

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

THE HEARING OFFICER: DAVID R. CLARK

CHAIRMAN: RON ALLEN

COMMISSIONER: THAD LeVAR

FOR DIVISION OF PUBLIC UTILITIES:

PATRICIA E. SCHMID, ESQ.,
ASSISTANT ATTORNEY GENERAL

160 East 300 South, Fifth Floor
Salt Lake City, Utah 84114

FOR OFFICE OF CONSUMER SERVICES:

REX W. OLSEN, ESQ.,
ASSISTANT ATTORNEY GENERAL

160 East 300 South, Second Floor
Salt Lake City, Utah 84114

FOR ROCKY MOUNTAIN POWER:

YVONNE R. HOGLE, ESQ.,
ROCKY MOUNTAIN POWER

201 South Main Street, Suite 2300
Salt Lake City, Utah 84111

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FOR UAE:
GARY A. DODGE, ESQ.,
HATCH, JAMES & DODGE
10 West Broadway, Suite 400
Salt Lake City, Utah 84101

FOR SIERRA CLUB:
TRAVIS RITCHIE, ESQ.,
(Appearing Telephonically)
SIERRA CLUB ENVIRONMENTAL LAW PROGRAM
85 Second Street, 2nd Floor
San Francisco, California 94105

50 West Broadway, Suite 900, Salt Lake City, UT 84101
801-983-2180

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

WITNESS	Page
STEVEN R. McDOUGAL	
DIRECT EXAMINATION	10
BY MS. HOGLE	
CAROLYN G. ROLL	
DIRECT EXAMINATION	20
BY MS. SCHMID	
BILA VASTAG	
DIRECT EXAMINATION	26
BY MR. OLSEN	
KEVIN C. HIGGINS	
DIRECT EXAMINATION	29
BY MR. DODGE	



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Hearing Proceedings

April 21, 2015

PROCEEDINGS

THE HEARING OFFICER: On the record.

Good afternoon, ladies and gentlemen. I'm Commissioner David Clark. To my left is Commission Chair Ron Allen. To his left is Commissioner Thad LeVar. This is the time and place scheduled for a hearing in Docket No. 14-035-147, which relates to the voluntary request of Rocky Mountain Power for approval of a resource decision and a request for accounting orders.

I note that we have a public witness hearing scheduled for 5:00 p.m. this evening, so if anyone is here to participate in that proceeding, you're a couple of hours early. But we will hold that public witness hearing at 5:00 regardless of what transpires in the next two hours. Chair Allen has asked that I preside at this--or act as the presiding officer for our hearing today. Let's begin with the appearance of counsel for the parties. And if you'd introduce any witnesses that you've brought with you to support or address the settlement stipulation, please do so.

And let me also indicate that our

1 intention today is to swear all of the witnesses
2 who are here to address--or to support the
3 settlement stipulation and allow them to testify
4 consecutively but then address questions of the
5 Commission or other parties as a panel. And, so,
6 if there's any objection to that process or if you
7 have any other procedural recommendations for us,
8 now would be with the time to voice those as you
9 enter your appearance. So, let's begin with the
10 applicant.

11 Ms. Hogle.

12 MS. HOGLE: Thank you, Your Honor.
13 Yvonne Hogle on behalf of Rocky Mountain Power.
14 And with me here today is Steve McDougal, who will
15 be testifying in support of the stipulation. On
16 the phone, we have three witnesses who filed
17 testimony in the case. And they are Ms. Cindy
18 Crane, Mr. Seth Schwartz, and Mr. Doug Stuver, who
19 will be available for questions in the event there
20 are any.

21 Thank you.

22 THE HEARING OFFICER: Thank you. Have
23 we confirmed that they are actually on the phone?

24 MS. HOGLE: We have not confirmed, but
25 we can do that now if you want.

1 THE HEARING OFFICER: Ms. Crane.

2 MR. CRANE: Yvonne, this is Cindy. I'm
3 on the phone.

4 MR. STUVER: This is Doug. I'm on, as
5 well.

6 MR. SCHWARTZ: This is Seth Schwartz.
7 I'm on the phone.

8 THE HEARING OFFICER: Welcome.
9 Ms. Schmid.

10 MS. SCHMID: Good afternoon. Patricia
11 E. Schmid with the Attorney General's Office
12 representing the Division of Public Utilities. And
13 as the Division's witness in support of the
14 stipulation, Ms. Carolyn G. Roll is present today.

15 THE HEARING OFFICER: Welcome, Ms. Roll.

16 MS. ROLL: Thank you.

17 MR. OLSEN: Rex Olsen representing the
18 Office of Consumer Services. And our witness today
19 will be Mr. Bila Vastag.

20 THE HEARING OFFICER: Thank you.
21 Welcome, Mr. Vastag.

22 MR. DODGE: Gary Dodge on behalf of
23 UAE. Kevin Higgins filed testimony in this docket
24 and is present and prepared to offer testimony
25 and/or answer questions.

