty based on  
25 the Sierra Club's request that that gamble take place.

1                   The best evidence of this, I think, as noted in the  
2                   company's supplemental filing, is that the Sierra Club brought  
3                   the companion motion as this in front of the Wyoming  
4                   Commission, and earlier, or in January last month, argued the  
5                   motion to the Wyoming Commission, and said to the State of  
6                   Wyoming, let's continue the proceeding here in Wyoming and  
7                   wait and see what the EPA does. And the State of Wyoming  
8                   rejected the Sierra Club's position, denied the motion, and has  
9                   set hearings for March of this year in Wyoming.

10                   So we can see that the State of Wyoming does  
11                   believe that there are independent state law requirements to  
12                   proceed. The State of Wyoming does not intend to stand by and  
13                   have a wait-and-see approach with the EPA's actions, and so as  
14                   it moves forward, that provides an independent obligation for  
15                   the company to proceed with the project.

16                   We'd also like to note that for the ratepayers of the  
17                   company, there are significant risks. Changing deadlines can  
18                   cause a significant increase in cost to the project. Delays  
19                   impact when the implementation can occur, construction pricing,  
20                   and the like.

21                   As was noted in the petition that was initially filed,  
22                   the SCR project at issue is currently scheduled to take place  
23                   during a preexisting outage for the plant. If that window gets  
24                   moved so that the company cannot have the contracts in place,  
25                   the construction in place, to do the implementation during that

1 existing window of downtime for the plant, you then have  
2 additional expenses of trying to reschedule outages and being  
3 forced to buy power on the market to replace the plant and so  
4 forth.

5           The company does have existing commitments for  
6 pricing that will expire in May of this year. So if the company  
7 cannot commit and sign contracts with contractors that will have  
8 certainty by May of this year, then the pricing will change and  
9 will likely increase. That could increase because of availability  
10 of materials or because of requirements to have contractors  
11 work in an overtime, expedited basis to meet deadlines, if what  
12 I'll call the Sierra Club's gamble does not payoff and deadlines  
13 are not postponed.

14           So ratepayers can have risks of price increases for  
15 a number of reasons; the outages, the construction pricing, and  
16 for any number of reasons, it is a big gamble for the company  
17 and its ratepayers if the Commission were to adopt the position  
18 that the Sierra Club asks the Commission to take.

19           I would also like to note that the uncertainty that  
20 the EPA--excuse me, that the Sierra Club references to with  
21 respect to the EPA's requirement is only with the emission's  
22 limit; not the technology that is going to be used. So in other  
23 words, what the EPA does may change, you know, what the limit  
24 is of emissions, but it's not going to change the technology. It  
25 may simply create a tweak or a modification of what goes in, but

1 not the implementation of the same SER technology. So there's  
2 no reason to delay work necessary to get that technology  
3 started because of what the EPA is doing now.

4 I would also like to point out that the Sierra Club is  
5 attempting, by asking the Commission to delay until after  
6 September, what, essentially, Sierra Club has argued on the  
7 merits in previous dockets, which is that a pollution control  
8 device is not prudent because there is a lack of certainty in  
9 what EPA standards are, or are going to be in the future. This  
10 is the argument we heard regarding Hunter most recently, and  
11 they are attempting to do by motion now, what is really, what we  
12 believe, an argument on the merits that could be addressed at  
13 the hearing on the merits in this matter that is now currently  
14 scheduled for March. So we recognize the Commission does  
15 not have to take up and rule today on whether or not it is  
16 prudent to proceed. We simply ask the Commission to deny the  
17 request to postpone the proceedings.

18 I would like to note, as Mr. Ritchie noted, that there  
19 have been other interveners that have filed position papers  
20 recognizing that, well, there may be risks and reasons why the  
21 Commission doesn't want to wait until next fall before it acts,  
22 but if the EPA really is going to issue a proposed rule in March,  
23 that it makes sense to have, you know, something available to  
24 the Commission to consider what the EPA does.

25 And in that regard, I think the company recognizes

1 that there is some merit to what the interveners, such as the  
2 UAE, have proposed, which is to say that the Commission  
3 maintain the schedule as it is now docketed, which has the  
4 hearing on March 7 and 8, but allow the parties some  
5 reasonable time such as, you know, through April 9th, you know,  
6 a ten-day timeframe, to file something with the Commission after  
7 the EPA issues its proposals, to simply say, we think that what  
8 the EPA has done doesn't change anything, or here is why we  
9 think it changes, or whatever that position may be.

