

**In the Matter Of:**

In Re: RMP - RFP Solicitation Process for Wind Resources

**HEARING, DOCKET NO. 17-035-23**

*September 19, 2017*

*Job Number: 416305*

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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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Application for Rocky ) DOCKET NO. 17-035-23  
Mountain Power for )  
Approval of Solicitation ) HEARING  
Process for Wind )  
Resources ) PRESIDING OFFICER  
 ) THAD LE VAR  
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SEPTEMBER 19, 2017  
9:00 a.m.

Location: Public Services Commission  
160 East 300 South, 4th Floor  
Salt Lake City, Utah 84111

Reporter:  
Rose-Marie Robinson  
Registered Professional Reporter  
Utah CCR, California CSR

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1	I N D E X	
2	WITNESSES	PAGE
3		
4	Rick Link	
5	Examination by Ms. Hogle	47
6	Examination by Ms. Schmid	61
7	Examination by Mr. Moore	65
8	Examination by Mr. Dodge	69
9	Examination by Ms. Barbanell	133
10	Further Examination by Ms. Hogle	135
11	Further Examination by Ms. Hogle	290
12	Further Examination by Ms. Schmid	291
13		
14	Wayne Oliver	
15	Examination by Mr. Moore	165
16	Examination by Mr. Dodge	172
17	Examination by Ms. Barbanell	198
18	Examination by Ms. Hogle	203
19	Further Examination by Mr. Dodge	208
20		
21	Charles E. Peterson	
22	Examination by Ms. Schmid	214
23	Examination by Mr. Moore	218
24	Examination by Mr. Dodge	226
25		

1	I N D E X ( C O N T . )	
2		
3	WITNESSES	PAGE
4		
5	Bela Vastag	
6	Examination by Mr. Moore	238
7		
8	Philip Hayet	
9	Examination by Mr. Moore	242
10		
11	Hans Isern	
12	Examination by Ms. Barbanell	252
13	Examination by Ms. Hogle	262
14		
15	Sarah Wright	
16	Examination by Mr. Dodge	267
17		
18	F. Steven Knudsen	
19	Examination by Mr. Dodge	272
20		
21		
22		
23		
24		
25		

1	E X H I B I T S		
2			
3	EXHIBIT	DESCRIPTION	PAGE
4	Exhibit RMP 1	Rick Link, Direct	
5		Testimony and	
6		Exhibits	48
7	Exhibit RMP 2	Rick Link,	
8		Supplemental Direct	
9		Testimony and	
10		Exhibits	48
11	Exhibit RMP 3	Rick Link,	
12		Informational	
13		Analysis	50
14	Exhibit RMP 4	Oregon Commission	
15		Order approving the	
16		2017R RFP (with	
17		modifications)	50
18	UAE	Internal Revenue	
19	Cross-Examination	Bulletin: 2016-23,	
20	Exhibit 1	June 6, 2016	98
21			
22			
23			
24			
25			

1 September 19, 2017

8:59 a.m.

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

3 MR. LEVAR: Good morning. We are here for  
4 Public Commission Docket 17-035-23, the application  
5 of Rocky Mountain Power for approval of a  
6 solicitation process for wind resources. Rocky  
7 Mountain Power filed this application in this docket  
8 on June 17th, 2017. After a round of comments and  
9 reply comments, we issued an order on August 22nd,  
10 2017, in which we concluded Rocky Mountain Power had  
11 not made a showing sufficient to justify our  
12 approval of this solicitation process under the  
13 statutory standards of the Energy Resource  
14 Procurement Act.

15 In that order, we indicate our willingness  
16 to continue to consider the application. Since that  
17 order, we have received written, direct, and  
18 rebuttal testimony, and we anticipate receiving  
19 surrebuttal testimony during today's hearing. With  
20 that supplemental record, we will continue to  
21 consider Rocky Mountain Power's application.

22 So why don't we move to appearances next  
23 for the utilities.

24 MS. HOGLE: Good morning, Chairman,  
25 commissioner's parties.

1 Yvonne Hogle for Rocky Mountain Power, and  
2 with me here today is Mr. Rick Link.

3 MR. LEVAR: Thank you. For the division?

4 MS. SCHMID: Patricia E. Schmid with the  
5 attorney general's office for the division. The  
6 division's witness today is Mr. Charles E. Peterson,  
7 and he is with me at counsel table.

8 MR. LEVAR: Okay. Thank you.

9 For the office?

10 MR. MOORE: Roger Moore for the Office of  
11 Consumer Services. With me at counsel table is Bela  
12 Vastag. On the phone we have Philip Hayet -  
13 witnesses.

14 MR. LEVAR: Okay. Thank you. And is Mr.  
15 Wayne Oliver here?

16 MR. OLIVER: Yes.

17 MR. LEVAR: Mr. Oliver? Okay. Thank you.

18 And you are not represented by counsel.  
19 Right? You're the independent evaluator for the  
20 RFP?

21 MR. OLIVER: Yes. And I do have a  
22 colleague on the line that is also participating.  
23 His name is Mr. Ed Selgrade.

24 MR. LEVAR: Okay. Thank you.

25 And he's on the phone? Okay.



1           Anyone here from Interwest Energy  
2 Alliance?

3           MR. LONGSON: Mitch Longson here with  
4 Interwest, thank you.

5           MR. LEVAR: Ms. Wright, I'll get your name  
6 correct today.

7           MS. WRIGHT: No, that's great. Sophie  
8 Hayes sends her apologies. She's ill today. Gary  
9 Dodge has agreed to help me out on this one.

10          MR. LEVAR: Okay. Thank you.

11          Mr. Dodge?

12          MR. DODGE: Thank you, Mr. Chairman. I'm  
13 Gary Dodge on behalf of the Utah Association of  
14 Energy Users.

15          MR. LEVAR: Okay. And you have a witness  
16 present --

17          MR. DODGE: I should indicate that our  
18 witness, Steve Knudsen, is here in the room.

19          MR. LEVAR: Okay. Thank you.

20          And Ms. Barbanell?

21          MS. BARBANELL: Yes. Melissa Barbanell  
22 with sPower. Our witness, Hans Isern, is available  
23 on the phone today.

24          MR. LEVAR: Let's see. Is there anyone  
25 else on the telephone that has not yet been

1 identified?

2 MR. SELGRADE: Ed Selgrade from Merrimack  
3 is on.

4 MR. HAYET: Phil Hayet.

5 MR. LEVAR: I think there's some mumbling  
6 on the phone that we're not picking up.

7 I have on the phone Mr. Phil Hayet, Mr.  
8 Hans Isern, Edward Selgrade with Merrimack.

9 Those are the ones I've identified. Is  
10 there anyone else who needs to identify themselves  
11 on the phone, or do we just have some who are  
12 listening?

13 Okay. I'm not hearing any further  
14 responses. I would also point out that the hearing  
15 can be listened -- if someone just wants to listen,  
16 it's being streamed through YouTube.

17 I think our next issue to move to is the  
18 intervention of Utah Clean Energy. We received the  
19 application to intervene from Utah Clean Energy.  
20 That has not yet been ruled on. The 20th day under  
21 which any party could oppose that intervention ends  
22 at the end of the day today; so I will ask if anyone  
23 in the room -- if any parties in the room intend to  
24 oppose intervention of Utah Clean Energy.

25 And I am not seeing any indication of

1 opposition to that intervention; so the intervention  
2 is granted.

3 And then the next -- we have a contested  
4 intervention from sPower, and we had indicated that  
5 we will consider that this morning; so why don't we  
6 go to Ms. Barbanell.

7 Why don't you speak first to your position  
8 to intervene. We'll hear from Ms. Hogle, and then  
9 if any other attorneys have any desire to weigh in  
10 on the intervention issue, we will do so, and I  
11 think we will have some questions for both Ms.  
12 Barbanell and Ms. Hogle as we move forward.

13 So why don't you go ahead.

14 MS. BARBANELL: Thank you, Commissioner.

15 While PacifiCorp alleges that sPower  
16 cannot show intervention is proper under UAPA or any  
17 other statute, sPower's intervention should be  
18 allowed based on both policy and legal analysis. In  
19 light of the Energy Resource Procurement Act's goal  
20 of ensuring that solicitations result in the  
21 acquisition, production, and delivery of electricity  
22 at the lowest cost to Utah customers, excluding the  
23 Utah bidder from this RFP process where it may be  
24 able to help shape RFP rules that ultimately provide  
25 for a lower-cost electricity procurement, then the

1 benchmark projects would be inappropriate.

2 Intervention is proper also under Utah  
3 Administrative Procedures Act. As the Utah Supreme  
4 Court ruled in Miller County versus Utah State Tax  
5 Commission, the right to intervene granted by  
6 63(g)(4)(207), while not an absolute right to  
7 intervene does establish a conditional right to  
8 intervene if the requisite legal interest is  
9 present. That right is subject only to the  
10 condition that the interests of justice and orderly  
11 conduct of the administrative proceedings will not  
12 be impaired. The statute says the presiding officer  
13 shall grant intervention if the requisite showing is  
14 made.

15 With regard to that showing first  
16 determination the presiding officer is to make under  
17 the statute is that the petitioner's legal interest  
18 may be substantially affected by the formal  
19 adjudicative proceedings. sPower's interest in this  
20 case is to ensure that it will not be precluded from  
21 bidding competitive bids on the RFP.

22 While sPower has wind resources, it also  
23 has solar resources that it would consider using in  
24 a bid. As currently drafted, the RFP would disallow  
25 sPower from bidding using those solar resources.

1 sPower's intervention is not as PacifiCorp alleges  
2 an attempt to advocate for an individual bid  
3 position. The effect of allowing sPower to bid will  
4 shape the RFP so that all solar producers can bid  
5 under the Energy Resource Procurement Act,  
6 potentially resulting in a lower cost procurement  
7 for the state.

8 As the Utah Supreme Court held in  
9 Supernova Media versus Shannon's Rainbow, in 2013  
10 when considering intervention under Rule 24(a) which  
11 is analogous, the interveners do not need to prove  
12 their interest for intervention to be granted.  
13 Rather, they must make a showing of their interest.

14 PacifiCorp seems to allege that, because  
15 sPower has commercial interest, it does not also  
16 have the legal interest. This is not in keeping  
17 with Utah law or this commission's precedent.

18 In Supernova Media, the court held that  
19 the interest may be of a pecuniary nature. In  
20 Miller County, the court held that the county has an  
21 interest to support intervention under UAPA based on  
22 its interest in the proceeds of the tax that was  
23 before the state tax commission.

24 In this commission, this commission has  
25 held that bidders do have a right to intervene. In

1 Docket No. 12-035-102, the application for approval  
2 of resource decision to acquire natural gas,  
3 PacifiCorp requests approval to enter into a  
4 contract for natural gas resources as a result of an  
5 RFP. The contract approval at issue in that docket  
6 resulting from the RFP was the subject of the Energy  
7 Resource Procurement Act. There was also an IE in  
8 that docket as there is today.

9 Questar petitioned to intervene thus:

10 Questar said:

11 "Questar Gas seeks to intervene for  
12 purposes of protecting its interests with regard to  
13 the subject matter of Docket No. 12-35-102 and with  
14 regard to regulatory issues raised in that docket  
15 that may affect Questar Gas."

16 In that case, PacifiCorp did not object.  
17 The commission approved intervention. In that case,  
18 Questar's interests were as a natural gas  
19 distribution utility; so its interests were  
20 commercial.

21 Another example was in Docket No.  
22 10-35-126, the application of Rocky Mountain Power  
23 for approval of a significant energy resource  
24 decision resulting from all-source RFP. In this  
25 instance, PacifiCorp requested approval of

1 construction of a combined-cycle gas plant by CH2  
2 out of the winning bidder of the 2012 RFP. That  
3 proceeding also had an IE.

4 Summit Power Group, a natural gas  
5 developer that had built one project in response to  
6 an earlier RFP petitioned for intervention. In its  
7 petition, it stated "Summit has a direct, immediate,  
8 and substantial interest in this proceeding as a  
9 bidder in the RFP with the Lake Side 2 power  
10 project, because as a bidder on the Lake Side 2  
11 power project, its legal rights and interests will  
12 be affected by the commission's evaluation and  
13 determination of the Lake Side 2 RFP process.

14 PacifiCorp did not oppose intervention and  
15 Summit was granted intervention. Similar to the  
16 bidders in those dockets, sPower has a legitimate  
17 interest in not being included from bidding.

18 The second determination that the  
19 presiding officer has to make under 63(g)(4)207 is  
20 that the interests of justice and the orderly and  
21 prompt conduct of the adjudicative proceedings will  
22 not be materially impaired by allowing the  
23 intervention. To determine whether intervention  
24 serves the interest of justice and that the  
25 proceeding will be orderly and prompt, the Utah

1 Supreme Court has considered a number of factors --  
2 the timeliness of the intervention, whether the  
3 intervener's interests are adequately represented by  
4 other parties, and the extent to which the  
5 intervention will increase the time and expense of  
6 the proceeding. That was both in -- in re Questar  
7 Gas in 2007 and in Miller County in 1991.

8           With regard to timeliness of the  
9 intervention, the scheduling order required  
10 intervention to be done by September 13th, and the  
11 intervention was filed by September 13th along with  
12 rebuttal testimony.

13           With regard to whether sPower's interests  
14 are adequately represented by one of the parties,  
15 this one is more complex. While some of the  
16 remedies that sPower seeks are also sought by other  
17 parties in the proceeding, that is not equivalent to  
18 those parties representing sPower's interests.  
19 sPower's interests are not adequately represented by  
20 the parties.

21           In Miller County, when they were  
22 evaluating whether customers who attempted to  
23 intervene a month after settlement was reached, the  
24 Utah Supreme Court considered the fact that the  
25 Division of Consumer Services are statutorily



1 charged with including customers' interests in their  
2 deliberation and advocacy when considering the  
3 advocacy of representation. In that case, they felt  
4 that there was adequate representation.

5 In this case, the IE does have a statutory  
6 obligation to monitor the solicitation process for  
7 fairness and compliance with the commission rules.  
8 However, that's not sufficient to adequately  
9 represent sPower's interests, whose interest it is  
10 to bid on the RFP.

11 Similar to the facts in Rocky Mountain  
12 Power versus Wasatch County which was before this  
13 commission in 2016 and where Wasatch County had no  
14 statutory obligation to protect the property  
15 interests of the interveners and had no obligation  
16 to favor interveners over other parties, this is the  
17 same here. The IE has no statutory obligation and,  
18 in fact, would be forbidden from favoring sPower  
19 interests over any of the other parties.