1 THE HEARING OFFICER: Thank you, Mr.
2 Dodge.

3 Any other appearances? Are there any
4 other--

5 MR. RITCHIE: Travis Ritchie on behalf
6 of Sierra Club is on the phone.

7 THE HEARING OFFICER: Sorry. I spoke
8 over the top of you. Would you repeat that,
9 please?

10 MR. RITCHIE: Travis Ritchie, on behalf
11 of Sierra Club, is appearing on the phone.

12 THE HEARING OFFICER: Thank you, Mr.
13 Riche. Is there anyone else on the phone that
14 would like to--or intends to address the settlement
15 stipulation in any way?

16 And any other appearances of those here
17 in the hearing room today?

18 Thank you. So, I assume that we're in
19 agreement to proceed with the witnesses as a panel.
20 Is that correct?

21 MR. OLSEN: That's fine, Your Honor.

22 THE HEARING OFFICER: We see nodding in
23 the affirmative.

24 And one other preliminary matter: Does
25 any party perceive the need to address in a

1 specific way confidential information as we discuss
2 the settlement stipulation?

3 MS. HOGLE: From the Company--excuse
4 me--from the Company's position, Your Honor, we
5 would like to avoid getting into confidential
6 information, if at all possible.

7 THE HEARING OFFICER: Okay.

8 MS. SCHMID: The Division has prepared
9 its statement in support with that in mind, as
10 well.

11 MR. OLSEN: We will have no confidential
12 information either.

13 THE HEARING OFFICER: Thank you.

14 MR. DODGE: Nor do we.

15 THE HEARING OFFICER: Thank you.

16 So, would those who intend to testify in
17 support of the settlement stipulation please raise
18 your right hand. Do each of you solemnly swear
19 that the testimony you're about to give shall be
20 the truth, the whole truth, and nothing but the
21 truth?

22 (All witnesses answer in the affirmative.)

23 THE HEARING OFFICER: Thank you.

24 We'll begin with the Company.

25 MS. HOGLE: One more issue, Your Honor.

1 I'd like to request your attention if you turn your
2 attention to Paragraph 31 of the stipulation. And,
3 so, consistent with that, I would request that the
4 Commission accept all testimony--prefiled testimony
5 in this case into the record.

6 THE HEARING OFFICER: Is there any
7 objection to that request?

8 Thank you. All prefiled testimony in
9 this docket will be received in evidence.

10 Thank you, Ms. Hogle.

11 MS. HOGLE: Thank you. I call Mr.
12 Steve McDougal.

13 STEVEN R. McDOUGAL, being first duly
14 sworn, was examined and testified as follows:

15 DIRECT EXAMINATION

16 BY-MS.HOGLE:

17 Q. Can you please state your name, address,
18 and current position with Rocky Mountain Power for
19 the record?

20 A. Yes. My name is Steven R. McDougal.
21 And my business address is 201 South Main, Suite
22 2300, Salt Lake City, Utah. I am currently
23 employed as the director of revenue requirements
24 for the Company. I have been employed by Rocky
25 Mountain Power or its predecessor company since

1 1983. My experience at Rocky Mountain Power
2 includes various positions within regulation,
3 finance, resource planning, and internal audit.

4 Q. And can you tell us what the purpose of
5 your testimony is here today?

6 A. Yes. I am here in support of the
7 stipulation that was reached by all the signing
8 parties in this case, including Rocky Mountain
9 Power, the Division of Public Utilities, the Office
10 of Consumer Services, the Utah Association of
11 Energy Users, and the Sierra Club.

12 Q. And before getting into the details of
13 the stipulation, do you have any initial comment?

14 A. Yes. I would like to thank the parties
15 for the time and the effort that they have
16 dedicated to this case and the resulting
17 stipulation we are presenting today. The
18 stipulation was negotiated in good faith and is a
19 fair and reasonable outcome in this docket.

20 Q. Please proceed.

21 A. I will walk through the stipulation and
22 touch on each of the items. While I will be
23 providing a summary of the stipulation, language
24 within the stipulations four corners governs the
25 agreement. The stipulation contains one

1 confidential attachment and a couple of paragraphs
2 contain confidential information. I will refrain
3 from specifically mentioning the confidential
4 information unless asked.

5 The first ten paragraphs of the
6 stipulation give a brief overview of the case and
7 the timing of the various filings. I will not go
8 into the overview or background but will describe
9 the settlement terms starting on Paragraph 11.

10 In Paragraph 11, the parties request the
11 Commission issue an order find that this
12 Commission's decision to close the Deer Creek mine
13 as described in its application is prudent and in
14 the public interest and that the transaction cost
15 described in Confidential Attachment 1 are based on
16 estimates provided by the Company.