10 In that regard, the Commission, in issuing its order,  
11 will have in front of it the benefit, not only of what the EPA's  
12 proposal is, but any position paper by the parties as to what, if  
13 anything, the Commission should do, or imply, or infer, based on  
14 the EPA's proposal; and, yet, it would give the Commission  
15 ample time to still have a decision issued in time for the  
16 company to meet its obligations, to take up contracts that it has  
17 proposals for by mid May.

18 So the company does not oppose suggestion, such  
19 as that by the UAE, to allow parties to make some kind of filing  
20 with the Commission; again, if it is done within a reasonable  
21 timeframe so that an order can issue within that same period of  
22 time. So the company is not opposed, if that would be useful to  
23 the Commission, to make such a filing.

24 In short, and I appreciate that the Sierra Club has  
25 been brief in its presentation and so I will abbreviate mine, as

1 well, we simply think it's important for the Commission to keep  
2 in mind the consequences of a stay. The costs in this will  
3 increase, particularly if the company is forced to pay for an  
4 accelerated schedule for construction, or equally costly, the  
5 units could be shut down until they are able to be brought into  
6 compliance, if, ultimately, the possibility that the Sierra Club is  
7 flagging for the Commission does not come into fruition. So for  
8 that reason, the company ask the Commission to maintain the  
9 schedule that is currently on the docket.

10 I will note, if the Commission does have any  
11 question in more detail factually, with me today are Mr. Chad  
12 Teply and Ms. Kathy Woollums, who are available if the  
13 Commission does have specific questions about, you know, the  
14 timing of implementing the technology of the obligation that the  
15 company has in Wyoming and the like, so they are here if the  
16 Commission has questions for them.

17 COMMISSIONER CLARK: Thank you, and if we  
18 have questions, we will address them after all of the arguments  
19 have been presented. Mr. Jetter?

20 MR. JETTER: Like the other parties, the Division  
21 primarily will rely on its filed memorandum in this matter. We  
22 would just like to note a few things. First is that the history of  
23 the EPA reaching a final decision on the Wyoming sip has not  
24 generally stuck to previously set deadlines. We have no  
25 indication at this point that the EPA will actually reach a final

1 rule by the end of 2013. I believe Wyoming has filed three sips  
2 previously in 2003, 2008 and 2011. This process has been  
3 ongoing for quite some time, and without a real great indication  
4 that this is going to terminate at some point in the near future,  
5 with our deadlines, we think that the pending Wyoming  
6 deadlines that are set dates with set emission requirements are  
7 important, in that they are an actual upcoming our deadline and  
8 we have no indication that those will be delayed. And so we  
9 would urge that the Commission not stay this proceeding until  
10 the EPA reaches a final order because that may be any time  
11 down the road.

12 We think that the proposal just made by the  
13 company that possibly maintain the current schedule with the  
14 opportunity of filing some sort of response to a March--  
15 end-of-March filing by the EPA would be a reasonable option  
16 that should give us an idea of where the EPA intends to go. I  
17 realize that is not a final ruling and there are risks with any path  
18 that we take.

19 We believe that the potential risk of escalating  
20 costs due to a truncated construction schedule for the SCR, if  
21 the Commission approves that as the choice for reducing  
22 emissions to meet the Wyoming bar agreement, we think that  
23 might be the best intermediate option here to reduce the risk as  
24 much as we can. And so that risk of the truncated construction  
25 schedule, escalating costs, is potentially significant, and as

1 such, we would urge that the Commission not grant the stay  
2 until the EPA ruling, and possibly, if the stay is granted, we  
3 would urge that it not be any longer than probably shortly after  
4 the March filing by the EPA.

5 COMMISSIONER CLARK: Okay. Mr. Proctor?

6 MR. PROCTOR: The Office filed comment on  
7 February 4th as the order from the Commission allowed and that  
8 is our position; that is my clients' position.

9 COMMISSIONER CLARK: Thank you.

10 MR. DODGE: Well, that was impressive. I guess I  
11 should be similarly brief. The UAE is an intervener in the  
12 docket selected, not the filed substantive testimony, not  
13 because of lack of interest but because of the feeling that the  
14 issues have been adequately identified by the parties.