20 Another test that the Utah Supreme Court  
21 has used when considering if a would-be intervener  
22 is adequately represented is whether the  
23 intervener's interests diverge from those of the  
24 other parties. sPower's interest in not being shut  
25 out of this process do diverge from the interests of

1 other parties. Parties to the action are, at best,  
2 neutral with regard to sPower's interests and  
3 certainly are not trying to promote sPower's ability  
4 to bid. Some parties may even be actively seeking  
5 to keep the bidding pool smaller to protect their  
6 own interests.

7           Additionally, sPower is unique among all  
8 the parties in this docket. None of the other  
9 parties are actual developers. None of them have  
10 the direct knowledge, understanding, or experience  
11 in developing utility scales of projects; and they  
12 cannot provide the on-the-ground knowledge of the  
13 timelines and the costs associated with such  
14 development.

15           Further, sPower knows the lengthy delays  
16 associated with having PacifiCorp complete the SIS  
17 studies -- one of sPower's concerns with regard to  
18 the RFP as written.

19           Finally, the parties are not seeking all  
20 the same changes to the RRP that sPower is seeking.  
21 With regard to PPA tenor and financing, sPower has  
22 requested that PacifiCorp be required to accept PPA  
23 bids on a 30-year time frame, and while the IE has  
24 suggested that as an option for PacifiCorp to  
25 consider. When PacifiCorp declined to consider it

1 in its second version of the RFP, the IE did not  
2 push PacifiCorp to allow it. The IE did not take  
3 the position that PacifiCorp should be required to  
4 accept a 30-year PPA bid.

5 Additionally, sPower is alone in  
6 advocating for the recommendation that bidders be  
7 allowed to bid a PPA price for PacifiCorp's  
8 development assets. None of the other parties have  
9 made this recommendation. All of these reasons show  
10 that sPower's interests are not adequately  
11 represented by the other parties.

12 The final consideration that the presiding  
13 officer has to make is determining the extent to  
14 which intervention will increase the time and  
15 expenses of the proceedings. As a result of  
16 sPower's timely intervention, granting the petition  
17 will not cause the parties to unnecessarily  
18 duplicate the costs of discovery or require the  
19 commission to essentially restart the process.

20 Further, there's no reason that sPower's  
21 intervention would need to complicate the process.  
22 As the Utah Supreme court held in Miller County, the  
23 commission could devise procedures to eliminate any  
24 burdens.

25 And, finally, this is a little separate.

1 To the extent that PacifiCorp has raised the issue  
2 of sPower serving discovery in order to obtain  
3 commercially sensitive, confidential information --  
4 sPower has no interest and will accept the condition  
5 that it will not do discovery seeking to compare one  
6 bid to another.

7 In closing, sPower meets the criteria of  
8 the UAPA and should be allowed to intervene in this  
9 matter. It does have cognizable, legal interest in  
10 this matter, and neither the interests of justice  
11 nor the orderly and prompt conduct of these  
12 proceedings will be materially impaired by allowing  
13 sPower to intervene. In fact, by pursuing changes  
14 to the proposed solicitation process that make it  
15 possible for third parties to bid against benchmark  
16 resources, sPower's participation will materially  
17 promote the interests of justice.

18 Thank you for your consideration of  
19 sPower's position.

20 MR. LEVAR: Okay. Thank you.

21 Before we move on, I'll just mention we're  
22 all hearing you fine, but I'm not sure your  
23 microphone is picking you up, and that matters for  
24 our stream; so the green light needs to be on for  
25 that.

1 MS. BARBANELL: It is on.

2 MR. LEVAR: Commissioner Clark, do you  
3 want to ask her any questions at this point?

4 MR. CLARK: My preference would be to hear  
5 arguments from both sides before I ask any  
6 questions. Is that agreeable to the chair?

7 MR. LEVAR: Whichever you like to.

8 Commissioner White, do you want to ask any  
9 questions now?

10 MR. WHITE: Like Commissioner Clark, I'd  
11 prefer to just wait for any questions until after we  
12 hear from other parties.

13 MR. LEVAR: Ms. Hogle.

14 MS. HOGLE: Good morning. Thank you,  
15 again.

16 The commission should reject sPower's  
17 position to intervene and the rebuttal testimony of  
18 Mr. Hans Isern, because sPower has failed to show  
19 that the interests of justice and the orderly and  
20 prompt conduct of these proceedings will not be  
21 materially impaired by allowing its intervention.

22 In addition to the reasons set forth in  
23 Rocky Mountain Power's September 14th opposition to  
24 sPower's petition, the argument today on the hearing  
25 date is an example of how intervention at this

1 stage, while technically allowed under the  
2 scheduling order dated August 22nd, is late in the  
3 process. sPower failed to intervene just a few days  
4 before the hearing. The company filed its  
5 application in this case in August 2017. Excuse me  
6 -- June 2017 -- three months' prior.

7 In its petition, sPower fails to raise  
8 issues that haven't already been raised by other  
9 parties or participants. Under the applicable rules  
10 and regulations that the IE serves to ensure bidders  
11 are treated fairly and transparent and in a  
12 non-discriminatory way. The rules contemplate that  
13 bidders use the IE to communicate with the  
14 commission about any comments or concerns or  
15 questions that they may have regarding the draft  
16 solicitation. For example, R-746421(3)(c) which is  
17 the pre-bid issuance procedures states:

18 "At the pre-issuance bidders conference,  
19 the soliciting utility should describe to the  
20 attendees in attendance the process, timeline for  
21 commission review of the draft solicitation, and  
22 opportunities for providing input, including sending  
23 comments and/or questions to the IE and no later  
24 than the date of filing of the proposed  
25 solicitation.

1           The soliciting utility shall issue a  
2 notice to potential bidders regarding the timeline  
3 for providing comments and other input regarding the  
4 draft solicitation."

5           Likewise, in R-746426 which lists the  
6 functions of the IE, states in part:

7           "One of the functions of the IE is to  
8 analyze and attempt to mediate disputes that arise  
9 in the solicitation process, the soliciting utility  
10 and/or bidders, and present recommendations for  
11 resolution of unresolved disputes to the  
12 commission."

13           Under this rule, the IE clearly represents  
14 the interests of the potential bidders. The  
15 potential bidders do not go directly to the  
16 commission as would be the case if sPower were  
17 allowed to be -- to intervene in this case.

18           Likewise, in 7464263, which includes the  
19 rights or communications between the soliciting  
20 utility and potential or actual bidder, it states  
21 that:

22           "Any such communications shall be  
23 conducted only through or in the presence of the IE.  
24 Any bidder questions in soliciting utility or IE  
25 responses shall be posted on an appropriate website.

1 The IE shall protect or redact competitively  
2 sensitive information from such questions or  
3 responses to the extent necessary. The soliciting  
4 utility may not communicate with any bidder  
5 regarding the solicitation process, the content of  
6 the solicitation or solicitation documents or the  
7 substance of any potential response by a bidder to  
8 the solicitation except through or in the presence  
9 of the IE.

10 The soliciting utility shall provide  
11 timely and accurate responses to any requests from  
12 the IE, including requests from bidders submitted by  
13 the IE for information regarding any aspect of the  
14 solicitation or the solicitation process."

15 Irrespective of what Ms. Barbanell has  
16 said, I think many in the room would agree that  
17 unfettered -- allowing -- allowing bidders and  
18 potential bidders in the finding of the solicitation  
19 process is not a good idea. Why allow this bidder  
20 and not others? Where would you draw the line? If  
21 there's no line drawn, then it would turn the  
22 process on its head, and the bidders would have  
23 undue influence over this solicitation process and  
24 the planning of the solicitation that they would bid  
25 into.



1           While there's no clear express prohibition  
2     against bidder's intervention in the regulatory  
3     planning process under the rules that I just cited,  
4     the language referenced above creates a presumption  
5     that bidders who want to participant in the process  
6     must go through the IE, not through the commission  
7     like a typical intervener would in a regulatory  
8     process. To be allowed to intervene as a bidder is  
9     Rocky Mountain Power's position that sPower has a  
10    high burden to meet, and I submit to you that it  
11    hasn't met it. It has not alleged in its petition,  
12    much less demonstrated that the current rules and  
13    regulations that are in place and that guide this  
14    process, including the IE's goals and objectives to,  
15    in part, represent bidders in the process are  
16    deficient, and therefore won't protect its interests  
17    as a potential bidder.

18           In addition, once the commission allows  
19    intervention of a contingent bidder like sPower who  
20    hasn't alleged any interest other than of being a  
21    potential bidder or advocating for its best  
22    position, it will open the floodgates for any other  
23    bidder to intervene in future RFP processes.

24           The commission retained the IE to ensure a  
25    fair and transparent process for all involved as

1 stated in RFP's position in accordance with the laws  
2 and rules that were carefully drafted, in part, to  
3 protect bidders.

4 This approval process was not designed to  
5 be the forum where bidders can adjudicate disputes  
6 with the utility or with the IE. Bidders must go  
7 through the IE. The integrity of this solicitation  
8 process -- approval process -- and the interest of  
9 justice and orderly and prompt conduct of these  
10 proceedings must be preserved. The IE has vast  
11 experience, and the parties who have no commercial  
12 interest and who don't stand to gain financially are  
13 representing their constituents well, including  
14 potential bidders.

15 And there may have been, in the past,  
16 bidders who were unopposed when they intervened, but  
17 that should not be the case here. Again, the  
18 standard should be "Why this bidder and not others?"  
19 If you don't draw the line now, it will open the  
20 floodgates.

21 For these reasons, we ask that you reject  
22 sPower's petition to intervene and of the rebuttal  
23 testimony of Hans Isern. Thank you.

24 MR. LEVAR: Thank you, Ms. Hogle.

25 Next, I'll ask if any of the other parties

1 in the room have any interest in speaking to this  
2 intervention issue. If you do, please indicate to  
3 me, and I'll just look around the room.

4 Mr. Dodge, let me just make sure.

5 Does anyone else want to weigh in on this?

6 I'm not seeing anyone else; so Mr. Dodge.

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

8 I sit here as an attorney representing  
9 Utah consumers, and I find it very troubling that  
10 the company in its zeal and its absolute obsession  
11 to build the projects it wants to build in southern  
12 Wyoming is taking the position so inconsistent with  
13 the interests of customers in the state. They've  
14 lost track of what the Utah Resource Procurement Act  
15 is about, and they've lost track of what this  
16 commission's job is. I don't think this commission  
17 has lost track, but they have.

18 We're in the first step of a multi-step  
19 process in these related documents. The first step  
20 by statute requires this commission to determine  
21 that the RFP is a fair and just and reasonable RFP  
22 that will solicit a broad array of bidders and will  
23 treat everybody fairly.

24 In that context, commissioners, I  
25 respectfully submit you should welcome every bidder

1 that is interested to come give their comments,  
2 should they so choose. I'm disappointed more  
3 haven't. You do have one bidder representative here  
4 that has intervened without objection, because they  
5 basically support the company's position, and that's  
6 the Intermountain Wind Group. I welcome -- I  
7 welcome their comments. You should welcome -- to  
8 hear what concerns they have about the RFP as  
9 proposed. It hasn't started yet. It's "as  
10 proposed." You're getting it right up front.  
11 That's what the statute requires. Every bidder that  
12 has an interest in bidding into this should have a  
13 forum with this commission before the process starts  
14 to say, "This doesn't work. That doesn't work."  
15 You have the ability to determine whether they lied  
16 or not, whether you even care about it or not. You  
17 should welcome the input. The rest of us are  
18 guessing. Even with all this experience, Mr. Oliver  
19 is guessing about what bidders will and won't find  
20 troublesome in this RFP. Only the bidders are going  
21 to be able to tell you that, and, thankfully, some  
22 protections have been built in as the process goes,  
23 that those concerns have been expressed. Nothing in  
24 that should preclude bidders from coming before the  
25 process starts and saying, "Unless you change this,

1 it's going to (inaudible). Unless you do that, we  
2 won't be able to make a reasonable bid." You should  
3 welcome that.

4 Ms. Hogle says, "Where's the line?" There  
5 should be no line. Every entity with an interest in  
6 bidding into this RFP has a legitimate interest in  
7 getting it right -- helping this commission get it  
8 right. The Utah Resource Procedures Act creates a  
9 legal interest in anyone who wants to help get it  
10 right, because that's the ultimate goal. There are  
11 plenty of tools available to prevent abuse, and once  
12 the process starts, then the rules Ms. Hogle is  
13 talking about would kick in and require  
14 communications initially through the IE.

15 The process hasn't started. You're trying  
16 to determine if it even is sufficient to get kicked  
17 off the ground, and in that context, I submit that  
18 every potential bidder has a legitimate and legally  
19 protected interest, and from that perspective, it  
20 needs to be here to help you get this RFP right.

21 Thank you.

22 MR. LEVAR: Thank you, Mr. Dodge.

23 MS. SCHMID: May I please add something?

24 MR. LEVAR: Absolutely.

25 Ms. Schmid for the Division of Public

1 Utilities.

2 MS. SCHMID: Thank you.

3 The division invites an open and robust  
4 process, which requires participation by parties  
5 representing various interests and concerns. The  
6 Utah statutes and the commission's rules provide  
7 protections to allow parties that really don't have  
8 an interest to be precluded, while allowing parties  
9 that truly do have an interest to participant. By  
10 applying the facts to the standards for intervention  
11 here, it seems that sPower has met them and should  
12 be granted intervention. Any confidentiality  
13 concerns, as Mr. Dodge suggested, can be ameliorated  
14 through application of the commission's provisions  
15 concerning confidentiality and the process for  
16 obtaining redress if there are issues concerning the  
17 applicability and appropriateness of confidentiality  
18 provision provided in the commission's rules.

19 Thank you.

20 MR. LEVAR: Thank you, Ms. Schmid.

21 I have one question for Ms. Barbanell.

22 Am I pronouncing that correctly?

23 MS. BARBANELL: Yes.

24 MR. LEVAR: Yes? Okay.

25 I'll give you a hypothetical, and I'd like

1 you to make the -- address the similarities and  
2 differences from the current situation to the  
3 hypothetical.

4 Propose that a utility is requesting to  
5 have approval from the commission to spend money on  
6 putting emissions-control systems on existing power  
7 plants.

8 Should contractors that might bid on that  
9 project, if it's approved by the commission, have a  
10 similar right to intervene in that docket?

11 MS. BARBANELL: I need a little more  
12 information.

13 So if they are applying for permission to  
14 put controls on, what sorts of decisions is the  
15 commission making in that instance?

16 MR. LEVAR: Well, that would be a  
17 commission decision whether to allow the resource  
18 decision to go forward -- whether to allow the  
19 expense to happen.

20 So they're asking to spend X number of  
21 dollars to put SCR emissions controls on existing  
22 plants. Contractors who might want to bid on that  
23 project might have an interest in intervening in  
24 that proceeding. Do you see any similarities or  
25 differences from this -- from this -- from a

1 precedential standpoint? Do you see any differences  
2 or similarities?