17 Parties further agree that a non-Company
18 party may challenge the prudence of actual costs
19 incurred in the implementation of the transaction
20 in a later proceeding based on the standards for
21 prudence set forth in Utah law. The parties agree
22 that such challenge to the prudence of actual costs
23 incurred would be addressed only recovery in rates
24 of such costs, and not the stipulation and
25 agreement that the transaction itself is prudent

1 and in the public interest.

2 In Paragraph 12, the non-Company parties
3 reserve the right to challenge the Company's
4 recovery of some or all of the costs identified on
5 lines 11, 12, and 17 in the Confidential Attachment
6 1 on grounds relating to timing of prior and future
7 rate case proceedings, rate case projections, and
8 test periods. The Company reserves its right to
9 argue that these same costs were necessarily
10 incurred to achieve customer benefits in the
11 context of the overall transaction and that the
12 Company should be allowed to recover these costs.

13 Paragraph 13 describes that the
14 Utah-allocated portion of the unrecovered
15 investment in the Deer Creek mine, excluding the
16 Construction Work in Progress and Preliminary
17 Survey Investigation charges that are discussed
18 later in the stipulation, should be transferred to
19 a regulatory asset and continue to be recovered at
20 an amortization rate equal to the current
21 depreciation expense beginning January 1, 2015, at
22 least until the rate effective period of the
23 Company's next general rate case. This regulatory
24 asset should be included in rate base in the
25 Company's next rate case.

1 Paragraph 14 seeks that the
2 Utah-allocated portion of the loss related to the
3 sale of the prep plant, as described in the
4 application, should be transferred to a regulatory
5 asset and continue to be recovered at an
6 amortization rate equal to the current depreciation
7 expense beginning January 1, 2015, until the rate
8 effective period of the Company's next general rate
9 case. This regulatory asset should also be
10 included in rate base in the Company's next general
11 rate case.

12 Also within Paragraph 15--excuse me. In
13 Paragraph 15, beginning June 1, 2015, until the
14 rate--until effective date of rates in the next
15 general rate case, the prep plant regulatory asset
16 should be credited for the return on rate base
17 related to the "sold" portion of the mining assets.
18 The credit should be based on the Company's
19 approved rate of return on rate base. And in the
20 document, it states in the footnote that when the
21 rate of return, or ROR, is discussed in the
22 stipulation, it is referring to the pretax return
23 on rate base as authorized by the Commission.

24 Paragraph 16 states that separate
25 accounts will be established to track the costs

1 related to the transaction for all joint owner
2 elements related to the transaction. The Company
3 will be responsible for obtaining reimbursement of
4 these costs from the joint owners.

5 In Paragraph 17, a onetime,
6 non-precedential exception should be made to the
7 70/30 sharing band within the Energy Balancing
8 Account for items identified in the stipulation
9 which should be recovered by flowing them through
10 the EBA at 100 percent without applying the sharing
11 band until the rate effective date of the next
12 general rate case. The sharing band waiver is
13 non-precedential. And the Company agrees to not
14 request any change or elimination of the EBA
15 sharing band to be effective prior to the end of
16 the EBA pilot.

17 Paragraph 18 states that the EBA-related
18 carrying costs will be zero during the calendar
19 year during which such costs are calculated and
20 deferred to the EBA. This treatment should
21 continue until the rate effective date of the
22 Company's next general rate case. For the period
23 in which the costs have been deferred and are
24 awaiting review, and during the collection period,
25 the normal EBA carrying cost rate should apply.

1 In Paragraph 19, it states that
2 beginning June 1, 2015, the regulatory asset for
3 unrecovered Deer Creek mine assets should be offset
4 for the Company's authorized rate of return on the
5 Fossil Rock leases described in the application in
6 this proceeding, and the rate of return on fuel
7 inventory. This treatment should continue until
8 the effective date of rates in the Company's next
9 general rate case.

10 Paragraph 20 states that the Deer Creek
11 mine closure costs should be recorded as a
12 regulatory asset as those costs are incurred. A
13 carrying charge equivalent to the Company's
14 authorized cost of debt should be applied to this
15 regulatory asset until the Company's next general
16 rate case. Amortization of closure costs to fuel
17 cost should begin with the effective date of rates
18 in the Company's next general rate case and should
19 be included in rate base at that time.

20 In Paragraph 21, states that a
21 regulatory asset should be created for a onetime
22 loss on settlement of the--for the Retiree Medical
23 Obligation based on the actual amount booked at the
24 time of the completion of the transaction, with a
25 carrying cost equal to the Company's authorized

1 ROR. In its next general rate case, the Company
2 will demonstrate the prudence of any portion of the
3 loss in excess of the estimates provided in the
4 application. All prudent costs related to the
5 Retiree Medical Obligation included in the
6 Company's next general rate case should be included
7 in rate base and amortized as determined in that
8 case.