15 Our position on this one is driven by the fact that  
16 while we frankly suspect the company knows fairly well what the  
17 EPA will likely do in March, that they tend to typically have their  
18 finger on where the EPA is going. They have been known to  
19 throw curve balls, too, and our notion was if a curve ball comes  
20 out on the 29th, that we think you ought to know about it before  
21 you make a decision and that it would be our intent to say that  
22 and we think other parties ought to have that right.

23 We don't anticipate that, but, again, we don't know.  
24 And for that and on that basis, we propose the notion of at least  
25 holding your final ruling until parties have a reasonable chance



1 to review that ruling, or that proposed ruling, and tell you  
2 whether they think there is a curve ball in there that changes the  
3 dynamics of what has already been presented. So that is the  
4 UAE's proposal, thank you.

5 COMMISSIONER CLARK: Thank you. And  
6 Western Resource Advocates?

7 MR. MICHAEL: Yes, thank you. I'm Steve Michael.  
8 We actually kind of agree with the company but for very  
9 different reasons. You know, the Division has said that EPA is  
10 not--you know, that waiting for a decision for EPA is not--from  
11 EPA is not always the best course of action, and we also  
12 recognize that, you know, EPA deadlines are often--or timelines,  
13 are often delayed, and trying to set a schedule based on the  
14 anticipated EPA determination is not, is not always the best  
15 course of action.

16 In this docket, the company has filed its case with  
17 its justification. WRA and other interveners, and others, have  
18 filed their responses and lot of resources have been expended  
19 and calendars reserved. We think the company has not  
20 adequately justified its request, and we would like to continue  
21 on the existing schedule, at the conclusion of which, we think  
22 the company's request should be disapproved. We think that's  
23 the best course of action right now.

24 If EPA does issue some preliminary ruling or  
25 decision, in March or any other time, then parties are free to file

1 whatever motions for consideration of that, of those facts at the  
2 time that that happens, and we think the Commission should  
3 take that up, if and when that occurs, upon a motion of the  
4 parties. But short of that, we think the schedule should proceed  
5 as it currently exists, and the Commission should, you know,  
6 hold its hearings, make its determination.

7 We have a very different view of what the outcome  
8 should be than the company does, but, regardless, we're fine  
9 with the scheduled proceeding as it is currently established, and  
10 that's all I have.

11 COMMISSIONER CLARK: Thank you, Mr. Michael.  
12 We are going to take a brief recess. Let's be in recess until  
13 9:30. Thank you very much.

14 (A discussion was held off the record.)

15 COMMISSIONER CLARK: Chairman Allen.

16 CHAIRMAN ALLEN: For the company, I have some  
17 questions. When we talk about delays about the scalability of  
18 the technology of the SCR that meets the Wyoming provisions or  
19 requirements, it's installed, or largely installed, and if the EPA  
20 were to issue something that is more, I hate to use the word  
21 severe, sounds judgmental, something stricter or tighter, is the  
22 technology scalable? Can you build on to that? Do you have--  
23 is there a chance you would have to just drop it and start over?  
24 What do you consider the technological risk on this?

25 MR. MOSCON: Permission to consult really

1 quickly?

2 CHAIRMAN ALLEN: Yes.

3 MR. MOSCON: By the way, if it please the  
4 Commissioner, I am happy to get an answer and relay it, or I'm  
5 equally happy to allow Mr. Teply to be sworn and answer  
6 directly, whatever pleases the Commission.

7 COMMISSIONER CLARK: Mr. Teply, would you  
8 mind?

9 MR. TEPLY: No, that is fine.

10 COMMISSIONER CLARK: Counsel, is it your intent  
11 that he be sworn?

12 MR. MOSCON: Sure. Why don't we have him  
13 sworn and I'll have him state his name and position for the  
14 record, and then we'll turn it to the Commission for questions.

15 COMMISSIONER CLARK: Thank you.

16 CHAD TEPLY, called as a witness and having been  
17 duly sworn, was examined and testified as follows:

18 COMMISSIONER CLARK: Thank you. Please be  
19 seated.

20 EXAMINATION

21 BY-MR.MOSCON:

22 Q. Mr. Teply will you please tell us your name and  
23 your position with the company?

24 A. Chad Teply, vice president, resource development  
25 and construction for PacifiCorp Energy.

1 Q. And very briefly, could you please tell us the role  
2 that you have had in developing this project that is as at issue  
3 in this docket?