3 MS. BARBANELL: Well, I think that there  
4 are some similarities, obviously, in the  
5 hypothetical. I also think that the decision that's  
6 being made in that case about whether to allow the  
7 expense to go through to ratepayers is a different  
8 question.

9 In this case, what we're talking about is  
10 we're talking about how is an RFP going to be  
11 structured. What kinds of resources are you going  
12 -- is PacifiCorp going to have to consider. That is  
13 a much bigger, broader question than the sort of  
14 question about "Do we pass costs through to our  
15 ratepayers?"

16 So while I think that there are  
17 similarities insofar as we would be seeking to bid  
18 on the RFP and a contractor would be seeking to bid  
19 on that contract, I think that the nature of the  
20 decision that you're making is significantly  
21 different, such that there is an easy wedge that  
22 could push between those two things in terms of  
23 precedents.

24 MR. LEVAR: Let me ask one additional  
25 question.



1           You referenced the Miller County case and  
2 then another appellate case from this commission on  
3 intervention.

4           Would you address the status of a legal  
5 interest that currently exists, for example, a  
6 taxpayer or a ratepayer who, as a result of the  
7 outcome of a decision, is going to have to pay a tax  
8 rate or a utility rate compared to a legal interest  
9 that might be described as "not yet existing but  
10 that might arise in the future, depending on the  
11 outcome of the proceeding."

12           MS. BARBANELL: By the latter, are you  
13 referring to sPower's potential interest here?

14           MR. LEVAR: Yeah. I guess what I'm asking  
15 is is there -- is -- do you consider it fair in any  
16 way to describe sPower's interest as one that does  
17 not yet exist but might arise if an RFP is approved  
18 by this commission?

19           MS. BARBANELL: That's a very interesting  
20 question.

21           I think that, when we think about a  
22 ratepayer, I think that they clearly do have a legal  
23 interest, but as the Court held in re Questar, that  
24 legal interest is actually statutorily looked at by  
25 the Department of Consumer Services. I think that

1 sPower does have a legal interest. When you  
2 foreclose an opportunity -- if that's what you were  
3 to do here -- then their legal interest is taken  
4 away. I do think that they do have an interest in  
5 being able to participate in the bidding; so yes.

6 MR. LEVAR: Okay. Thank you.

7 Commissioner White, do you have any  
8 questions for anyone who has spoken?

9 MR. WHITE: Yeah. I have a couple.

10 For Ms. Barbanell -- one question. You  
11 know, later in 2018, we're going to have a separate  
12 docket currently open that will actually determine  
13 the potential approval of whatever closes out of  
14 this RFP process. Is there a distinction to be made  
15 between intervention for a bidder in the RFP design  
16 or approval docket versus the actual approval of the  
17 solicitation by the company, whatever they  
18 ultimately begin?

19 MS. BARBANELL: In this case, the RFP  
20 design -- I mean, basically, as currently written,  
21 the RFP design is so exclusionary that it would  
22 affect obviously whether a certain entity would have  
23 a legal interest later in the solicitation process.  
24 It's sort of like what Mr. Dodge said earlier and  
25 what Ms. Hogle is referring to, which is that much

1 of what will happen and where bidders are intended  
2 to interact with the IE -- they are once the RFP is  
3 done; but if the RFP were to exclude all Utah solar,  
4 for instance, and then sPower couldn't bid, then  
5 they wouldn't have an interest any more --  
6 protective in that solicitation process, I would  
7 imagine.

8 MR. WHITE: Would a bidder have a right,  
9 then, in the actual solicitation approval docket?

10 MS. BARBANELL: When you say "a bidder,"  
11 do you mean a bidder who is participating in  
12 solicitation?

13 MR. WHITE: Either, I guess.

14 MS. BARBANELL: I think that -- I think  
15 that if you -- if you're not in the solicitation,  
16 then you know, you're not really part of the  
17 conversation any more at that point.

18 MR. WHITE: Okay.

19 Let me ask Ms. Hogle a question.

20 What are -- if the IE process is designed  
21 to, I guess, you know, basically hear and, you know,  
22 address concerns by bidders, is there a -- and I  
23 apologize. I'm not necessarily familiar with the  
24 actual IE process in terms of is there an appeal  
25 right -- or how are -- if potential concerns are not

1 addressed by IE for a bidder with respect to design  
2 of RFP, is there some remedy or some next level of  
3 request that a bidder can take that to?

4 MS. HOGLE: I'm glad you asked that  
5 question, because I don't believe that it's true  
6 that, if a bidder is not allowed in this proceeding,  
7 then they will have no recourse. I believe that  
8 there are rules and regulations in place before this  
9 commission, including an opportunity to file a  
10 request for agency action or things like that where,  
11 if the bidder truly felt that there was something  
12 wrong with the process -- and I'll use an extreme  
13 example that the IE was colluding with a company in  
14 order to exclude sPower -- which is not the case, of  
15 course -- but then I think sPower would definitely  
16 have an actionable right by filing a request for  
17 agency action before this commission, and they would  
18 have to show that, you know, that there's evidence  
19 of any such malfeasance occurring.

20 So I don't believe that it's true that  
21 they would not have a right if they were not allowed  
22 in this process. I think the commission has  
23 statutes that would allow somebody like a bidder to  
24 file something if they're truly found that the  
25 process was unfair, not transparent, and against

1 them in some way.

2 MR. WHITE: Just one final question.

3 Ms. Barbanell has indicated their  
4 willingness -- her client's willingness to condition  
5 intervention to address proprietary concerns, et  
6 cetera.

7 Is the company's primary concern just the  
8 precedent of, I guess, an efficient process for, you  
9 know, handling a docket such as -- or is it more of  
10 the issues that are proprietary are somehow getting  
11 advantage in the bidding process. I ask that, I  
12 guess, because is there any -- I think that was a  
13 multi-part question, I guess.

14 But I guess the question is there any  
15 other conditions that would ultimately prevail that  
16 could address the concerns of the company  
17 sufficiently to allow intervention such as sPower  
18 beyond just proprietary issues?

19 MS. HOGLE: Well, no. I think there are  
20 concerns beyond that, and it has to do with the  
21 interest of justice and morally and prompt conduct  
22 of proceedings. Again, they intervened at a very  
23 late stage. It's unknown why they waited for so  
24 long. Yes, the scheduling order allows for  
25 intervention a few days before the hearing, but at

1 this late stage, I don't think it ends here. I  
2 think that, if they are allowed to intervene, they  
3 are given status as interveners. They have a right  
4 to appeal. They have a right to review reports,  
5 potentially.

6 And, again, if you look at allowing that  
7 for bidders, then where do you draw the line? Why  
8 not allow all bidders? I don't agree with Mr. Dodge  
9 that you should allow all bidders to come in and  
10 help form a bidder whether they will be bid into,  
11 because that may not be in the public interest.  
12 Bidders may have interests that are against the  
13 public interest, as a matter of fact, and not  
14 necessarily in your customers' interests.

15 So, you know, it says if UDOT, for  
16 example, were to issue -- were in the planning  
17 stages of issuing an RFP, and the cement company  
18 wanted to come in and say, "You know, what? I don't  
19 think you need structural foam. I think you need  
20 more cement." It's like having somebody -- an  
21 outsider -- coming in and telling you what you need,  
22 or, you know, you're building a mother-in-law  
23 apartment in your home, and then you are in the  
24 planning stages of doing that, and the pool guy  
25 comes in and says, "You don't need that. You need a

1 pool. Let me help you plan that RFP."

2 And so, again, it is the company  
3 solicitation process -- or excuse me -- solicitation  
4 company should have some discretion. There are  
5 already parties that are representing the interests  
6 of customers and especially interests of bidders.  
7 That is the role of the IE. I think if you look  
8 carefully at the rules that you promulgated, it was  
9 -- they were promulgated, in my opinion, to protect  
10 bidders.

11 Again, I don't think this is a process  
12 where bidders should be able to dispute anything --  
13 any problems that it has with the IE, which is  
14 something that sPower has already done today, as a  
15 matter of fact.

16 And so I again -- I request that you  
17 reject their petition to intervene because it  
18 doesn't meet the second prong of that test, and that  
19 is that the interest of justice and the orderly and  
20 prompt conduct in these proceedings will be  
21 immaterially impaired by allowing their  
22 intervention.

23 MR. WHITE: That's all the questions I  
24 have now. Thank you.

25 MR. LEVAR: Commissioner Clark?

1 MR. CLARK: Thank you, Chair LeVar.

2 Ms. Barbanell, I have a couple of  
3 questions for you. I'm trying to keep this close  
4 enough -- this microphone, that is.

5 Concern has been expressed about bidders  
6 and potential bidders potentially using this process  
7 to obtain competitive advantage over other bidders  
8 should an RFP ultimately be issued, and you touched  
9 on that briefly and expressed a willingness to  
10 accept certain limitations; but I wonder if you  
11 could elaborate on the contours of those  
12 limitations. In other words, what kinds of  
13 restrictions ought to be -- ought to be imposed or  
14 accepted by a bidder participating in this process  
15 relative to seeking competitive or proprietary  
16 information?

17 MS. BARBANELL: Well, first I would just  
18 note that, you know, as the attorney, I have an  
19 obligation not to share confidential information --  
20 proprietary information; but beyond that, I think  
21 that it's important that, whatever the contours are  
22 of the condition, that anything that would be really  
23 competitive would be excluded, and that would be  
24 okay. I think that we we're okay with not having  
25 access to information that gives us a quote/unquote



1 "competitive advantage" over other bidders. In  
2 terms of the details of that, I'm going to have a  
3 hard time laying them out today.

4 If I could, though, speak to one thing  
5 with regard to Ms. Hogle's argument regarding  
6 "opening floodgates" and that sort of thing. I just  
7 -- I guess I'd like to say that that is -- that's  
8 been considered by the Utah Supreme Court. The Utah  
9 Supreme Court has said that that's not a basis to  
10 exclude interveners. In fact, they said in some  
11 cases -- let's say, in that Miller County case --  
12 let's say that there were many counties that wanted  
13 to give involved. They said that we could allow  
14 them, and then we could say that one county is to  
15 represent XYZ counties.

16 You know, so I think that that argument  
17 about opening the floodgates -- and the Court's  
18 considered that in both the -- in re Questar case  
19 and in the Miller county case and has said that  
20 that's not that a legitimate reason. I mean, if we  
21 go to the language of the Utah Administrative  
22 Procedures Act of the rule, it addresses the ability  
23 to intervene, and it states when that may happen.  
24 It does not say that there's this idea about opening  
25 the floodgates that we'd have to worry about, and I

1 think that, in this case, the idea that this  
2 precedent sets up an opening of the floodgates --  
3 it's not -- it's not legitimate.

4 I think that also, as the Court held in  
5 Miller County, you have the authority to set limits,  
6 not just conditions on intervention, but to set  
7 limits and set up rules so that it does not  
8 interfere with the process. The idea that the fact  
9 that we filed on the date the scheduling order said  
10 we had to file, which is two months after they  
11 filed, again, I'm a little confused as to how that  
12 makes it untimely. I think that we have made the  
13 case that we meet the criteria the courts look at  
14 when they decide about intervention. We -- we --  
15 you know, it was timely. We're not adequately  
16 represented, and in this case, it's, you know, we --  
17 we're not going to interfere with the process.

18 So I think that I'm a little troubled by  
19 this sort of alarmist argument about opening the  
20 floodgates.

21 I guess I also just want to point out  
22 that, you know, right now you have the authority to  
23 make decisions, and once the RFP is issued, the  
24 language of the RFP provides -- so many things are  
25 at PacifiCorp's sole discretion; so that idea that

1 the IE is then going to protect bidders -- you know,  
2 there's a difference between asserting malfeasance  
3 down the road and saying, "We would like to  
4 intervene as per the Utah Administrative Procedures  
5 Act."

6 So thank you. Sorry about that.

7 MR. CLARK: My next question, I think,  
8 relates to the last couple of sentences of your  
9 statement.

10 I've listened carefully to what you had to  
11 say today. I've read your papers. You have  
12 acknowledged that the independent evaluator has a  
13 statutory duty to oversee a process that is fair and  
14 adequate for bidders -- not only for bidders, but  
15 including for bidders.

16 MS. BARBANELL: Mm-hmm.

17 MR. CLARK: So can you distinguish for me  
18 the interest that is distinct that you're advocating  
19 for sPower today that is also distinct from being  
20 just a disagreement with the independent evaluator's  
21 decisions on issues of interest to sPower.

22 So, in other words, an interest that's  
23 unique but that is not being considered by the  
24 independent evaluator.

25 MS. BARBANELL: Well, sPower's interest is

1 being able to participate in the bidding, and that  
2 is not what the IE obviously is looking at. Right?  
3 The IE's obligations are to ensure fair and  
4 transparent process. You know, the only entity that  
5 could look after our interests is us. I think that  
6 the way that the IE is set up is really set up --  
7 it's very process-oriented. I think that we do --  
8 we do disagree, in fact, with some of the IE's  
9 conclusions about the extent of this RFP and whether  
10 it should allow solar and whether it should be  
11 Wyoming only. We do disagree, but I don't believe  
12 that that's the issue. I think when you talk about  
13 our interests, our interests are one thing, and  
14 they're separate and different than what the IE is  
15 really assigned to look at under the statute. The  
16 IE is looking at transparency in the process.

17 In terms of looking after our interests in  
18 terms of being able to participate, it's different.  
19 It's separate.

20 I don't know if that answers your  
21 question.

22 MR. CLARK: Well, yeah. I think I  
23 understand your position better now.

24 Thank you very much.

25 MR. LEVAR: Is that all you have?

1 MR. CLARK: That's all I have.

2 MR. LEVAR: Okay.

3 Recognizing that there are a lot of people  
4 in the room today who are on the clock, I think we  
5 do need to take a brief deliberation for a few  
6 minutes. Why don't we plan to be back here at 10:00  
7 o'clock, and we will hopefully have a decision on  
8 the intervention.

9 We are in recess. Thank you.

10 (Recess.)

11 MR. LEVAR: We are back on the record.

12 We grant intervention to sPower. We will  
13 issue a written order memorializing the reasoning  
14 for that decision subsequent to this hearing. We  
15 anticipate that the limitations discussed with  
16 respect to confidential information will apply to  
17 that intervention, and in particular, we anticipate  
18 that sPower will not have access, if this RFP moves  
19 forward, to the independent evaluator reports that  
20 will be issued as the bid moves forward; and we also  
21 anticipate that any other confidential information  
22 would be dealt with similarly and applies to that  
23 intervention limitation.

24 With that, we have one additional  
25 preliminary matter before we move to the hearing on

1 the merits.