9 Paragraph 22 states that a regulatory
10 asset should be created for the Utah-allocated
11 portion of the withdrawal from the 1974 Pension
12 Trust. No carrying charge should be accrued to the
13 regulatory asset until and unless the Company's
14 obligation is satisfied through a prepayment
15 settlement of the annual installment. Any decision
16 to enter into a settlement for prepayment of the
17 annual installment should be subject to future
18 Commission approval. The Company will continue the
19 annual \$3 million payments to the 1974 Pension
20 Trust.

21 In Paragraph 23, the parties agree that
22 the Huntington CSA is prudent, provided, however,
23 that the Company can successfully exercise its
24 termination rights if a new or existing
25 environmental regulation or settlement causes it to

1 be--to become uneconomical to burn coal at
2 Huntington. If the Company is unable to
3 successfully exercise its termination rights and is
4 required to pay costs or damages related to the
5 Huntington CSA for coal that it is unable to use at
6 Huntington or another facility, then the prudence
7 of such costs or damages should be subject to
8 future review, taking into account the overall
9 benefits of the transaction to customers. Parties
10 are free to take any position they choose in such
11 future review.

12 And Paragraph 24. The Utah-allocated
13 portion of the total Company amount of \$3.8 million
14 of the net Deer Creek Mine-related Construction
15 Work in Progress, including the PS&I, preliminary
16 survey and investigation, and salvage should be
17 transferred to a regulatory asset. Any amount in
18 excess of that amount will be the responsibility of
19 the Company and not collected from customers. The
20 CWIP regulatory asset balance should earn a
21 carrying charge at the Company's authorized cost of
22 debt. The CWIP regulatory asset balance should be
23 included in rate base and amortized to fuel cost
24 beginning with the effective date of new rates from
25 the Company's next general rate case over an

1 amortization period to be determined in that case.

2 In Paragraph 25, it states that future
3 Fossil Rock royalty revenue, if any, should be
4 deferred and credited to customers in future rate
5 cases.

6 In the remainder of the stipulation, it
7 includes general terms and conditions in Paragraphs
8 26 through 30, and the request for relief in
9 Paragraphs 31 through 33.

10 The stipulation has been negotiated in
11 good faith by all parties and we recommend that the
12 Commission approve it as requested before May 27,
13 2015, as the transaction is in the public interest
14 and should move forward expeditiously.

15 Q. Does that conclude your testimony, Mr.
16 McDougal?

17 A. Yes.

18 MS. HOGLE: Your Honors, Mr. McDougal is
19 available for questions, as are the Company
20 witnesses on the phone. Thank you.

21 THE HEARING OFFICER: Thank you, Ms.
22 Hogle.

23 Just for planning purposes, are there
24 any questions for Mr. McDougal? The Commission
25 will likely have a few, but we'll take those up

1 after the other witnesses have offered their
2 testimony, as I mentioned earlier.

3 Ms. Schmid.

4 MS. SCHMID: Thank you.

5 THE HEARING OFFICER: Pardon me. Do
6 you have anything further, Ms. Hogle?

7 MS. HOGLE: I do not. Thank you, Your
8 Honor.

9 THE HEARING OFFICER: Thank you.

10 Ms. Schmid.

11 MS. SCHMID: Thank you. The Division's
12 witness in this case is Ms. Carolyn G. Roll, and
13 she was sworn earlier this afternoon.

14 CAROLYN G. ROLL, being first duly sworn,
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY-MS.SCHMID:

18 Q. Ms. Roll, could you please state your
19 full name, business address, employer, and title
20 for the record.

21 A. Yes. My name is Carolyn G. Roll,
22 R-O-L-L. And I work for the Division of Public
23 Utilities. Our business address is 160 East 300
24 South, Salt Lake City, Utah. And I'm a utility
25 analyst.

1 Q. Have you participated on behalf of the
2 Division in this docket?

3 A. Yes, I have.

4 Q. What is the purpose of your testimony
5 here today?

6 A. I'm here to offer the Division's support
7 of the stipulation as filed in Docket 14-035-147.

8 Q. Do you have a statement to present?

9 A. Yes, I do.

10 Q. Please proceed.

11 A. Thank you.

12 Good afternoon. The Division offers
13 this testimony in support of the settlement
14 stipulation in this docket. The Division
15 recommends that the Commission approve the
16 stipulation as filed as being prudent and in the
17 public interest.

18 By statute, the Division shall act in
19 the public interest in order to provide the Public
20 Service Commission with objective and comprehensive
21 information, evidence, and recommendations
22 consistent with the following objectives:

23 (1) promote the safe, healthy, economic,
24 efficient, and reliable operation of all public
25 utilities and their services, instrumentalities,

1 equipment, and facilities;

2 (2) provide for just, reasonable, and
3 adequate rates, charges, classifications, rules,
4 regulations, practices, and services of public
5 utilities;

6 And (3) make the regulatory process as
7 simple and understandable as possible so that it is
8 acceptable to the public; feasible, expeditious,
9 and efficient to apply; and designed to minimize
10 controversies over interpretations and
11 applications.