4 A. Sure. My team within the company is responsible  
5 for development of major contracts including construction of  
6 SCR retro-fit type equipment.

7 MR. MOSCON: Mr. Teply is available for any  
8 questions of the Commission.

9 CHAIRMAN ALLEN: Thank you.

10 EXAMINATION

11 BY-CHAIRMAN ALLEN:

12 Q. So, Mr. Teply, I believe you were in the room when  
13 I posed my question, I will restate it; that is, in terms of looking  
14 at the possibility of a delay, how does the technology play out in  
15 the SCR, if it meets the Wyoming standard and begins to be  
16 installed and EPA issues a ruling that needed to be more  
17 precise, or a higher standard, is the technology scalable or do  
18 you start over again?

19 A. Maybe it would help to give just a little bit of  
20 background of where we are at in the technology selection and  
21 contracting process. We currently have two competitive bids  
22 active and submitted to the company. Each of those bids is  
23 based on the current emission limits that are prescribed by the  
24 State of Wyoming, as well as the timing for installation.

25 What we can do--and first and foremost, if EPA did

1 come out and say, we think the emission limit should be lower,  
2 first we would object. We think the emission limits are fair  
3 where they have been set. But, ultimately, if the company had a  
4 ratchet it down, I will call it, compliance obligation, the physical  
5 structure of the SCR, we're in negotiations and discussions now  
6 with our bidders to accommodate what we would see as the  
7 next reasonable step downward in emission limits. And what  
8 that really means for the installation as prescribed today, the  
9 technology require as catalyst, which is a physical space and  
10 structural support requirement, that can be readily  
11 accommodated currently because we are still in the design  
12 phase. So that piece of the puzzle is relatively easily resolved,  
13 the structural component. What that typically would mean is an  
14 increase steel costs and those type of things that can be  
15 addressed in the competitive environment currently.

16 The other impacts to a reduced emission limit  
17 would be the requirements for the amount of catalyst actually  
18 impacts system operation, such that we would look at our fan  
19 designs, our flue gas flow path, those reviews are ongoing now,  
20 as well, and we think can be accommodated within the structure  
21 that we've submitted, pricing and technology that we have  
22 submitted within the application.

23 So I would say it's by no means a start over for us.  
24 It's more of an adjust the bids, make sure that we have  
25 exercisable options should that become reality. And, ultimately,

1 as Mr. Moscon has communicated, our bid validity is through  
2 May, so when once we see where EPA is headed, we can--we do  
3 have some time to evaluate that proposal before we would act  
4 with a contractor to lock down final pricing, final scope, et  
5 cetera, so it's definitely an area that we're addressing, or  
6 attempting to address, in the competitive market as best we can.

7 It doesn't become a start over but there are  
8 incremental costs that we are trying to assess and make sure  
9 we are within the bandwidth of the application that we have  
10 submitted. From a long-term run rate prospective, a lower  
11 emission limit would also mean increased radiant costs and  
12 those types of things but there again, it's an increment to a  
13 base that is already established, not a complete rework of that  
14 review.

15 Q. Okay, that is very helpful. So it sounds like you've  
16 tasked the design engineers with the notion that they need to  
17 keep their eye on possible upgrades.

18 A. Yes, we have.

19 Q. Okay, great. That is very helpful.

20 COMMISSIONER CLARK: Thank you, Mr. Teply,  
21 you can come down.

22 MR. PROCTOR: Excuse me, Mr. Chairman.

23 COMMISSIONER CLARK: Yes.

24 MR. PROCTOR: We had a sworn witness provide  
25 testimony; do we not get an opportunity to cross?

1 COMMISSIONER CLARK: Sure, yes. Mr. Teply, do  
2 you mind?

3 THE WITNESS: Sure.

4 MR. PROCTOR: Typically the Division goes first, if  
5 they have questions.

6 MR. JETTER: We have no questions.

7 COMMISSIONER CLARK: Mr. Proctor?

8 EXAMINATION

9 BY-MR.PROCTOR:

10 Q. Mr. Teply, you mentioned in the event that the EPA  
11 establishes in this reconsideration a more strict requirement,  
12 that the first thing that the company would do is contest it; is  
13 that correct?