2 We have two parties who have indicated  
3 their intention to have witnesses participate  
4 telephonically. Those parties have not indicated  
5 whether there was agreement from the other parties  
6 to that treatment; so I will ask all the parties in  
7 the room if there's any objection to having Mr. Phil  
8 Hayet, who is a witness for the Office of Consumer  
9 Services; and Mr. Hans Isern, who is a witness for  
10 sPower participate telephonically without being in  
11 the room today.

12 I'll ask if anyone has an objection to  
13 that to just indicate to me that you'd like to do  
14 so.

15 And I'm not seeing any objections; so that  
16 will move forward that way, and I think we'll then  
17 start with Ms. Hogle and Mr. Link.

18 Thank you.

19 MS. HOGLE: Commissioner, I wonder if it  
20 would be okay for us to do the next part of our  
21 hearing in a panel format so that our witnesses  
22 don't have to go up there.

23 And so I would move for that to happen.

24 MR. LEVAR: Just so I understand your  
25 motion, you're asking to allow the witnesses to

1 remain at the table. Are you also asking that  
2 cross-examination be saved until after everyone has  
3 spoken, or would we still have -- are you  
4 anticipating we'd still have cross-examination after  
5 each witness?

6 MS. HOGLE: You know, at this point I was  
7 just asking if we would just remain in our seats,  
8 particularly Mr. Link and the other witnesses. I  
9 wasn't even thinking about the cross-examination,  
10 you know, of like, people would, you know, have to  
11 do that.

12 MR. LEVAR: Okay.

13 MS. HOGLE: I don't think it makes a  
14 difference to Rocky Mountain Power.

15 MR. LEVAR: Okay. So your motion is just  
16 to allow witnesses to remain at the table wherever  
17 you're sitting right now.

18 MS. HOGLE: Right.

19 MR. LEVAR: If anyone objects to that,  
20 please indicate to me.

21 I'm not seeing any objections; so we'll  
22 move forward that way. Thank you.

23 MS. HOGLE: Okay.

24 The company calls Mr. Rick Link.

25 RICK LINK,

1 called as a witness at the instance of Rocky  
2 Mountain Power, having been first duly sworn, was  
3 examined and testified as follows:

4 EXAMINATION

5 BY MS. HOGLE:

6 Q. Can you please state your name for the  
7 record.

8 A. My name is Rick T. Link.

9 Q. And by whom are you employed in that  
10 capacity?

11 A. I'm employed by PacifiCorp, and I'm Vice  
12 President of Resource and Commercial Strategy.

13 Q. And in that capacity, did you file direct  
14 testimony and RMP exhibits RTL1, RTL2, and RTL3, and  
15 supplemental direct testimony, RMP exhibit RTL-S1?

16 A. I did.

17 Q. And do you have any changes that you wish  
18 to make to either of those testimonies at this time?

19 A. I do not.

20 Q. So if I were to ask you the questions  
21 therein again here today, would your answer be the  
22 same?

23 A. Yes.

24 MS. HOGLE: If it please the commission,  
25 at this time I would ask that Mr. Link's direct



1 testimony and Exhibits RTL1 through RTL3 be marked  
2 as RMP Exhibit 1, and Mr. Link's supplemental direct  
3 testimony and exhibit RTL-S1 one marked as RMP  
4 Exhibit 2 be entered into the record and admitted as  
5 evidence.

6 MR. LEVAR: If any parties object to that  
7 motion, please indicate to me.

8 I'm not seeing any objections; so the  
9 motion is granted.

10 MS. HOGLE: Thank you.

11 (Exhibits RMP 1 and RMP 2 entered into the  
12 record.)

13 Q. (BY MS. HOGLE) Mr. Link, is it your  
14 understanding that, during the scheduling  
15 conference, the second one, the parties agreed to  
16 have the commission authorize in that scheduling  
17 order on -- issued August 22nd -- live surrebuttal  
18 in this proceeding?

19 A. Yes.

20 Q. And do you have any exhibits that support  
21 your live surrebuttal testimony?

22 A. I do.

23 MS. HOGLE: Your Honors, may I approach to  
24 provide the exhibits that RMP would like marked as  
25 RMP Exhibit 3 and RMP Exhibit 4 to the parties at

1 the bench at this time before I continue with my  
2 examination of Mr. Link?

3 MR. LEVAR: Yes.

4 Do the parties already have what you'll be  
5 giving them?

6 MS. HOGLE: I'm going to pass it out.

7 Thank you.

8 MR. LEVAR: While she's doing that, I will  
9 make one other comment.

10 I believe we have one witness who has some  
11 confidential material in his testimony -- Mr.  
12 Peterson -- although if any other exhibits or  
13 surrebuttal touches on confidential material, we  
14 will rely on the attorneys representing those  
15 speaking in the room to let us know if we need to  
16 consider whether to close the hearing to the public,  
17 but right now we are open to the public unless  
18 somebody makes a motion otherwise during the  
19 hearing.

20 Q. (BY MS. HOGLE) Mr. Link, can you briefly  
21 describe or testify what each of those exhibits is?

22 A. Yes. RMP Exhibit 3 is just a summary of  
23 the informational analysis that is included as  
24 Exhibit RMP RTL-S1 to my supplemental direct  
25 testimony filed in this proceeding. It is the same

1 information from that exhibit only summarized in a  
2 simple way to address the rebuttal testimony filed  
3 by the parties.

4 RMP Exhibit 4 is a copy of the Oregon  
5 Commission Order approving the 2017R RFP with  
6 modifications, which I referenced in my supplemental  
7 direct testimony. I did not attach that order to  
8 the testimony, because at the time the commission  
9 hadn't yet issued the order, which was just issued  
10 last Friday.

11 MS. HOGLE: Would it please the commission  
12 at this time I would ask that RMP Exhibit 3 and RMP  
13 Exhibit 4 be entered into the record and admitted as  
14 evidence.

15 MR. LEVAR: If anyone objects to that  
16 motion, please indicate to me.

17 I'm not seeing any objection; so the  
18 motion is granted.

19 (Exhibits RMP-3 and RMP-4 entered into the  
20 record.)

21 MS. HOGLE: And one final matter, Your  
22 Honor.

23 At this time, I guess I would also mention  
24 the pleadings that Rocky Mountain Power has filed in  
25 this proceeding. I think that they include the

1 application and, I believe, reply comments that I  
2 assume are part of the record, and I don't need to  
3 move for their admission. Is that correct?

4 MR. LEVAR: They are part of the record.  
5 They haven't been admitted as sworn evidence, but  
6 they are part of the record.

7 MS. HOGLE: Okay. Thank you.

8 Q. (BY MS. HOGLE) Mr. Link, did you prepare  
9 a summary of your testimony and live surrebuttal  
10 that you would like to share today?

11 A. I have.

12 Q. Okay. Please go ahead.

13 A. Good morning, Chair LeVar, Commissioner  
14 White and Commissioner Clark.

15 First, I will provide you with a summary  
16 of the company's position in this proceeding, and  
17 then I will move on to live surrebuttal testimony.

18 The 2017 R-Request for Proposals is a  
19 critical step in the company's plan to capitalize on  
20 federal production tax credits -- or PTCs -- to  
21 deliver new wind -- new wind resources and new  
22 transmission with both near- and long-term cost  
23 savings for customers. The 2017R RFP development  
24 and review process has been robust, and we  
25 appreciate the prompt and thorough review from the

1 independent evaluator and other parties in this  
2 case.

3           Although the wind projects are a broader  
4 component of Energy Vision 2020, which also includes  
5 wind re-powering and the new transmission project by  
6 the company, our request of the commission in this  
7 particular proceeding is narrow, and that is,  
8 approval of the 2017R RFP. The commission and  
9 interested state quarters have additional  
10 opportunities to review the wind projects in two  
11 dockets pending before the commission. One is the  
12 2017 Integrated Resource Plan, and the other is the  
13 company's request for pre-approval of a significant  
14 resource decision and for voluntary approval of the  
15 Aeolus to Bridger transmission line.

16           Here today, we are simply trying to  
17 determine whether the RFP is in the public'  
18 interest.

19           There are some key points from my  
20 testimony that I want to emphasize as the commission  
21 reviews our proposed RFP.

22           First, the 2017 Integrated Resource Plan  
23 shows that there is a resource need in our planning  
24 forecasts, and the proposed wind projects are a  
25 component of our least-cost, least-risk plan to meet

1 that need, regardless of any state-specific policy.

2 Second, PTCs are being phased out, and the  
3 wind projects need to be built by the end of 2020 to  
4 ensure that they will fully qualify for the PTC  
5 benefits. These PTC benefits will generate  
6 significant cost savings for our customers.

7 Finally, approval of the RFP does not  
8 guarantee resource acquisition. In fact, we will  
9 only move forward if analysis in the bid evaluation  
10 and selection process through the RFP demonstrates  
11 that there are net benefits for customers.

12 We acknowledge that the procedural  
13 schedule in this case requires parallel  
14 consideration of part of the 2017R RFP and the 2017  
15 IRP, but this parallel process is necessary to  
16 preserve this time-limited opportunity to acquire  
17 cost-effective wind resources for customers'  
18 benefit. The 2017R RFP procedural schedule is  
19 designed to align with the Wyoming process for  
20 obtaining a Certificate of Public Convenience and  
21 Necessity and to allow winning bidders to achieve  
22 commercial operation to take full advantage of 100  
23 percent of the federal wind PTCs.

24 In my direct testimony, I presented the  
25 company's proposed RFP and demonstrated that it

1 complies with the Utah statutes and rules, which is  
2 consistent with the independent evaluator' report  
3 and testimony in this case. I demonstrated that the  
4 company provided the required notices and held a  
5 pre-issuance bidders' conference, where we described  
6 the timeline for regulatory review of the RFP.  
7 We've discussed the benchmark options and the  
8 company's request to waive the binding requirement,  
9 which no party has objected to in this case.

10 In my supplemental direct testimony, I  
11 described the economic analysis that was included as  
12 part of our August 2nd, 2017 informational update  
13 filed in the 2017 IRP proceeding, which had not yet  
14 been prepared when the company filed its application  
15 in this proceeding. I summarized the type and the  
16 amount of new generating resources that were  
17 identified in 31 different resource portfolios that  
18 were developed as part of the 2017 IRP, highlighting  
19 that none of these resource portfolios included  
20 non-wind resources prior to 2022.

21 I also discussed the results of the 2016R  
22 RFP issued by the company last year, which included  
23 a robust market response of over 6,000 megawatts of  
24 new renewable resources and noted that none of  
25 these bids delivered the net cost savings that we're

1 expecting to see from the proposed projects in this  
2 RFP solicitation.

3 Finally, I summarized the changes made to  
4 the draft RFP in response to comments from the  
5 independent evaluator and other parties that will  
6 enhance and encourage market participation.

7 I will now transition to live surrebuttal,  
8 where I will discuss the company's position on the  
9 scope of the RFP and address additional  
10 recommendations made by the IE in his rebuttal  
11 testimony. I will explain why the RFP is in the  
12 public interest, and I'll provide an update on the  
13 status of the RFP in Oregon.

14 Regarding scope and the IE  
15 recommendations, upon review of the rebuttal  
16 testimony from parties in this case, the company can  
17 agree to all of the IE's recommendations, including  
18 broadening the scope to wind resources that can  
19 deliver output anywhere on PacifiCorp's transmission  
20 system and that provides net benefits for customers.  
21 It will also allow bidders to provide written  
22 comments on the pro forma power purchase and  
23 bill-transfer agreements in their proposals; and we  
24 will include a statement in the RFP that bidders  
25 should consider the potential accounting of



1 treatment implications associated with longer-term  
2 contracts. Each of these are recommendations made  
3 in the IE's rebuttal testimony.

4 In addition to these recommendations, the  
5 company has also further relaxed it's system impact  
6 study requirements in the IRP -- or in the R RFP --  
7 which now require only that bidders initiate the  
8 interconnection process before submitting their bid.  
9 Closing of any executed agreements will be  
10 conditioned on the final transmission arrangements.

11 The company continues to oppose  
12 recommendations from parties to extend the 2017R RFP  
13 eligibility to solar or other resources, which would  
14 eliminate the time-limited opportunity and  
15 essentially jeopardize the opportunity that's in  
16 front of us today. However, the company remains  
17 open to testing the market for additional solar  
18 resource opportunities as indicated in our comments  
19 in reply to the Utah IE report. These opportunities  
20 we would pursue if they can deliver net benefits for  
21 customers, and that can be done in a separate  
22 process. Again, it does not jeopardize the  
23 opportunity to procure the new wind resources during  
24 the 2017R RFP. Essentially, it is not a question of  
25 whether one resource type is better than other, but

1 whether additional resources in addition to what  
2 we're proposing might be able to provide the same  
3 benefits that we're targeting through the 2017R RFP.

4           Regarding the public interest, Utah code  
5 requires a finding that the RFP is in the public  
6 interest, taking into consideration factors beyond  
7 whether it will most likely result in the lowest  
8 reasonable cost. For example, there are other  
9 factors that the commission can consider, including  
10 long-term and short-term impacts, risk, reliability  
11 and any other factors determined to be relevant by  
12 the commission.

13           But the company's proposal to expand  
14 scope, 2017R RFP is likely to result in wind  
15 resource bids at the lowest reasonable cost. The  
16 company proposed new wind and transmission projects  
17 will deliver net customer benefits over both the  
18 near-term and the long-term, and these key benefit  
19 streams are not speculative, as shown by the  
20 informational update that accompanied my  
21 supplemental direct testimony and also as summarized  
22 in RMP Exhibit 3 submitted into the record, or,  
23 again, my summary.

24           I will now turn to Rocky Mountain Power  
25 Exhibit 3 and explain the information on this

1 exhibit. There's a figure on the top left of this  
2 exhibit that shows across time from 2018 through  
3 2050; and on the Y-axis, dollars -- millions of  
4 dollars of nominal, net benefit over cost associated  
5 with the company's proposed wind and transmission  
6 projects across a range of nine different scenarios,  
7 where we looked at varying natural gas price  
8 assumptions and CO2 policy assumptions.

9           What this chart demonstrates is that,  
10 across all cases that we have studied, within three  
11 to four years of the projects being placed in  
12 service, the change in nominal revenue requirement  
13 -- and these are not levelized numbers, these are  
14 year-to-year nominal revenue requirements -- cross  
15 over to provide benefits within three to four years  
16 of being placed in service.

17           The chart at top right breaks down through  
18 the front ten years of the projected period the  
19 elements that are driving the benefit streams for  
20 that range of benefits you're seeing on the chart at  
21 top left -- the types of benefit drivers to the  
22 projects. This one focuses on the central tendency  
23 case with medium natural gas prices and medium CO2  
24 places, and highlighted in this chart are one of the  
25 key drivers -- are the PTC benefit, shown here as a

1 navy blue benefit stream in negative dollars -- a  
2 reduction in revenue requirement -- followed by  
3 avoided fuel cost on the system, whether that be  
4 from existing coal generation or from gas.