12 In its participation in this docket, the
13 Division has acted pursuant to its statutory
14 responsibilities.

15 The Division appreciates the hard work
16 and cooperation of the Company and the other
17 parties in reaching this settlement agreement.
18 However, even absent the settlement agreement, the
19 Division supports the Company's decision and would
20 expect that the Company would move forward with the
21 transaction. The settlement, however, resolves
22 issues where parties were in disagreement.

23 The Division extensively reviewed and
24 analyzed the filings in this docket. The Division
25 wrote, reviewed, and analyzed testimony and

1 submitted data requests and reviewed the Company's
2 and others' responses to the data requests in this
3 docket. In addition, the Division also reviewed
4 nonconfidential, pertinent testimony filed in the
5 Company's other jurisdictions. The Division
6 attended the technical conference and follow-up
7 meetings conducted by the Company and participated
8 in all the settlement conferences that resulted in
9 the stipulation that was filed with the Commission
10 on April 16, 2015.

11 Mr. McDougal has gone through a detailed
12 explanation of the stipulation, so I will not touch
13 on every aspect of the stipulation. Instead, I
14 will highlight certain aspects of the settlement
15 terms. Although I only will specifically address
16 certain stipulation provisions, it is the
17 stipulation, taken as a whole and as filed, that
18 the Division requests that the Commission approve.

19 As set forth in Paragraph 11 of the
20 stipulation, the Division agrees that the
21 Commission should enter an order finding that the
22 Company's decision to enter into the transaction
23 was prudent and in the public interest. The
24 Division recognizes that many of the estimated
25 costs as listed in Confidential Attachment 1 are

1 unknown at this time. Accordingly, the parties
2 agree, and request the Commission to so order, that
3 the prudence of the actual costs incurred may be
4 challenged in later proceedings based on standards
5 for prudence determination as set forth in Utah
6 Code Section 54-4-4(4).

7 The Division agrees and requests that
8 the Commission find that a later decision regarding
9 the prudence or not of actual costs challenged does
10 not affect the parties' stipulation and the
11 agreement that the transaction itself is prudent
12 and in the public interest.

13 Importantly, if approved, this provision
14 provides the Company comfort in going forward with
15 the transaction while simultaneously preserving the
16 opportunity for non-Company parties to challenge,
17 based on prudence, actual costs incurred in
18 implementing the transaction.

19 In Paragraph 17, the parties agree and
20 request the Commission to enter an order
21 authorizing a onetime, non-precedential exception
22 to be made to the 70/30 Energy Balancing Account
23 sharing band for specified items. In addition, the
24 Company agrees to not request a change or
25 elimination to the EBA sharing band to be effective

1 prior to the end of the EBA pilot program. If
2 approved, the following items would flow through
3 the EBA at 100 percent, without application of the
4 sharing band, until the rate effective date
5 determined in the next general rate case.

6 These specified items are: (a)
7 unrecovered Deer Creek Mine investment
8 amortization, at the current level of depreciation
9 expense in rates, and the amortization of the loss
10 related to the mining assets at the current rate of
11 depreciation as described in the application; and
12 (b) actual Utah fueling cost for the Hunter and
13 Huntington plants, including: lower replacement
14 coal costs; prep plant operational savings; pension
15 timing savings; and savings on the Energy West
16 retiree medical benefits as a result of the
17 settlement of the Retiree Medical Obligation.

18 The Division supports this provision as
19 being in the public interest and producing just and
20 reasonable rates, because the transaction addresses
21 unique issues associated only with the Deer Creek
22 Mine closure.

23 Paragraphs 20, 21, and 22 request that
24 the Commission order certain regulatory assets to
25 be established and recorded. These paragraphs

1 provided a mechanism for future tracking and
2 analysis of certain amounts, some of which will be
3 included in rate base in the future.

4 Taken as a whole, and in light of the
5 unique circumstances giving rise to this docket,
6 the Division requests that the Commission issue an
7 order approving the stipulation as filed.