14 A. We would likely challenge that requirement, to  
15 make sure that it, one, is it reasonable and achievable limit for  
16 the given installation at the Jim Bridger facility based on the  
17 fuel quality, etc., not knowing what they may or may not  
18 propose.

19 Q. So right now you can anticipate challenging it, and  
20 how many months of delay would you challenge to that new limit  
21 mean to the project?

22 A. I haven't, not knowing what the proposed limit  
23 would be. With respect to the technology there, there is really  
24 only a certain bandwidth of capability for--you can only take that  
25 limit so low. We really don't know what EPA would propose. So

1 depending on they may say that the existing limit, the .07  
2 pounds for million limit, is acceptable, and if that is the case,  
3 obviously, there would be no change, but if they were to say  
4 something more aggressive, as long as it is within the realm of  
5 reason.

6 I mean, our focus there, obviously, if it's a federal  
7 implementation plan that is ruled out, if the State of Wyoming  
8 also agrees that is reasonable, we don't know where other  
9 parties will go, so I can't really--I can't really give you a good  
10 answer as to what that timeline of that process would look like,  
11 not knowing what we would be addressing.

12 Q. So if there is a great deal of uncertainty as to, one,  
13 the nature of your opposition to the more aggressive standard,  
14 and there would be uncertainty about the other parties and their  
15 response to the more aggressive standard, but, yet, your first,  
16 your first response in your initial statement was, we would  
17 challenge a more aggressive standard. Given that, sir, and your  
18 experience with the EPA, how many months would you  
19 anticipate a delay to the project as a consequence of your  
20 challenge to that more aggressive standard?

21 A. Kathy Woollums may actually be more versed in the  
22 procedure EPA challenge.

23 Q. Well, I am asking you with your experience with  
24 these large projects.

25 A. What we would likely do, because as we talked



1 about heading down the path of establishing exercisable options  
2 for the reduced emission rate, those costs are relatively nominal  
3 from a structural design prospective. So, likely, unless--the real  
4 challenge would be if the limit has been prescribed that is not  
5 achievable, then you have an issue.

6           If the challenge that has been proposed is--let's  
7 throw an example out there. If they said it's a .05 pound per  
8 million emission rate, which is an emission rate we have seen  
9 across the country, the real concern there the company would  
10 have is that is a reduced emission rate that results in run rate  
11 costs, increased costs for catalysts, increase cost for reagent.  
12 While you could accommodate that in your initial design and not  
13 create significant concerns from a construction schedule or a  
14 cost, we would look at that.

15           Fundamentally what we would be arguing for is if  
16 we could reduce run rate cost to customers by sticking with the  
17 originally prescribed emission limit. You have less catalytic  
18 replacement costs, you have less run reagent costs, and those  
19 are costs that run through the life of the unit. So those  
20 decisions, ultimately, don't impact your construction schedule as  
21 much as they impact your run rate costs to customers.

22           Q.     Is it correct, then, that the initial construction costs  
23 for this range that you're building into the project now are, to  
24 use your word, nominal?

25           A.     Yes. As I had mentioned earlier, what we are

1 attempting to do is we had submitted cost information and  
2 economic analysis for the project. Our current intent is to make  
3 every effort to work within that envelope to accommodate either  
4 our existing contract emission limit requirement or a reasonable  
5 step change from a reasonably technically supportable.

6 So when I say nominal, we think currently, we are  
7 currently in a competitive environment so we are still negotiating  
8 pricing, however, we think currently that those, that incremental  
9 capital installation cost could be accommodated within the cost  
10 structure that we had submitted within the application. So that  
11 is when I said nominal, it will be an increase likely, depending  
12 on like I had mentioned, the structural design requirements, the  
13 fan design requirements, the system impacts; but, ultimately, we  
14 think currently that we can work within the bounds that we have  
15 set within the application.

16 Q. So your current bidding process, which I  
17 understand is valid until May, at least the bids are valid until  
18 May--

19 A. Uh-huh.

20 Q. --would cover that range in the event that the EPA  
21 made a more aggressive standard, it would be a nominal cost,  
22 and so is your Counsel incorrect when he is stating that  
23 ratepayer expense will go dramatically up if there is either a  
24 delay to see what the EPA does or/and to respond to the EPA's  
25 new standard?

1           A.       Costs can go dramatically up, as Mr. Moscon  
2 mentioned. A delay--we have been talking about an emission  
3 rate change. A delay based on a delay of this proceeding and a  
4 restart, or other delays, can significantly increase your  
5 construction costs.