5           Avoided fixed cost -- this relates to the  
6 fact that, if the transmission projects are not  
7 constructed and transmission and the new wind from  
8 the proposed projects, the alternative portfolio  
9 still includes wind resources in Wyoming without the  
10 transmission that would be displaced if the new  
11 transmission project were added with the new wind.

12           And, then, finally, we have market and  
13 other variable and emissions. Key to this is that  
14 less than 10 percent of those value drivers through  
15 the first ten years of the project are driven by  
16 market -- increased market purchases or sales or  
17 some potential future policy affecting emissions.  
18 The remaining 90 percent are not nearly as volatile  
19 as those of more uncertain variables -- things  
20 around what market prices may look like.

21           There's a high degree of certainty about  
22 what level of PTCs will be. They are established by  
23 the IRS on a year-to-year basis and adjusted for  
24 inflation, and we have a pretty good forecast of how  
25 we believe our avoided fuel cost will look going in

1 through the first ten years.

2 Over the longer term, these zero-fuel cost  
3 resources are more likely than not to continue to  
4 deliver net power/cost savings and provide all  
5 benefits to customers. This can be seen in, again,  
6 at the chart at top left. When you get beyond that  
7 front 10-year window and the PTCs expire -- where  
8 the benefit stream goes positive for a few years --  
9 it is more likely that, without having any fuel  
10 costs for these projects, that the net power cost  
11 will be reduced across the range of scenarios that  
12 we cite. Again, that's a range of nine different  
13 scenarios for natural gas and CO2 price assumptions.

14 Moving on to an update on the Oregon RFP  
15 process. We now have the order that's conditionally  
16 approving the 2017R RFP in Oregon, which I had  
17 offered as the supplemental exhibit RMP Exhibit 4.  
18 And as approved by the Oregon Commission, the Oregon  
19 RFP is seeking Wyoming land resources. The company  
20 will be providing the Oregon Commission an update on  
21 this hearing at a public meeting on September 26th,  
22 2017; so next week; and if the Utah Commission  
23 adopts a broader scope, as we have proposed, to  
24 accommodate the recommendations from the IE and  
25 other parties to include wind resources that can

1 deliver output anywhere on our transmission system,  
2 we will ask the Oregon Commission to align the scope  
3 of its RFP, allowing the 2017R RFP to be issued to  
4 the market as soon as September 27th, 2017.

5 In conclusion, I recommend that the  
6 commission approve the RFP as modified to satisfy  
7 all of the IE's recommendations, which can be issued  
8 to the market upon final review by the IE.

9 We respectfully request that the  
10 commission issue an order no later than  
11 September 25th, 2017, on this request.

12 Thank you.

13 MS. HOGLE: Mr. Link is available for  
14 cross-examination.

15 MR. LEVAR: Okay. Thank you.

16 Ms. Schmid?

17 MS. SCHMID: I have just a few questions.

18 EXAMINATION

19 BY MS. SCHMID:

20 Q. My question mostly concern Exhibit 3 that  
21 was just admitted. When I do the math, it seems  
22 that you're defining near-term for the makeup of  
23 near-term benefits referenced on Exhibit 3 as 13  
24 years. Is that correct?

25 A. Primarily, referencing near-term to

1 represent the 10-year window in which production tax  
2 credits would be available for the project, and so  
3 it's 13 years perhaps from today, 10 years from when  
4 the projects will be placed in service.

5 **Q. Thank you.**

6 **Later in Exhibit 3, you say that near term**  
7 **benefits are not speculative. You are not**  
8 **guaranteeing these benefits, though, are you?**

9 A. Well, there's always a range in benefits.  
10 That's why we ran nine scenarios. My comments  
11 around the benefits not being speculative is  
12 primarily driven by the fact of what's driving the  
13 value stream. There's a much narrower range in  
14 benefits in that near-term than you see in the  
15 long-term, and that's because the benefits are  
16 driven by things like production tax credits, which  
17 are a large component of the value proposition.

18 **Q. Isn't that true, though, that the actual**  
19 **results could fall outside of your projected range?**

20 A. Absolutely.

21 **Q. And it has been said that the only certain**  
22 **things are death and taxes. Does the same certainty**  
23 **apply to production tax credits?**

24 A. I believe that is -- it's highly certain  
25 of where we know the production tax credit value

1 sits, and we're confident that the project can  
2 deliver those benefits we have for our customers.

3 **Q. Is it always possible to predict what**  
4 **Congress may do, though?**

5 A. The answer to that is "No." However, we  
6 have a high level of confidence, and it's based on a  
7 number of things. There's some history. The  
8 production tax credit has been around for many, many  
9 years; and I don't believe -- my understanding is  
10 there's never been a case where Congress has passed  
11 legislation to rescind PTCs that were already in  
12 place. They passed legislation to extend and renew  
13 but not really pull it away.

14 We also have indications that there's a  
15 desire from politicians to maintain at least the  
16 level of production tax credits that are already on  
17 the books that have been passed with the tax  
18 legislation in 2015.

19 **Q. Mr. Peterson states that it is likely that**  
20 **we'll have more -- and I'm paraphrasing -- that it's**  
21 **likely that more information will be developed in**  
22 **the 40 Docket than is presented here about the cost**  
23 **and benefits.**

24 **Do you agree that that is likely?**

25 A. I think -- I'll call it the "40 Docket" as



1 well -- the information that will be presented in  
2 that proceeding -- let me take a half step back.

3           The information that's in there today is  
4 identical to the information summarized on RMP  
5 Exhibit 3 in terms of the economic analysis and the  
6 benefits, which is also identical to the information  
7 filing we made in our 2017 RFP. As the 40 Docket  
8 proceeds, we will be supplementing that record with  
9 updated analysis to reflect the results of the 2017R  
10 RFP after having tested the market in a competitive  
11 solicitation process and received actual market bids  
12 that provide, in the end, net customer benefits for  
13 customers, reminding ourselves that we will only  
14 proceed with projects that deliver the net benefits  
15 that we're targeting through the solicitation.

16           And so, you know, it's not that it will  
17 substantially, you know, expand or change. It will  
18 simply be updated to reflect the actual results of  
19 the RFP.

20           **Q. And interveners in the 40 Docket will have**  
21 **a chance to question, explore, and scrutinize that**  
22 **additional information. Is that correct?**

23           A. Yes.

24           **Q. Thank you. That's all.**

25           MR. LEVAR: Thank you.

1 Mr. Moore?

2 MR. MOORE: Yes.

3 EXAMINATION

4 BY MR. MOORE:

5 Q. Mr. Link, referring to your Exhibit No. 4.  
6 On the second page, the paragraph that begins under  
7 the bold type "RFP Approval Conditioned on the IRP  
8 Acknowledgement." I just wanted to check that you  
9 agree with me that the approval of the RFP is  
10 conditioned on a December 2017 approval of the  
11 Oregon IRP. Is that correct?

12 A. The Oregon Commission did condition their  
13 approval on acknowledgement of the related action  
14 items in our 2017 IRP, and, as they noted, that will  
15 not occur until December 2017 at the earliest.

16 Q. Thank you. May I direct your attention to  
17 Page 13, Lines 231 to 234 of your supplemental  
18 testimony.

19 A. Could you please repeat the reference?

20 Q. Page 13, Lines 231 and 234. Just to  
21 paraphrase that testimony, you stated that one of  
22 the reasons the company is not proposing an  
23 all-resource RFP is that the 2016 RFP conducted by  
24 the company did not find any renewable projects to  
25 deliver net benefits to consumers. Is this correct?

1           A.     Yes.  That is one of the reasons that  
2 we're highlighting and providing that information to  
3 the commission as they review our draft RFP.

4           **Q.     Are you aware of solar prices have a --**  
5 **particularly Utah solar prices -- have significantly**  
6 **declined since the fall of 2016?**

7           A.     I am not aware, necessarily, of any  
8 explicit data that demonstrates solar Utah prices  
9 have dropped significantly since the fall of 2016;  
10 and I perhaps take this moment to highlight, if I  
11 could, that there's a difference between, say, a PPA  
12 price and the cost of constructing the project.  In  
13 fact, looking back at the projects in our system in  
14 Utah of solar projects that have actually achieved  
15 commercial operation to date, the lowest cost  
16 project that came online -- was built and is now  
17 operating -- is at a price of on a levelized basis  
18 of \$51 per megawatt hour.

19          **Q.     When was that price determined?**

20          A.     Price was probably determined -- I don't  
21 know for sure.  It would have been sometime, maybe,  
22 in 2015 or 2016.

23          **Q.     Are you aware of the intervener's**  
24 **testimony and recent QF contracts that have provided**  
25 **solar resources today that are approximately**

1    **40 percent lower than that, and the low of \$30 per**  
2    **megawatt hour range?**

3           A.     Yes, I am familiar with those contracts,  
4    and I'm differentiating between, say, qualified  
5    facility -- or QF contract executed under PURPA --  
6    contract execution does not mean that a project will  
7    come online and be able to operate at the price  
8    provided in that power purchase agreement. In fact,  
9    our experience has been more often than not that a  
10   lot of projects -- actually more projects than not  
11   -- are unable to hit their commercial operation  
12   dates through those type of agreements. In fact, we  
13   are getting indications from, in general, solar  
14   project developers across our system -- under QF  
15   projects primarily -- that they are not likely to be  
16   able to hit their commercial operation dates  
17   currently in their executed power purchase  
18   agreements, in part because of concerns around  
19   getting panels at a price with concerns around  
20   potential tariff costs associated with that  
21   equipment.

22           **Q.     The 2016 RFP was limited to resources that**  
23    **deliver into the eastern half of PacifiCorp's**  
24    **territory, excluding Utah, Idaho, and Wyoming.**

25                   **Isn't that true?**

1 A. Correct.

2 Q. It was also limited resource that did not  
3 require significant transmission upgrades.

4 Isn't that true?

5 A. That's correct.

6 Q. If the Wyoming wind and associated  
7 transmission projects proposed here would not have  
8 qualified and therefore not have been selected in  
9 the 2016 RFP?

10 A. I can't -- they wouldn't have qualified  
11 under the terms in which we established that RFP.

12 Q. There are other differences in the 2016  
13 RFP, in this case, including the way they were  
14 publicly vetted, and there was no utilizer --  
15 independent evaluator. Is that correct?

16 A. We did not procure the services of an  
17 independent evaluator. The RFP was, however,  
18 implemented following the very same processes that  
19 we've done in past solicitations that involved  
20 independent evaluators.

21 Q. In the company's Energy Vision 2020  
22 update, you compared update assumptions regarding  
23 the Wyoming wind and transmission proposal with the  
24 status quo project that did not include transmission  
25 upgrades.

1                   **Isn't that true?**

2           A.       That is at the heart of the analysis to  
3 demonstrate the economic benefits. That's a study  
4 that includes the transmission of new wind compared  
5 to a future that assumes those projects do not move  
6 forward.

7           **Q.       Thank you.**

8           MR. MOORE: I have no other questions.

9           MR. LEVAR: Thank you, Mr. Moore.

10           I think I'll go to Mr. Longson next.

11           Do you have any questions for this

12 witness?

13           MR. LONGSON: No questions. Thank you.

14           MR. LEVAR: I think I'll go to Mr. Dodge

15 next, then.

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

17                                   EXAMINATION

18 BY MR. DODGE:

19           **Q.       I'll refer you first of all to Line 77 of**  
20 **your testimony.**

21           A.       Supplemental testimony or the direct  
22 testimony?

23           **Q.       I'm sorry. The supplemental testimony.**

24           A.       774?

25           **Q.       Yeah. Beginning on Line 774.**

1                   **The question -- I'll wait till you get**  
2   **there.**

3                   MS. HOGLE: Mr. Dodge, there is no Line  
4   774.

5                   MR. DODGE: Page -- Line 77.

6                   MS. HOGLE: Line 77? Okay.

7                   MR. DODGE: Line 77 to 84.

8                   MS. HOGLE: Okay.

9                   THE WITNESS: Thank you for the  
10   clarification. I was starting to wonder about my  
11   testimony. I am there.

12                  **Q. (BY MR. DODGE) The question that begins**  
13   **on Line 75 was what other company has analyzed what**  
14   **other Wyoming wind projects will meet the lowest**  
15   **cost standard of the Utah statute.**

16                   **Is that your understanding of that**  
17   **question?**

18                  A. Yes.

19                  **Q. Your answer was "Yes," because it's based**  
20   **on the informational update filed in the 2017 RFP**  
21   **and that you attached to your supplemental**  
22   **testimony. Right?**

23                  A. Yes.

24                  **Q. To be clear, the analysis that you**  
25   **attached to the 2020 -- Energy Vision 2020 update**

1 relies solely on the IRP cost assumptions for  
2 resources other than the wind resources you're  
3 proposing to make. Right? It did not update from  
4 the 2016 walk-down date prices for other resources.  
5 Correct?

6 A. It included updated assumptions relative  
7 to the 2017 IRP studies related to the proxy  
8 benchmark resources that we anticipate offering into  
9 the 2017R RFP.

10 Q. Right. Other than those updates for the  
11 projects you're proposing in Wyoming, there were no  
12 updates to other assumed resource costs?

13 A. That's correct. We hadn't received any  
14 indication yet that there were additional cost  
15 savings that could be applied to other resource  
16 technology.

17 Q. Turn, if you will, in the same testimony  
18 to Line 198 -- beginning on 198. You indicate in  
19 that paragraph that, in reviewing the IRP portfolios  
20 -- and I'll quote here, beginning on Line 199 -- "It  
21 became clear that the amount of Wyoming wind  
22 included was limited by transmission constraints."

23 It's also true, is it not, that the  
24 ability of the model to choose Utah -- Southern Utah  
25 solar -- was similarly restrained by transmission



1 **constraints, was it not?**

2 A. I don't believe it was constrained by  
3 transmission constraints. The model for Utah solar  
4 simply accounts for the cost of those projects,  
5 indicative of any potential transmission upgrade  
6 costs that might be applied at various levels of  
7 model or planned acquisition over time.

8 Q. The point is without additional -- without  
9 additional transmission investment in at least much  
10 of the southern Utah -- below the cut plain where  
11 constraints exist, that model could not and would  
12 not have been Utah solar because of the cost,  
13 because of the imposition of the transmission  
14 constraints or the cost of the (inaudible).  
15 **Correct?**

16 A. The model identifies relevant costs to  
17 procure different resources. There are costs  
18 associated with procuring solar resources in Utah or  
19 renewable resources anywhere on our system that are  
20 reflected in the model. The costs that we're  
21 assigning to the projects we're studying and  
22 proposing similarly include the cost of construct  
23 and any transmission costs required to either  
24 connect or integrate that to our system.