8 That concludes my testimony. Thank you.

9 THE HEARING OFFICER: Thank you, Ms.
10 Roll.

11 Anything further, Ms. Schmid?

12 MS. SCHMID: Nothing further.

13 THE HEARING OFFICER: Mr. Olsen.

14 MR. OLSEN: Thank you. The Office
15 would like to call Mr. Bila Vastag.

16 BILA VASTAG, being first duly sworn, was
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 BY-MR.OLSEN:

20 Q. And you're sworn. Mr. Vastag, could you
21 state your name and occupation for the record,
22 please?

23 A. My name is Bila Vastag. Do you want me
24 to spell it?

25 THE REPORTER: If you want to.

1 THE WITNESS: B-I-L-A, V-A-S-T-A-G.

2 I am a utility analyst employed by the
3 Office of Consumer Services and our offices are
4 here in this building.

5 BY MR. OLSEN:

6 Q. Did you participate in the preparation
7 materials for the docket?

8 A. Yes.

9 Q. Do you have a statement you'd wish to--
10 you wish to--

11 A. Yes, I have a brief--

12 Q. Supply?

13 A. --statement.

14 Q. Would you please do so?

15 A. The Office concludes that it is in the
16 public interest for Rocky Mountain Power to move
17 forward with the closure of the Deer Creek mine and
18 with the related components that the Company calls
19 the transaction. The office has reached this
20 conclusion after performing a detailed review of
21 the Company's request. This review by the Office
22 was performed by a team of analysts through
23 meetings with the Company, our analysis of the
24 Company's work papers, and the through extensive
25 discovery of information. The Office submitted

1 four sets of discovery requests, which consisted of
2 over 120 questions and subquestions. And the
3 Office also reviewed the Company's responses to
4 numerous other parties' discovery requests.

5 The Office supports the settlement
6 stipulation that is before the Commission and
7 recommends that the Commission approve it. Since
8 the Company has explained the stipulation in whole,
9 I will just focus on three key elements of the
10 stipulation that the office believes are essential.

11 Number 1. The parties agree that the
12 transaction costs are based on Company estimates
13 and that a non-Company party may challenge the
14 prudence of actual costs incurred in the
15 implementation of the transaction in a later
16 proceeding. This is an important provision to
17 ensure that when these costs actually go into our
18 rates, that they have been prudently incurred and
19 properly reviewed.

20 Number 2. The parties also request that
21 the Commission allow certain costs and offsets to
22 flow through the EBA at 100 percent to ratepayers
23 and that the Commission clearly state that this is
24 a onetime, non-presidential-- precedential--excuse
25 me--exception to the 70/30 sharing bands of the

1 EBA. The Office believes that allowing this
2 treatment only as an exception is important to
3 ensure that the EBA does not become a catchall for
4 quick recovery of costs that are not traditionally
5 included in net power costs.

6 And third, including the list of
7 offsetting savings in the stipulation to be flowed
8 either through the EBA or credit--credited against
9 regulatory assets is an important element of the
10 stipulation.

11 Finally, the Office believes that this
12 settlement stipulation is just and reasonable and
13 in the public interest.

14 Then, that concludes my statement.

15 THE HEARING OFFICER: Thank you, Mr.
16 Vastag.

17 Anything further, Mr. Olsen?

18 MR. OLSEN: We have nothing further.

19 THE HEARING OFFICER: Thank you.

20 Mr. Dodge?

21 MR. DODGE: Thank you, Mr. Commissioner.
22 The UAE would like to call Kevin Higgins, who has
23 been sworn. KEVIN C. HIGGINS, being first duly
24 sworn, was examined and testified as follows:

25 DIRECT EXAMINATION

1 BY-MR.DODGE:

2 Q. Mr. Higgins, I'd ask you to state your
3 name and provide a brief statement of the
4 stipulation.

5 A. Sure. My name is Kevin C. Higgins.
6 I'm a principal in the consulting firm Energy
7 Strategies located here in Salt Lake City at 215
8 South State Street, Suite 200.

9 On behalf of UAE, I recommend the
10 Commission's approval of the stipulation as filed.
11 From a ratemaking perspective, the issues raised in
12 the Company's application were fairly complex. And
13 I feel that the stipulation addresses the
14 intricacies of these issues in a just and
15 reasonable manner. So, I feel it provides a
16 balanced outcome, given the nature of the
17 challenging questions that were posed in the
18 application. I recommend its approval.

19 MR. DODGE: Thank you. Nothing further.

20 THE HEARING OFFICER: Thank you, Mr.
21 Dodge, Mr. Higgins.

22 Before we proceed to questions from the
23 Commissioners, is there anything that anyone needs
24 to raise or any questions that counsel have for
25 witnesses?

1 MR. OLSEN: Your Honor, I'm wondering if
2 Sierra Club had any statement they wish to make.

3 THE HEARING OFFICER: Mr. Ritchie, do
4 you--

5 MR. RITCHIE: Yes, sir. Sierra Club
6 does not have a witness to support the testimony.
7 We did participate in all the settlement
8 discussions and we do support the stipulation as it
9 was presented.

10 THE HEARING OFFICER: Thank you very
11 much.

12 Questions from the Commission?
13 Commissioner LeVar.

14 COMMISSIONER LeVAR: Yes, just one or
15 two.

16 Mr. McDougal, Paragraph 25 referencing
17 the Fossil Rock royalty revenue, the stipulation
18 doesn't have any reference to carrying cost for
19 that. So, is the assumption there is no carrying
20 cost on those revenues?