6                       If you were to look at the current schedule as  
7 proposed competitively and to look at the existing outage  
8 schedule that we have set forth, if you delay this process to the  
9 point where we can't release, say, at the in the middle of May, a  
10 contractor, depending on how long that delay is and,  
11 particularly, if you have gone as the motion if front of us has  
12 proposed, through final EPA action, the main driver at that point  
13 becomes construction seasons in Wyoming. A May release of a  
14 contractor actually allows us to get subsurface and civil  
15 construction work done in the construction season, in 2013, but  
16 there is engineering and other things that have to occur before  
17 that time.

18                      So if you've delayed your schedule significantly  
19 beyond that May timeframe, you may miss your construction  
20 window, which completely changes your construction schedule  
21 to get your 2015 compliance deadline, including, potentially,  
22 rescheduling outages with the associated net power costs. So  
23 when we say there will be--there could be significant cost  
24 increases, that is correct. If we completely change the schedule  
25 as prescribed, there could be significant cost increases.

1 Q. That is a complete change of the schedule but you  
2 are anticipating a range of compliance requirements at this point  
3 in your bids. Correct?

4 A. That's correct.

5 Q. Well, under those circumstances, sir, wouldn't it  
6 make sense for the Commission to do, as UAE and the Office  
7 had requested; and that is, you can have the hearing but no  
8 decision will come out until we have greater certainty with the  
9 EPA?

10 A. I think that is what Mr. Moscon has proposed. I will  
11 defer it to Moscon.

12 Q. Thank you.

13 MR. PROCTOR: Thank you very much,  
14 Commissioners.

15 COMMISSIONER CLARK: Any other question for  
16 Mr. Teply?

17 MR. RITCHIE: I may have, from the phone; this is  
18 Travis Ritchie with Sierra Club.

19 COMMISSIONER CLARK: Yes.

20 EXAMINATION

21 BY-MR.RITCHIE:

22 Q. Hello, Mr. Teply, thank you for bearing with me on  
23 the phone as I ask these questions. Can you hear me okay?

24 A. Yes, I can.

25 Q. Just a few quick questions; you mentioned that the

1 scheduled outage and the cost that could be incurred if you had  
2 to reschedule the outage for a different time, if the Wyoming  
3 deadline were postponed to something like 2018, five years from  
4 now, would that, would another scheduled outage that this work  
5 would be able to be completed in, would that occur within that  
6 five-year period?

7 A. You would have--we currently operate the Jim  
8 Bridger facility on four-year outage cycles, so if the schedule  
9 was completely changed with a proposal from EPA that  
10 Wyoming DEQ and also acted upon, you would have the  
11 opportunity, our existing outage scheduling, to move the outage;  
12 however, just to kind of close the whole circle on that, our bids  
13 would be moot at that point, if you are talking that extensive of  
14 a delay, so we would go back from square one to a contract cost  
15 prospective.

16 So I can't tell you how significant the cost increase  
17 would be for a delayed project. I would say the construction  
18 market is currently favorable, I would say, from a  
19 competitiveness prospective. Depending on what EPA  
20 ultimately proposed, and whether Wyoming DEQ ultimately  
21 followed suit, you know, the costs could increase significantly,  
22 just based on market conditions alone.

23 Q. And so moving on a little bit, you know, assuming  
24 that you are still going for the next forced outage and getting  
25 the SCR's installed by 2015 and 2016, I think you mentioned

1 earlier that your costs--you have to complete your contract and  
2 begin to start committing substantial costs by May of 2013, but  
3 if that is the case, isn't it true that you would be committing  
4 costs before the expected final EPA rule in September of 2015?

5 A. Yes, as we have communicated in our filings, we  
6 have an existing compliance obligation with the State of  
7 Wyoming and I think the main question at play here is whether  
8 or not it would benefit the parties to have some insight as to  
9 where the EPA may or may not be headed in March, and I  
10 believe that's the proposal that is currently on the table. So,  
11 ultimately, we have arranged the existing contract schedules  
12 and the existing contracts to support our current obligations with  
13 the State of Wyoming.

14 Q. And then one final question; you mentioned if the  
15 EPA final rule has a stricter or more aggressive emissions limit,  
16 that could impact the run rate of the unit; is that correct?