25 Q. **Well, let's talk about that. The IRP does**

1 not select transmission segments. Correct? You  
2 testified that the IRP is not capable of picking and  
3 choosing transmission segments as the least-cost  
4 resources?

5 A. I would clarify that, though, the models  
6 do not inherently or automatically choose  
7 transmission segments. The IRP does evaluate  
8 alternatives that assess different transmission  
9 segments on the system through sensitivity and  
10 scenario analysis, which is similar to the types of  
11 studies we have been performing in the 2017 IRP for  
12 many, many years.

13 Q. And what sensitivity analysis did you  
14 conduct about relieving southern Utah transmission  
15 to open up Southern Utah solar?

16 A. We ran various different types of energy  
17 gateway project sensitivities that looked at  
18 different segments, four of them in the 2017 IRP,  
19 which include additional transmission lines, called  
20 Energy Gateway South, that could enable potential  
21 additional projects for Utah of solar access.

22 Q. And outside the Gateway projects the  
23 company's been promoting for many years, you did not  
24 do any sensitivity analysis of upgrading specific  
25 lines in Southern Utah to allow additional solar to

1 **be -- to reach (inaudible), did you?**

2 A. No. We're focusing on those projects in  
3 which we have proceeded down the path of seeking a  
4 record decision of permit efforts without  
5 speculating what types of permit and timing may need  
6 to add transmission segments at very specific  
7 locations outside of those projects across our  
8 system.

9 Q. You have not conducted a study to  
10 determine what the IRP analysis -- what the IRP  
11 model would have picked if you had, for example,  
12 assumed the \$700 million investment in relieving  
13 congestion from one or more of your Southern Utah  
14 lines into the Wasatch Front or into the back east  
15 side.

16 Is it true you had not conducted that  
17 analysis?

18 A. Well, again, we had run the sensitivities  
19 for Energy Gateway analysis which include capital to  
20 build those transmission projects that could allow  
21 additional assets to come on to the system. Those  
22 studies were performed and were identified as being  
23 higher cost and higher risk associated to ultimately  
24 the proposed project we included in our portfolio.

25 Q. And that's with the entire Gateway South

1 project included.

2 My question was did you do an analysis of  
3 the selective upgrade of your transmission  
4 capability from Southern Utah into the back east  
5 area in the neighborhood of \$700 million to see what  
6 that would have done in terms of alleviating  
7 congestion and allowing the model to pick Southern  
8 Utah solar.

9 MS. HOGLE: Objection. Asked and  
10 answered. I believe it was answered.

11 MR. DODGE: I apologize. I don't think he  
12 answered it. He went back to Gateway South, and I'm  
13 asking a narrower subset of that.

14 The Gateway South is a multi-million  
15 dollar project. I'm saying discrete segments like  
16 they've done now with the D2 segment of Gateway  
17 West.

18 Q. (BY MR. DODGE) Did do you do a discrete  
19 segment analysis of what might have relieved  
20 congestion in Utah South? I think that's a very  
21 different question.

22 MR. LEVAR: I think we would like to have  
23 an answer to that question on whether there was an  
24 analysis of those southern lines.

25 THE WITNESS: Sure.

1           We didn't do an analysis outside of the  
2 Energy Gateway sensitivities that I described in my  
3 earlier response. I don't know if there's some  
4 other transmission project and whether it would cost  
5 \$700 million. We focused on those projects that  
6 could be delivered within the time frame that we  
7 were talking about, which were projects that could  
8 achieve commercial operation to take advantage of  
9 the modeling results we were seeing in prior  
10 studies. That includes Energy Gateway projects. We  
11 have already, like I mentioned, received the record  
12 of decision and done permitting those efforts for  
13 about at least ten years, to my knowledge. That  
14 enables the possibilities for those projects to be  
15 delivered in the time horizon that works for that  
16 very sensitivity and through this ultimate RFP  
17 solicitation process.

18           The subsegment that we referenced is a  
19 part of the Energy Gateway project that also has  
20 that record of decision and permit; so we did not  
21 perform sensitivities specifically as Mr. Dodge  
22 described in the IRP. We did perform transmission  
23 sensitivities for segments and subsegments that  
24 could be delivered in the time horizon when we're  
25 focusing to take advantage of the federal production

1 tax credits.

2 Q. (BY MR. DODGE) Do you have the IRP in  
3 front of you? Do you have the IRP with you?

4 A. I do not.

5 Q. By memory, can you tell me which of the  
6 sensitivities looked at the subsegment of the  
7 Gateway South project?

8 A. I cannot by memory.

9 Q. Was there one that looked at a subsegment  
10 of the Gateway South project?

11 MS. HOGLE: Objection. Asked and  
12 answered.

13 MR. DODGE: I asked --

14 MR. LEVAR: I think the question is a  
15 little different.

16 Q. (BY MR. DODGE) I'm asking is there one,  
17 if you know?

18 MR. LEVAR: Well, I think he's answered  
19 that he doesn't know of one.

20 Is that correct? You've answered that you  
21 don't know of one?

22 THE WITNESS: Correct.

23 MR. LEVAR: Okay. I think the question --

24 MR. DODGE: Can I follow up to make sure?

25 Is he -- does he believe there is one? He

1 said -- I had said, "Can you tell me which  
2 sensitivity study?" And he said, "I can't  
3 remember."

4 Now I'm saying, "Is there a sensitivity  
5 study?" And if the answer is "I don't know," that's  
6 fine, but I haven't asked that question yet.

7 MR. LEVAR: I think his "I don't know"  
8 applies to that question.

9 MR. DODGE: Can I confirm that with him,  
10 please?

11 MR. LEVAR: Why don't you confirm your  
12 answer.

13 **Q. (BY MR. DODGE) Does your "I don't know"**  
14 **--**

15 **A.** I am not sure without going back and  
16 checking the assumptions.

17 **Q. Thank you.**

18 MR. DODGE: And I apologize, Mr. Chairman.  
19 I was -- I'll go on.

20 **Q. (BY MR. DODGE) You also have not done an**  
21 **analysis that updated the solar prices that you**  
22 **assumed in the RFP. Correct?**

23 **A.** We have -- we -- well, the Energy Vision  
24 2020 update -- informational update analysis did not  
25 include updated solar project costs. We hadn't

1 received any indication that those costs were  
2 materially changed. In fact, as I noted earlier, we  
3 have been receiving indication from project  
4 developers that there were concerns and risks  
5 associated with actually receiving -- with concerns  
6 out around potential tariff issues.

7 **Q. Who's told that you, Mr. Link? Just tell**  
8 **me, specifically.**

9 A. I can't name any specific parties. I'm  
10 not --

11 **Q. Is that because --**

12 A. In general --

13 **Q. -- you don't remember?**

14 A. Yeah. I don't -- I don't recall.

15 **Q. So who conveyed that information? You**  
16 **don't have any clue?**

17 A. There are various QF projects as I  
18 understand it, and I'm making a generalization  
19 across a number of different parties that have  
20 indicated as they informed us of their ability to  
21 potentially hit commercial operation dates, they  
22 have suggested that that is one of the reasons they  
23 may not be able to hit their commercial operation  
24 dates.

25 **Q. You can't support that with anything but a**



1 vague "I don't know. I think someone told us."

2 Is that what you're telling me?

3 MS. HOGLE: Objection. That's  
4 argumentative.

5 MR. DODGE: Well, I think I have the right  
6 to know who's claiming the information -- giving  
7 hearsay information -- and he can't provide the  
8 source. I think I have the right to explore that,  
9 Mr. Chairman.

10 MR. LEVAR: I think he answered the  
11 question. I think I'll allow a little more  
12 clarification, but I think basically the answer is  
13 in front of us, but I'll give a little more room for  
14 clarification on the issue.

15 Q. (BY MR. DODGE) To clarify, you're not the  
16 QF person; right?

17 A. Actually, I am responsible for qualifying  
18 facility and PURPA activities for the company.

19 Q. And you're the one who interacts with the  
20 QF developers?

21 A. From time to time. Not always.

22 Q. But you can't name one who just told you  
23 what you --

24 MS. HOGLE: Objection. Asked and  
25 answered.

1 MR. DODGE: If that's his testimony that  
2 he can't name them --

3 MR. LEVAR: I think it's worth clarifying  
4 what the answer to that question is. I'm not sure  
5 that specific one was answered.

6 THE WITNESS: Concern about confidential  
7 information -- I can't name an individual-specific  
8 project. I can clarify that, being responsible for  
9 PURPA activities throughout the company, I have  
10 staff meetings from time to time with my team to  
11 discuss progress and status on any number of  
12 projects that we're working on, including qualifying  
13 facility and PURPA activities across our entire  
14 six-state service territory, and it is through those  
15 meetings and updates that I receive feedback on  
16 status and what are causing projects to either be  
17 delayed or not.

18 Q. (BY MR. DODGE) Mr. Link, PacifiCorp is  
19 sued by at least two energy developers -- QF  
20 developers -- right now trying to demand contracts  
21 be honored and followed through.

22 Are you aware of those lawsuits?

23 A. I am aware.

24 Q. For example, EverPower in Wyoming is suing  
25 -- claiming that they have a contract and that the

1     **company refuses to honor it.**

2             MS. HOGLE:  Objection.

3             **Q.     (BY MR. DODGE)  Do you know --**

4             MR. LEVAR:  What's the basis for your  
5     objection?

6             MR. DODGE:  I didn't ask a question.

7             MS. HOGLE:  The basis of my objection is  
8     that he is questioning Mr. Link on topics that are  
9     beyond the scope of his testimony.

10            MR. DODGE:  To the contrary.

11            MR. LEVAR:  Do you want to respond to  
12     that?

13            MR. DODGE:  It's exactly within the scope.  
14     He's saying developers are saying they can't develop  
15     at these prices, and I'm pursuing why he's being  
16     sued at the prices he's saying they can't develop.  
17     They're being sued by people saying, "Give us the  
18     contract at those levels," and they've refused it.  
19     I'm trying to show that his testimony that they  
20     can't produce at that level is false.

21            MS. HOGLE:  And --

22            MR. LEVAR:  Ms. Hogle, do you have  
23     anything else to add?

24            MS. HOGLE:  Yes.  I believe that it's  
25     inappropriate for Mr. Dodge to be testifying on the

1 record, which is what he's doing.

2 And he's -- and I also would like to lodge  
3 an objection based on being argumentative and,  
4 again, assumes assuming facts not in evidence and in  
5 asking questions that are beyond the scope of Mr.  
6 Link's testimony.

7 MR. LEVAR: I think -- I believe Mr. Link  
8 opened the door to discuss the issues surrounding QF  
9 contracts. There is a line on providing testimony  
10 in the questions. I'm not sure we've crossed that.  
11 I think there's some opportunity to cross-examine  
12 Mr. Link on the basis for his representations with  
13 respect to QF contracts, and I think this hearing  
14 would benefit from a little more clarification on  
15 the nature of those representations; so I'm going to  
16 allow a little more exploration of that.

17 MR. DODGE: Thank you, Mr. Chairman. If I  
18 cross the line, I'm trusting that you'll let me  
19 know.

20 **Q. (BY MR. DODGE) Mr. Link, are you aware of**  
21 **a lawsuit by EverPower coming before the Wyoming**  
22 **Commission?**

23 A. I would clarify that I don't believe it's  
24 a lawsuit. There's a complaint with the Wyoming  
25 Commission at this point.

1 Q. I meant to say "litigation." The  
2 complaint.

3 And are you aware they are claiming that  
4 they have a -- they believe they have an enforceable  
5 contract with the company?

6 A. I am not comfortable discussing the merits  
7 of an active proceeding in that jurisdiction.

8 Q. This is public, Mr. Link. The complaint  
9 is a public document of the Wyoming Commission.

10 I'm asking are you aware that in that  
11 public document they have alleged that they believe  
12 they have a binding agreement that the company  
13 refuses to honor?

14 A. I am familiar with the terms of the  
15 complaint.

16 Q. And are you familiar with the pricing at  
17 which EverPower has claimed they have a contract?  
18 I'm not going to ask the specifics. I'm asking are  
19 you aware of what the pricings are, approximately?

20 MS. HOGLE: Objection. Before he  
21 continues, I would also like to object on the basis  
22 that he, Mr. Dodge, is talking about a wind project.  
23 He started this whole thing talking about solar, and  
24 so solar is not wind.

25 MR. DODGE: I intend to go to a solar

1 project next. I think I'm entitled to show what  
2 we're talking about in terms of people being able to  
3 deliver particular cost levels.

4 MR. LEVAR: In terms of the objection, I  
5 think we'll allow Mr. Dodge to ask Mr. Link if he's  
6 aware of the proceedings. I don't think Mr. Link  
7 can be forced to testify his understanding of the  
8 position of the parties who have filed the  
9 complaints against Rocky Mountain Power are.

10 So with that caveat, I think we'll allow  
11 continued discussion of this, but I don't think Mr.  
12 Link can be forced to testify of his opinions of  
13 those complaints or the position of parties in those  
14 complaints. I think that would be a little outside  
15 the scope of his testimony today.

16 MR. DODGE: I appreciate that, and I will  
17 try not to go there. I am solely trying to get an  
18 understanding of relative level of pricing.

19 Q. (BY MR. DODGE) And so my question is are  
20 you aware generally of the pricing in that contract  
21 that EverPower is trying to enforce?

22 A. I'm generally aware.

23 Q. Secondly, you're aware, I'm sure, of the  
24 litigation before this commission by sPower?

25 A. I am aware.

1 Q. And I will be very cautious there, but  
2 you're aware of the pricing in that contract as  
3 well. Right?

4 A. I am generally aware.

5 Q. You're also aware that there are other  
6 parties signing QF contracts or proposing to sign QF  
7 contracts at pricing that is well below the \$50  
8 levelized price that is assumed in your RFP today.  
9 Correct?

10 A. I am.

11 Q. And once those contracts are signed and  
12 approved by the commission, a party has to supply  
13 security to ensure that those projects are developed  
14 timely, do they not?

15 A. As --

16 MS. HOGLE: Objection. Excuse me.  
17 Objection. The only thing I'm objecting is because  
18 I believe that he's going into contract  
19 interpretation, legal interpretation, and Mr. Link  
20 is not a witness who will be able to testify to  
21 that. He's not a lawyer.

22 MR. LEVAR: Would you restate your  
23 question so -- for my help on the objection.

24 MR. DODGE: Yes. I'm not asking a legal  
25 question in any way.

1 Q. (BY MR. DODGE) The question is do your QF  
2 PPA contracts include a requirement for project  
3 development security posted within a certain time  
4 frame after the PPA is approved by the company,  
5 designed to secure the project performance?

6 MR. LEVAR: I think asking Mr. Link if  
7 he's aware if that's the case in standard PPA  
8 contracts is an appropriate question.