21 THE WITNESS: Correct. There is nothing
22 specified. Fossil Rock royalty revenues--(External
23 noise interruption) feedback--Fossil Rock royalty
24 revenues, if they occur, will be at some time in
25 the future. They will not be immediately. And

1 therefore, there is not a carrying charge.
2 However, at that time, we will go and address the
3 recovery.

4 COMMISSIONER LeVAR: Just one other
5 question, then, with respect to the amounts
6 discussed in Paragraph 17 that are being passed
7 through the EBA without the sharing band. Is there
8 a common understanding of the parties--and I'd ask
9 any--all the parties to comment on this--the
10 mechanics of how that will work, maintain both
11 portions of the EBA account in an auditable
12 fashion?

13 MR. McDOUGAL: In the past, we have
14 done a similar thing within the EBA for the
15 transmission revenues through a FERC rate case.
16 What we did at that time was just break out the
17 two components. And that is what we anticipate
18 doing in this transaction. We know the amount that
19 the Huntington and Hunter fuel costs were in the
20 Utah rate case. And, so, we use that as the base.
21 Then, we will compare what that amount is to the
22 actual costs. And that will be done separately so
23 that we can change both the sharing band. And
24 within the stipulation, it states that we will not
25 get a carrying charge during the deferral periods.

1 That's the second reason that we will have to break
2 out those costs.

3 COMMISSIONER LeVAR: Thank you.

4 Did any other parties have any other
5 comment on that second question?

6 THE HEARING OFFICER: I don't--

7 MS. SCHMID: Could we have one moment?

8 THE HEARING OFFICER: Off the record.

9 (Recess taken, 3:35-3:36 p.m.)

10 THE HEARING OFFICER: On the record.

11 MS. ROLL: We did discuss this in great
12 length when we were in the settlement discussions.
13 I do not profess to be an expert in the EBA, but
14 we did speak with the people that are in our
15 Division that do that. And they are comfortable
16 that there will be enough tracking within the--how
17 the entries are made that they will be able to
18 segregate those costs out and to be able to audit
19 them. So, we did run that by the people that have
20 much more experience than I do with the EBA.

21 THE HEARING OFFICER: Thank you, Ms.
22 Roll.

23 Anything else?

24 Chairman Allen.

25 CHAIRMAN ALLEN: Thanks. I just want

1 to make sure the record's perfectly clear, because
2 I hear us sniffing around the accounting edges
3 here. What I foresee by meaning "breaking it out"
4 is that you're going to have subaccounts in the
5 chart accounts--chart of accounts and they will be
6 perpetually there, whether they end up at zero or
7 whatever down the road, so that someone can start
8 at the top and work backwards. Is that correct?

9 MR. McDOUGAL: There won't actually be
10 separate subaccounts--

11 CHAIRMAN ALLEN: Okay.

12 MR. McDOUGAL: --but the cost will be
13 identified.

14 CHAIRMAN ALLEN: Okay. Thank you.

15 THE HEARING OFFICER: I have a couple
16 of questions, as well, first of which pertains just
17 to language in the stipulation and its intended
18 meaning. And let me invite you first to Paragraphs
19 13 and 14. And, Mr. McDougal, I'll direct these
20 questions to you, but if either any of the
21 witnesses desire to address them, I'd welcome that,
22 as well.

23 There's a phrase in these paragraphs
24 that's identical, or close to identical, that--and
25 it reads, "At least until the rate effective period

1 of the Company's next general rate case at which
2 time amortization rates may be record." So, my
3 simple question is: What is at which--what is at
4 which time referring to? Is it referring to the
5 general rate case? In other words, that's the time
6 when the amortization will be reconsidered as
7 distinct from the rate effective period. Do I have
8 that right? Are we going to reconsider the
9 amortization rates during the rate effective period
10 or during the general rate case that precedes the
11 rate effective period?

12 MR. McDOUGAL: During the rate case that
13 precedes the rate effective period, people could
14 propose a change to the amortization rates.

15 THE HEARING OFFICER: I thought that's
16 what was meant, but it was a little uncertain to
17 me, so I appreciate the clarification. Any
18 commentary on that from the other witnesses?

19 MS. ROLL: That's correct.

20 THE HEARING OFFICER: Thank you.

21 Now, Paragraph 22(C) talks about
22 Commission approval, future Commission approval.
23 And I want to just clarify whether or not that is
24 intended to refer to an approval that precedes the
25 prepayment arrangement or that would be subsequent

1 to the prepayment arrangement.

2 MS. HOGLE: Just one moment, Your Honor.

3 MR. McDOUGAL: The intent is that we
4 would have some kind of Commission approval before
5 finalizing a prepayment. So, as part of that
6 process, we would seek Commission approval.

7 THE HEARING OFFICER: So, you would
8 develop the arrangements with the counter party and
9 then present them before executing the contract
10 that would put them into place. Is that what you
11 intend?