17 A. I was speaking to run rate costs, both on the--  
18 basically a run rate operations and maintenance costs.

19 Q. Sorry, run rate costs, so those run rate costs, then,  
20 if those were higher, that would impact the 20-year present  
21 value revenue requirement analysis for that plant. Correct?

22 A. Yes, that would impact run rate costs analyses, but  
23 as I mentioned earlier, from a reagent cost prospective and/or  
24 capital--catalyst replacement cost prospective, the majority of  
25 those costs are already incorporated. Those costs are

1 incorporated as a base case and to increment on an emission's  
2 limit prospective does not--is not a step change as much as a  
3 marginal upward movement in those run rate costs.

4 Nonetheless, they do impact our customers, and  
5 that's where I was headed with my discussion as to why would  
6 we object to a more rigid emission limit; not because I think it  
7 changes the ultimate decision, nor the ultimate economic review  
8 materially--or I shouldn't use the word materially. It is a  
9 significant cost but I do not think it changes the assessment or  
10 the company's decision.

11 Q. Thank you, Mr. Teply. I have no further questions.

12 COMMISSIONER CLARK: Any other questions for  
13 Mr. Teply?

14 Mr. Teply, you are excused. Thank you very much.

15 MR. TEPLY: Thanks.

16 COMMISSIONER CLARK Commissioner LeVar has  
17 a question.

18 COMMISSIONER LEVAR: Just to clarify what I  
19 think I heard earlier this morning, is Rocky Mountain Power's  
20 position is if the hearing goes forward as scheduled, you do not  
21 oppose some post-hearing briefing if the EPA were to meet its  
22 March 29th deadline?

23 MR. MOSCON: Yes. What I suggest the  
24 Commission do is pick a date certain, that it doesn't seem to me  
25 it's good to just open-end it and say to parties, file something if

1 or when you want to provide, you know, input on whatever the  
2 EPA has done.

3 So what I would urge the Commission to do is  
4 issue a ruling that, in sum and substance, says, we'll proceed  
5 with the hearings as scheduled, March 7th and 8th. If the EPA  
6 issues a proposal by March 29th, that the parties have until  
7 April 9th, which is 11 days, includes two weekends, to file  
8 something with the Commission if they believe that an action--  
9 the action of the EPA warrants any redirection. In that regard,  
10 the parties and the Commission would know, okay, we now  
11 have, you know, whatever it is that we need to look at.

12 And the timeframe, when I say April 9th again, is  
13 only such that remembering the company's existing ability to  
14 lock in the prices that it has runs by mid May, so it's really how  
15 long the Commission needs to issue an order. So if we say  
16 later in May--or excuse me, later in April to do briefing, that is  
17 fine, so long as we can get an order from the Commission by the  
18 beginning of May, so that's what our position was.

19 MR. PROCTOR: Mr. LeVar, may I speak to that  
20 question, as well?

21 COMMISSIONER LEVAR: You bet.

22 MR. PROCTOR: Given Mr. Teply's testimony and  
23 his responses to the company's likely response to an EPA  
24 decision, perhaps the Commission could consider not only as  
25 the company, UAE, the Office has suggested, that you go



1 forward with the testimony, the hearing process, much of that is  
2 going to be pertinent to your decision regardless, delay the  
3 decision until you have greater certainty from the EPA but,  
4 perhaps, delay a decision on the Sierra Club's motion at this  
5 time because that's uncertain, too. It is based upon what we  
6 think may happen.

7           But once the EPA comes out with its decision, the  
8 need to stay the process, reconsider, for example, evidence that  
9 wasn't presented earlier, may become even more important for a  
10 proper decision from the Commission. So it may be--you know,  
11 and I haven't discussed this with the Sierra Club and it's their  
12 motion, but I am just wondering why they are not deferring a  
13 decision on the stay would also be appropriate, because the  
14 certainty that everyone is looking for but doesn't exist now will  
15 certainly exist by the time you have a greater direction from the  
16 EPA and its effect, or lack of effect, upon the Wyoming decision  
17 as well. Just a thought.