9 THE WITNESS: Contracts can vary from  
10 project to project with regard to the security  
11 requirements; so I think the question is too broad  
12 to address directly as to whether it's a yes or no.

13 Q. (BY MR. DODGE) Are you aware of any QF  
14 PPA contract the company has entered into that does  
15 not require a project development security?

16 A. Yes.

17 Q. Any in the last five years?

18 A. Subject to check, yes.

19 Q. Are you aware that the majority of them do  
20 require that?

21 A. I don't have the information in front of  
22 me to assess the exact contracts -- the volume that  
23 were executed under one versus another structure.

24 Q. Mr. Link, if you'll turn to Page -- to  
25 Line 229 -- beginning on 229 of your testimony.



1           This is just one of the places in your  
2 testimony and several times today orally you've made  
3 the statement along the lines that the Wyoming wind  
4 is a time-limited opportunity and that broadening --  
5 on Line 235 -- that broadening the RFP would create  
6 an untenable delay and potentially undermine the  
7 reliability of the RFP. Is that your testimony?

8           A.     The reference line states my testimony.

9           Q.     Can you show you us in the record any  
10 analysis that the company has done to demonstrate  
11 that there's a delay -- (a) that there would be a  
12 required delay in order to broaden the RFP to  
13 include solar? Let me stop there.

14                  Have you done any analysis that could be  
15 put in the record here to show that there would be a  
16 delay and what it would be if you had a broaden it  
17 to include solar bidders?

18           A.     We have laid out in my testimony the fact  
19 that there are specific timelines that we are trying  
20 to achieve with the proposed schedule in the  
21 solicitation. Paramount to that schedule is the  
22 requirement that we receive the notice or the  
23 conditional notice to proceed for a Certificate of  
24 Public Convenience and Necessity from the Wyoming  
25 Commission. That is fundamentally one of the most

1 time-limiting steps in the process that's described  
2 in my testimony in this proceeding, and we've laid  
3 out the rationale and the timing required to ensure  
4 that we can supplement the record for that case by  
5 January 2018.

6 As we sit here today in mid-September of  
7 2018 (sic), we're in a narrow window -- band of  
8 window to be able to complete the RFP process  
9 recognizing -- in my surrebuttal testimony this  
10 morning, we have been agreed to expand the scope to  
11 include all wind resources across our system, and  
12 we're okay with proceeding in a separate  
13 solicitation to look at solar resource opportunities  
14 in a separate process so long as those projects  
15 would provide benefits for our customers.

16 The rationale and reason behind that as  
17 noted in my testimony here is this is a time-limited  
18 opportunity for the new wind and transmission  
19 projects, and it's not one that precludes us, in  
20 fact, from pursuing other cost-effective  
21 opportunities should they be available in an RFP  
22 process that would be issued to test the market.

23 **Q. I know you don't like to use the word**  
24 **"No," but is it safe to say, no, you don't --**  
25 **haven't done the study other than what you've**

1 testified to that's in the record about the  
2 timelines you've laid down for approval?

3 A. Perhaps it would be helpful if you could  
4 clarify for me what you mean by "study."

5 Q. Well, you said that any delay that would  
6 be caused by expanding the RFP would be untenable  
7 and could risk this time-limited opportunity, yet  
8 you just expanded it now to include other wind.

9 What kind of time delay will that include?  
10 Have you studied that?

11 A. Yes. In my live surrebuttal testimony  
12 here this morning, I indicated that, if the  
13 commission approves our recommendation to expand the  
14 scope for wind, that we could issue that market --  
15 to market as soon as September 27th, 2017; so next  
16 week.

17 We have, frankly, accommodated the  
18 schedule to address that expanded scope as I noted,  
19 based off of the response we received from parties  
20 in this proceeding and really can deliver that only  
21 by compressing the time scales associated with our  
22 team's ability to receive and review those bids as  
23 part of that process. In other words, we're going  
24 to have to roll up our sleeves and work a little bit  
25 harder to still get things done by January -- early

1 January of 2018.

2 Q. And earlier you claimed that opening up to  
3 other wind in other places would created delay,  
4 because you get lots of responses, and that would  
5 put the timing at risk. Did you not?

6 A. That is -- that is correct. We were  
7 working down a planning schedule that necessarily  
8 didn't require the level of extra time required on  
9 our team to work essentially by rolling up our  
10 sleeves and working extra hours.

11 Q. So what analysis have you done as to what  
12 additional time would be required if you also  
13 expanded it to non-wind resources?

14 A. Sure. We have, as you might imagine,  
15 prepared and discussed that with my team leading up  
16 to this process, given the recommendations by  
17 parties to do just that. There are a number of  
18 elements that would be required to expand the scope  
19 of the RFP to include resources for solar. And a  
20 few examples of those are beyond just going through  
21 the RFP document itself and making sure all of the  
22 language accommodates other resource types. We  
23 would need to modify or at least review and enhance  
24 our bid evaluation scoring process to be specific to  
25 solar resources. We would also need to go through

1 and develop and refine our pro forma contracts that  
2 are included as part of the RFP. Agreements related  
3 to solar projects are not the same type of  
4 agreements that would be required, for example, for  
5 a wind project. They are specific. We would also  
6 need to go through and update and refine our  
7 technical specifications related to solar projects  
8 that could be issued for solar resources anywhere  
9 across the RFP.

10           While we haven't laid out the exact level  
11 of time that would be required to implement each of  
12 those steps, what we do know is that it would  
13 require too much time for us to achieve that scope  
14 while also delivering a final shortlist by January  
15 of 2018, which is required for us to maintain the  
16 opportunity to pursue the wind projects that will  
17 bring the benefits to customers, and I'll emphasize  
18 we'll only go forward with those projects if the  
19 benefits are there at the end of the process.

20           We can achieve the exact same efforts  
21 through a separate RFP process to look at other  
22 opportunities for solar resources.

23           MR. DODGE: Mr. Chairman, I'm going to ask  
24 that the witness be admonished to quit just giving  
25 speeches. I asked a very narrow question which was

1 "Have you done a study and presented it in this  
2 docket for the time that would be required to expand  
3 to solar?" I let him go on. The answer to that was  
4 "No," but he said they talked about it and gave an  
5 example, but now he wants to go into other areas.  
6 We're never going to finish if he just keeps  
7 repeating his speeches.

8 MR. LEVAR: I think his statement was  
9 relevant to the question. You asked -- your  
10 question was specific to a study, but then he  
11 discussed what they've done internally to informally  
12 study that issue.

13 MR. DODGE: And I didn't object to that  
14 part. It's "We're open to doing it later," which is  
15 not relevant to the question.

16 MR. LEVAR: Okay. I'll agree to that last  
17 statement. It was not relevant to the question.

18 MR. DODGE: I just want to get through  
19 this today.

20 May I approach and hand out a  
21 cross-examination exhibit?

22 MR. LEVAR: If anyone objects, let me  
23 know.

24 MR. DODGE: I'll apologize in advance that  
25 this challenges my eyes. I should have checked

1 before I had it printed out again.

2 Q. (BY MR. DODGE) Mr. Link, I'm going to  
3 start before I get into specifics of this document  
4 by asking you what is it about January 2018 issuance  
5 of your short list that puts everything else at risk  
6 of losing the time-limited opportunity for these  
7 PTCs?

8 A. That is the time horizon in which we need  
9 to supplement the record, primarily focused on the  
10 Wyoming Certificate for Public Convenience and  
11 Necessity to get the conditional approval for that  
12 CPCN application that allows us to get the rights of  
13 way to proceed with ultimately construction and  
14 development of the transmission project so that that  
15 can come online by the end of 2020.

16 Q. So that what can come online by the end of  
17 2020?

18 A. The transmission project.

19 Q. You're familiar, are you not, that the  
20 transmission project doesn't have to be done by the  
21 end of 2020 in order for the wind resources to  
22 qualify for the PTCs at 100 percent?

23 A. I am familiar that there are alternative  
24 ways to qualify projects for PTCs in that the risk  
25 profiles for the various alternatives are not the

1 same.

2 **Q. Let's walk through this exhibit.**

3 MR. DODGE: I will ask that this be marked  
4 as UAE cross-examination Exhibit No. 1.

5 MR. LEVAR: Mr. Dodge, while we're  
6 transitioning to a new topic, I wonder if this would  
7 be an appropriate time for a brief recess and give  
8 our court reporter a break and just take a brief  
9 recess --

10 MR. DODGE: Certainly.

11 MR. LEVAR: We'll take ten minutes until  
12 11:15. Any objection in the room to that? Okay.  
13 We're in recess until 11:15.

14 Thank you.

15 (Recess.)

16 MR. LEVAR: We are back on the record and  
17 Mr. Dodge.

18 MR. DODGE: Thank you, Mr. Chairman.  
19 (Off-the-record discussion about microphones.)

20 MR. LEVAR: We're back on the record.  
21 Mr. Dodge.

22 MR. DODGE: Thank you.

23 **Q. (BY MR. DODGE) Mr. Link, before the break**  
24 **I handed you what we have marked as UA**  
25 **cross-examination Exhibit No. 1.**



1           Have you ever seen this Internal Revenue  
2   bulletin?

3           A.     I don't recall if I've read this specific  
4   one.

5           Q.     If necessary, we can walk through the  
6   details in this bulletin, but I'm going to ask you  
7   whether you're generally familiar with the  
8   requirements for the wind projects you're proposing  
9   to qualify for the PTC. Right?

10          A.     I am.

11          Q.     And is it your understanding that the  
12   first requirement for qualification -- well, one  
13   requirement is that you have the right to -- and I  
14   think we'll both agree that wind is one of those  
15   facilities that qualifies. Correct? You will agree  
16   with me there?

17          A.     Yes.

18          Q.     One of the requirements for wind facility  
19   to qualify for the 100 percent of the PTC was that  
20   construction had to have begun by 12/31/2016.  
21   Correct?

22          A.     Yes.

23          Q.     And for that, that there are two ways to  
24   show that. One is to show physical work of a  
25   significant nature before that date, and another is

1 to meet a 5 percent safe harbor purchase level.

2 Is that consistent with your  
3 understanding?

4 A. Yes.

5 Q. And the company met that requirement for  
6 it's benchmark proposals -- benchmark resources --  
7 by opting for the 5 percent safe harbor.

8 Is that correct?

9 A. Correct.

10 Q. The second requirement -- is this  
11 consistent with your understanding -- is that a  
12 project owner needs to show continuous progress  
13 towards completion. Is that consistent with how you  
14 understand the requirement to read?

15 A. That's generally my understanding, yes.

16 Q. And like with the satisfaction of the  
17 first requirement for beginning construction, there  
18 are two ways to show compliance with that  
19 requirement. One, based on the relevant facts and  
20 circumstances demonstrating that you made continuous  
21 progress until you're completed; or, secondly, a  
22 safe harbor if the project is completed by 2020.

23 Is that consistent with your  
24 understanding?

25 A. That's generally my understanding, yes.

1 MR. DODGE: And I would indicate that the  
2 IRS bulletin that I handed out as cross-examination  
3 No. 1 is the source of my understanding of all of  
4 those things. Everything I've just said is in  
5 there, and I would move -- this is also cited in the  
6 footnote in Mr. Knudsen's testimony, but I move the  
7 admission of cross-x 1 so that the detail behind  
8 what we just discussed is in the record.

9 MR. LEVAR: If anyone objects to that,  
10 please indicate to me.

11 I'm not seeing any objections; so the  
12 motion is granted.

13 (Exhibit Cross-Examination 1 entered into  
14 the record.)

15 Q. (BY MR. DODGE) And, then, significantly,  
16 in my view, Mr. Link -- you don't have to agree with  
17 that -- if you'll turn to the second page of this  
18 exhibit -- cross-examination Exhibit No. 1, under  
19 Paragraph 2 -- .022, which is maybe a fourth of the  
20 way down. The paragraph begins "Excusable  
21 Disruptions." Do you see that language?

22 A. I'm reading it.

23 Q. In fact, I will go ahead and read it so  
24 it's in the record and make sure we have a proper  
25 understanding.

1           This section says "Sections 4.06(2) and  
2   5.02(2) of Notice 2013-29 provide a non-exclusive  
3   list of construction disruptions that will not be  
4   considered as indicating that a tax payer has failed  
5   to maintain a continuous program of construction or  
6   continuous efforts to advance towards completion of  
7   the facility. This notice revises that list, which  
8   remains non-exclusive and provides additional excuse  
9   excusable disruptions."

10           Did I read that correctly?

11           A.    I believe so.

12           Q.    Thank you. So this paragraph is saying if  
13   these things happen, it won't be evidence that you  
14   didn't meet the requirement to show continuous  
15   progress towards completion, and some of those  
16   include weather, natural disasters. (c) is delays  
17   in obtaining permits or licenses. (d) is delays from  
18   a federal government, and then (e) reads  
19   "interconnection-related delays, such as those  
20   relating to the completion of conduction on a new  
21   transmission line or necessary transmission line or  
22   necessary transmission upgrade to resolve grid  
23   congestion issues that may be associated with the  
24   project's plan interconnection."

25           Now, isn't it true, Mr. Link, that that

1 section (e) is exactly addressing the situation you  
2 would face if, for whatever reason, you did not  
3 complete the transmission line by 2020, but you've  
4 had the -- where you otherwise showed continuous  
5 progress on the wind projects?

6 A. I think reliance on that section of the  
7 exhibit --the IRS bulletin -- essentially assumes  
8 that we would be required at that point to move to  
9 our contingency plan to qualify our projects for the  
10 production tax credits.

11 As Mr. Dodge mentioned, there is another  
12 alternative, which is essentially the safe harbor  
13 equipment purchase, which is more of a bright-line  
14 test from the IRS. If you can demonstrate that that  
15 equipment was purchased, as we have for our  
16 benchmark resources as we are proposing in this RFP,  
17 it was a bright-line qualification for those  
18 production tax credits and will be eligible to  
19 receive them at 100 percent.

20 My understanding of relying on this  
21 component of the IRS ruling is more on a  
22 case-by-case project, where you have to demonstrate  
23 and argue to the IRS that you have, in fact,  
24 maintained the continuous construction efforts in  
25 light of these potential delays, but there's no

1 guarantee that the IRS will rule favorably that you  
2 have managed and met your PTCs if you are relying  
3 solely on this. It is not the bright-line test that  
4 we are pursuing.

5           And so while I think that is a possibility  
6 that the projects could qualify for production tax  
7 credits at 100 percent value if delays were moved  
8 into, say the -- beyond the end of 2020, the risk  
9 profile is now substantially different from what  
10 we're proposing in the projects; and we typically  
11 don't want to go to our contingency plan right out  
12 of the box, especially when you can achieve what it  
13 is that's being proposed by issuing an RFP that  
14 explores additional opportunities in a separate  
15 process.