12 MR. McDOUGAL: Yes. That would be our
13 intent.

14 THE HEARING OFFICER: Now, a final
15 question--and it may be counsel that would like to
16 address this as opposed to the witnesses--but I'm
17 interested in whether, among the various
18 authorities that are referenced in the application
19 and that we're being asked to take action--I'm
20 looking particularly at Paragraph 3 in Section 2 of
21 the application--there's reference to a number of
22 the empowering statutes, and also to Commission
23 rules that are the basis for the application.

24 My question is: Are you asking us to
25 act under Section 54-17-402 in adopting the

1 stipulation? And the reason for the question is
2 that the voluntary request for resource decision
3 statute, which is the 54-17-401 and 402 et seq.,
4 that statute requires the Commission to make
5 findings as to the approved projected costs of a
6 resource decision. And, so, are you expecting
7 those findings from the Commission, and if so,
8 which aspects of the stipulation specify the cost
9 that you would you expect us to address in that
10 way?

11 And we note that Paragraphs 21 and 24
12 identify costs that seem to be outside of future
13 prudence examination, but are you expecting us to
14 go beyond that, is the question, in meeting the
15 requirements of 54-17-402(7)(a)?

16 Let's be off the record. Give you a
17 minute to sort through that--the language of that
18 question, if you'd like.

19 (A discussion was held off the record.)

20 THE HEARING OFFICER: We'll be in recess
21 until nine minutes to the hour.

22 (Recess taken, 3:44-3:50 p.m.)

23 THE HEARING OFFICER: On the record.
24 Have you elected a spokesperson?

25 MS. HOGLE: I think that would fall to

1 me, Your Honor.

2 THE HEARING OFFICER: Thanks, Ms. Hogle.

3 MS. HOGLE: Thank you. Yes. So, based
4 on our settlement discussions and based on
5 discussions that we'd just had off the record, we
6 have all concluded that the Commission does have
7 the authority to issue its determination of
8 approval of this decision of the transaction based
9 on the voluntary request for resource decision
10 you--act. I point you specifically to Utah Code
11 Annotated 54-17-402(6)(b). The Company agree--or,
12 I mean--excuse me--the parties agree the Commission
13 can make a determination and approve the resource
14 decision subject to the conditions imposed by the
15 Commission. And that is a finding that the
16 transaction is prudent, in the public interest, and
17 a specific finding as to approved cost that I will
18 not call out, but I will reference--

19 THE HEARING OFFICER: Uh-huh
20 (affirmative).

21 MS. HOGLE: --in the stipulation, which
22 are included in Paragraph 16(E) of the stipulation
23 and Paragraph 21 of the stipulation.

24 THE HEARING OFFICER: Thank you.

25 MS. HOGLE: And, further, that all of

1 the other projected costs in the Company's
2 application will be subject to further review in
3 the implementation of actual costs at a later
4 proceeding.

5 THE HEARING OFFICER: Thank you.

6 MS. HOGLE: Thank you.

7 THE HEARING OFFICER: Any other response
8 to my question?

9 That's very helpful. We appreciate it.

10 MR. DODGE: Just one clarification.
11 Paragraph 24 is--references the same number as
12 16(E). And I think maybe that's the section
13 dealing with authorizing recovery--or authorizing
14 it to be transferred to regulatory asset. I think
15 the bottom line is, those two numbers are the two
16 that your order would call out as the preapproved
17 numbers. The others are subject to future review.
18 And we think that's consistent with the statute
19 that says you can approve all or in part and with
20 conditions.

21 THE HEARING OFFICER: Thank you.

22 Do you agree with that, Ms. Hogle?

23 MS. HOGLE: I do. Thank you.

24 THE HEARING OFFICER: Anyone else?

25 MR. OLSEN: We concur, Your Honor.

1 MS. SCHMID: The Division, as well.

2 THE HEARING OFFICER: Thank you very
3 much. That concludes my questions. Is there
4 anything else to come before the Commission before
5 we recess until 5:00 for the public witness
6 hearing?

7 MR. DODGE: We would only hope that we
8 could be excused if we choose not to stay for the
9 public witness portion. You don't have to. I'm
10 hoping you will.

11 THE HEARING OFFICER: We'll take the
12 matter under consideration.

13 No. Any that desire to be excused
14 certainly can be.

15 There is one other matter that I'd like
16 to address, but we'll be off the record and in
17 adjournment when I do that, so off the record. And
18 we're adjourned. Thank you.

19 (Proceedings concluded at 3:54 p.m.)
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

This is to certify that the foregoing proceedings were taken before me, SCOTT M. KNIGHT, a Registered Professional Reporter and Notary Public in and for the State of Utah, residing at South Jordan, 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, 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.

Scott M. Knight



Scott M. Knight, RPR
Utah License No. 110171-7801