18           COMMISSIONER CLARK: Mr. Moscon?

19           MR. MOSCON: Yes. I would oppose that further  
20 suggestion for a couple of reasons; first, with the hearing, we  
21 have, of course, ongoing briefing scheduling; when rebuttal is  
22 due, when surrebuttal is due, the hearing dates, so on and so  
23 forth. The Sierra Club's motion is, of course, to stay the  
24 proceedings. It makes no sense to me to say, well, let's go  
25 ahead and let's file the briefing and this testimony and have the

1 hearing, but let's not decide whether or not we are going to stay  
2 the hearing. Either we're going forward with the briefing  
3 schedule and the argument or we're not. So either it is stayed  
4 or it's not. And, ultimately, the Commission will have the ability  
5 to issue its decision.

6 I note that, although I think all parties are going a  
7 little bit beyond, you know, the Motion to Stay, the voluntary  
8 docket, the statute that this falls under, allows the Commission  
9 to enter orders that are conditions. So in other words, the  
10 Commission can say you're pre-approved to this dollar amount,  
11 you're pre-approved to the extent your thing complies with EPA,  
12 or whatever it is that the Commission wants to do in its order.

13 So there are--and the Commission has the ability to  
14 proceed notwithstanding what is going on with the EPA. And so  
15 I think that it just is more problematic than helpful to say, let's  
16 not decide whether we are staying this and let's go ahead and  
17 do everything and then decide whether we are staying it after we  
18 have done it all.

19 Again, just trying to have all the information that is  
20 germane in front of the Commission, the company does not  
21 object if parties file something with the Commission before an  
22 order is issued. That, you know, seems to make sense. But we  
23 would, again, ask the Commission to put some kind of limitation  
24 of timeframe or what is filed just so the parties and the  
25 Commission kind of know when it's free to issue its ultimate

1 decision.

2 MR. MICHAEL: Mr. Chairman, this is Steve  
3 Michael. May I speak briefly?

4 COMMISSIONER CLARK: Certainly.

5 MR. MICHAEL: I also would not--we would not  
6 support an open ended-ness to this process. This is a voluntary  
7 application. The company didn't have to file this but they did,  
8 and their are asking for a determination by the Commission.  
9 The Commission can disapprove this, and it doesn't mean the  
10 company can't move forward with whatever it feels it needs to  
11 do. It simply means that the company will have to justify any  
12 cost recovery for whatever it decides at the time of the rate  
13 case.

14 But we have, you know, as have all the parties,  
15 invested resources in this voluntary application and we think  
16 that the application should be the decided on its merits based  
17 on what was filed and the chips will fall wherever they may. The  
18 company still has all its ability to do whatever it thinks it needs  
19 to do. It simply may or may not get prior approval for cost  
20 recovery based on its filings.

21 So we would like to see this process continue as  
22 scheduled with a determination by the Commission on this.

23 COMMISSIONER CLARK: Any other comments?

24 Thank you. We will be off the record for a moment.

25 (A discussion was held off the record.)

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(Whereupon, a break was taken.)

COMMISSIONER CLARK: The Motion to Stay or continue is denied. We think it's important that you know that today so that you can plan accordingly. The schedule, the existing schedule for the continued filing of testimony and the scheduled hearing on March 7th, will go forward as announced in prior orders.

We do see value in receiving comments from the parties after the EPA's March 29th, 2013 publication of a proposed rule, in the event that occurs, and we propose to address the specific timing of that at the conclusion of the March 7th hearings. We will have more information at that time, potentially, and so we will reserve defining a precise schedule for those comments until we hold the hearings, and we will address the rationale for this order in more detail in our final order in this matter.

Are there any questions, though, or clarifications that the parties require concerning the Commission's action today? Thank you very much. We are adjourned until the hearing on March 7th.

(The hearing was concluded at 10:05 a.m.)

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REPORTER'S CERTIFICATE

State of Utah )  
 )  
County of Salt Lake )

I, Kellie Peterson, Certified Shorthand Reporter,  
Registered Professional Reporter, and Notary Public for the  
State of Utah, do hereby certify:

THAT the foregoing proceedings were taken before  
me at the time and place set forth herein; that the witness was  
duly sworn to tell the truth, the whole truth, and nothing but the  
truth; and that the proceedings were taken down by me in  
shorthand and thereafter transcribed into typewriting under my  
direction and supervision;

THAT the foregoing pages contain a true and  
correct transcription of my said shorthand notes so taken.

IN WITNESS WHEREOF, I have subscribed my  
name and affixed my seal this 18th day of February, 2013.

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Kellie Peterson, RPR