16           **Q. Mr. Link, let's explore that again,**  
17 **because now our understanding is (inaudible.)**

18           **First of all, let's start with the safe**  
19 **harbor 5 percent purchase. That addresses the first**  
20 **requirement for qualification for 100 percent PTCs,**  
21 **and that is the commencement of construction**  
22 **12/31/2016. Correct?**

23           **A. Correct.**

24           **Q. There's no dispute that you've met that**  
25 **one.**

1           Now, the second requirement is that you  
2           have to show continuous progress towards completion.  
3           That's the standard, and it can be shown either by  
4           showing by the facts and circumstances that you meet  
5           it or by completing the wind projects and placing  
6           them in service by the end of 2020. Correct?

7           A.       That's my understanding.

8           Q.       So if you were to complete the wind  
9           projects and place them in service, let's say, with  
10          an ER interconnection into the transmission line  
11          because the upgrade hasn't been completed, you  
12          mentioned still meet the 2020 safe harbor, and the  
13          only delay associated would be to get all of the  
14          PTCs once you're able to deliver on a firm base.

15          Isn't that true?

16          A.       I think my understanding is that you start  
17          construction through the safe harbor purchase by the  
18          end of 2016, as Mr. Dodge noted, the company has  
19          done towards benchmarks that qualified under that  
20          program and achieve a commercial operation date by  
21          the end of 2020. That's more of bright-line  
22          assessment.

23                    If there were delays that require you to  
24          go beyond that 4-year construction window, beyond  
25          when the safe harbor purchase was made at the end of

1 2016, that is less of a bright-line test that does  
2 require IRS review and the company to then  
3 demonstrate that it was able to satisfy the  
4 requirements that achieve commercial operation and  
5 therefore introducing a risk around one of the key  
6 benefit drivers of the requirement.

7 **Q. The point is construction of what by 2020?**  
8 **The safe harbor is completion of the wind project.**  
9 **Do you have any doubt between now and the end of**  
10 **2020 you can complete all the wind projects, even if**  
11 **the process were delayed by a few months to**  
12 **accommodate if that were necessary -- to accommodate**  
13 **a solar RFP or an all-renewable RFP?**

14 A. I'm not confident per se or not sure as I  
15 sit here today that we would be able to meet the IRS  
16 qualification criteria for those wind projects if  
17 they were not able to get online by the end of 2020.

18 **Q. The transmission line is there. Right?**

19 A. Today?

20 **Q. Yes.**

21 A. The transmission line is not there.

22 **Q. There is a transmission line there today,**  
23 **but what could be interconnected to? Right?**

24 A. No. It would not.

25 **Q. With an ER interconnection?**



1 A. No, it cannot.

2 Q. You could not interconnect with existing  
3 transmission lines that you have?

4 A. That's correct.

5 Q. I can address that separately.

6 But so we understand your explanation  
7 here, then, to this commission is that the  
8 time-limited delay is driven by the fact you are not  
9 confident you can show that you would continuously  
10 proceed with this project if a delay is caused by  
11 the transmission line, notwithstanding this IRS  
12 guidance?

13 A. Yes. My response to your question and  
14 summary is that there's no reason to move to a  
15 contingency plan for PTC qualification due to  
16 delaying an RFP process, let's say, by a couple of  
17 months or whatever that may be to accommodate  
18 additional resource technologies which can be  
19 achieved without inserting any of that risk through  
20 a separate process.

21 Q. Well, let's address that.

22 What if -- is there a possibility, even if  
23 you don't believe it's accurate, that other  
24 projects, whether it be Wyoming -- excuse me --  
25 Idaho solar projects or wind projects -- well, I

1 won't say "wind" because you meet the standard --  
2 Oregon solar projects, Utah solar projects, New  
3 Mexico solar projects -- is there a chance that some  
4 of those resources on the straight-up analysis will  
5 come in lower than your projected cost.

6 MS. HOGLE: Objection. Calls for  
7 speculation. I mean, he would have to do the  
8 analysis.

9 MR. DODGE: It doesn't require for  
10 speculation to say whether there's a chance that  
11 could exist.

12 MR. LEVAR: I think we'll allow Mr. Link  
13 to answer whether -- to the extent of his knowledge.

14 THE WITNESS: Yeah. I think it's -- to  
15 answer that question, I think I have to clarify what  
16 the company's proposing. And that is, we're only  
17 pursuing projects that will provide net benefits --  
18 projects that are going to reduce rate pressure for  
19 customers; and so whether it's not a question of  
20 whether or not a solar project in New Mexico or  
21 Oregon can be delivered at a lower cost than the  
22 projects we're pursuing and proposing through this  
23 RFP. It's really whether or not they can be  
24 procured or pursued with the same type of overall  
25 benefit that we're providing to our customers; so

1 it's a value stream associated with these assets,  
2 and there's a cost stream, and what we're saying is  
3 the benefits exceed the cost.

4           And so if there are additional  
5 opportunities to test the market for projects that  
6 can deliver all the net benefits -- lower rate  
7 pressure for our customers -- we can pursue that  
8 through a separate proceeding; and it's not a  
9 question, as I mentioned earlier, of whether or not  
10 we can -- we should do something other than the  
11 projects we're proposing. To test the market  
12 concept is a matter of whether or not there are  
13 other opportunities in addition to the projects that  
14 we're proposing; and we can proceed down that path  
15 in a separate process without jeopardizing the  
16 opportunity that's in front of us today for the wind  
17 projects that we're seeking to pursue.

18           **Q. (BY MR. DODGE) Mr. Link, your entire**  
19 **supposition there is hinging on the notion that this**  
20 **wind resource will start with the most economical**  
21 **option available, and then we can take other**  
22 **economical options too.**

23           **What if -- and you acknowledge this was a**  
24 **possibility -- what if there are other resources out**  
25 **there that would be disclosed by an all-renewable**

1 RFP that showed that more benefits and less risk  
2 would come to customers than with your wind  
3 proposal? That won't be disclosed in the 40 Docket  
4 analysis unless we get those bids in the door, will  
5 it?

6 A. I think what we're proposing is that if  
7 there are more benefits, we can do those too.

8 Q. But you want to start with the assumption  
9 that yours is the lowest cost, and you haven't  
10 tested that market yet. What if it's not?

11 A. To clarify, I'm not referencing cost. I'm  
12 suggesting --

13 Q. Benefits.

14 A. -- that the project provides benefits, and  
15 as long as those benefits exceed the cost of the  
16 project, that is something that we need to bring  
17 forward and pursue.

18 Q. Let me put it --

19 A. Parties can review that through dependency  
20 of the other proceeding, but this is not a question  
21 of an --

22 Q. Now -- and there I challenge them, and I'm  
23 going to ask you to use a simple analysis with me --  
24 a simple hypothetical.

25 Let's assume that all in the analysis that

1 is done by this commission and the 40 Docket shows  
2 that the benefits to customers are -- and I'm going  
3 to make up a number -- 50. Those are the benefits  
4 to customers; so you're saying "Approve it. Look,  
5 there are benefits to customers. Approve."

6 What if an all-renewable RFP produced a  
7 set of resources that would have produced that same  
8 benefit analysis showing 100? Now, you're saying,  
9 "Well, we can pursue them again. We can pursue that  
10 100, but let us do the 50 too." But there's only so  
11 much resources you need, and it will be shown to be  
12 economical. Isn't that accurate?

13 A. I'm suggesting that, in that hypothetical,  
14 it would be beneficial for customers to experience  
15 \$150 million benefit as opposed to a 50.

16 Q. No, I understand that. But when you do  
17 the first one -- so you have add 1200- plus  
18 megawatts of new resources into your system.

19 What is the analysis going to look like  
20 for the next 1200 megawatts? The value will be  
21 lower. The value proposition to customers will be  
22 lower, because now you're not displacing these  
23 front-market transactions. You are having to back  
24 down wind resources you just added. The economic  
25 analysis isn't -- has to be comparing each other or

1 **there's no comparison. Isn't that accurate.**

2 A. I don't think that's the case. I think  
3 there's sufficient need on our system. As I  
4 mentioned in my summary of the testimony, I  
5 highlighted that the 2017 agreement resource plan  
6 shows a need in that, the wind resources were  
7 proposing a part of our least-cost and least-risk  
8 plan to fill that need.

9 Q. The need up until the time you guys  
10 changed the RFP after the public process was over  
11 showed only a need of front-office transactions and  
12 renewable. Correct?

13 A. No.

14 Q. And a few megawatts of wind in Wyoming  
15 without transmission. Right?

16 A. No.

17 Q. Well, I'm not going to get into detail of  
18 that. We can go through that, if you want. It did  
19 not show a need for 1200 megawatts on wind hearing  
20 up until you submitted your post-public hearing  
21 analysis for the first time. Right?

22 A. It did. I'm going to clarify. What I was  
23 talking about was --

24 Q. I missed that --

25 A. What I'm talking about is the need, not's

1 what's being used to meet the need; so the RFP shows  
2 a need for resources. What the RFP is designed to  
3 do is to evaluate what kind of resources can be used  
4 to fill that need that you've identified on a  
5 least-cost, least-risk basis. What I'm suggesting  
6 here is that we have a need for resources,  
7 essentially in the very first years of the IRP.

8 We assume there's availability of  
9 front-office transactions or market purchases that  
10 can be in place in the IRP. These wind resources  
11 that we're proposing come online and defer those  
12 purchases. They're offsetting those resources --  
13 those markets purchases -- and the all-in cost of  
14 that new project for wind and the transmission, net  
15 of the benefits, is lower than the alternative of  
16 relying on those market purchases. We enabled  
17 upwards of 1670 megawatts of capacity from  
18 front-office transactions. Now, on the surface, it  
19 may seem like 1100 megawatts of wind is a pretty  
20 good, significant chunk of that 1670 megawatts.  
21 However, the wind resources, or solar resources, or  
22 other renewable technologies in an IRP only  
23 contribute a percentage of their name-plate capacity  
24 to what we call our planning capacity.

25 So, for example, on the 1100 or so

1 megawatts of wind, as a 15 percent capacity  
2 contribution, that equates to roughly 174 megawatts  
3 capacity, subject to check on multiplying 15 percent  
4 times 1100.

5           If you assume that there are 1670  
6 megawatts capacity on the system that come to the  
7 front-office transactions, there's sufficient need  
8 to cover what we're proposing, and any additional  
9 resource procurement to help build and offset those  
10 purchases in the market that can be achieved through  
11 a separate process.

12           Fundamentally, it's all about not  
13 jeopardizing the opportunity that's in front of us  
14 today.

15           **Q. Let me ask it this way, Mr. Link. You are**  
16 **resisting this.**

17           **If we were to do the identical economic**  
18 **analysis you ran in this -- in the 40 Docket and**  
19 **that you referenced in this docket showing net**  
20 **benefits to customers, if you were to run that**  
21 **identical analysis with another 1200 mega watts of**  
22 **wind or solar anywhere on your system with the exact**  
23 **same cost characteristics that you are proposing for**  
24 **your wind resources, would the analysis be exactly**  
25 **the same?**



1           A.     Again, I'll go with net benefit analysis.  
2     If that additional 1200 somewhere else on the system  
3     --

4           Q.     No. No. I'm -- would the -- I'm saying  
5     would the economics of the next 1200 megawatts, if  
6     its cost characteristics were identical, be  
7     identical -- would show the identical benefits  
8     you've shown in this docket, and in 40, once you've  
9     added 1200 more megawatts of wind that are not  
10    deferrable without backing down to zero-cost  
11    resources, would the economic analysis be the same?

12          A.     Not necessarily.

13          Q.     Well, not -- it would necessarily not be  
14    the same, would it not? And let's be honest here.  
15    Would it not necessarily be different?

16          A.     Not perhaps for the reason I think you  
17    might be suggesting. There are different -- beyond  
18    costs, there are different performance  
19    characteristics of assets across the system.

20          Q.     Assume they are the same -- identical.

21          A.     So I'm going to -- just can I confirm the  
22    question?

23          Q.     Yes.

24          A.     You're asking me to assume a hypothetical  
25    scenario for 1200 megawatts of 42 percent capacity

1 factor winds adding in more.

2 Q. Let's say we added in Wyoming. Let's say  
3 that analysis shows by spending another \$700 million  
4 on transmission, we can net another 1200 megawatt of  
5 identically priced and sourced wind that will meet  
6 the PTC.

7 When you analyze that second (inaudible)  
8 of 1200 megawatts, the economics are necessarily  
9 going to be different if you assume the first one is  
10 already in place. Correct?

11 A. They're going to reflect the combined  
12 larger project at that point.

13 Q. No. Not combined. It's two different  
14 projects.

15 You now take one as a done deal, and now  
16 you're analyzing the next project, because that's  
17 what you're proposing for this solar.

18 A. From an analytical perspective, it's one  
19 project, and so it would produce whatever the  
20 results are given the cost inputs and the benefits  
21 from that hypothetical simulation, and if it  
22 produced net benefits, we would proceed down that.

23 Q. That isn't the question. I guess you're  
24 not going to give me an answer, but if you take the  
25 resources you are doing now as fixed in your plan,

1 they are there. Pretend their built; and then you  
2 analyze the economics of adding another 1200  
3 megawatts of identically priced and sourced wind  
4 onto a new transmission line at the exact same  
5 price. The economics for that second project would  
6 necessarily change, because you changed your  
7 resource stack. You've now added zero-cost wind  
8 resources that you are not going to defer. You're  
9 going to be deferring something else.

10 MS. HOGLE: Objection. Asked and  
11 answered.

12 And Mr. Dodge is testifying again.

13 MR. LEVAR: I think --

14 MS. HOGLE: He's asked the same question.

15 MR. DODGE: I keep hoping to get an  
16 answer.

17 MR. LEVAR: I think the question has been  
18 asked and answered. I think the point is made on  
19 this question.

20 I don't see a reason to force Mr. Link to  
21 answer in additional ways.

22 MR. DODGE: Okay. I will move on.

23 Q. (BY MR. DODGE) If this commission were to  
24 determine that it's in ratepayers' interest to know  
25 that the initial resources we get are the lowest

1 cost, or if the commission were to determine that's  
2 actually required by Utah law, one could reasonably  
3 say, "We will take the risk of what you perceive as  
4 a risk of not getting the transmission done in time  
5 in exchange for knowing for a certainty that the  
6 resources were acquired at the lowest cost."

7 Would you not agree that would be a  
8 reasonable conclusion?

9 A. I don't agree. In fact, in my surrebuttal  
10 testimony that I presented here live this morning, I  
11 stated that, by expanding the scope of the RFP to  
12 include all wind across the system, we are expecting  
13 that that will allow the lowest reasonable cost  
14 resources to respond to the solicitation.

15 Q. As long as it's not solar. Solar happens  
16 to be the lowest cost. We won't know that, will we?

17 MS. HOGLE: Objection. Argumentative.

18 MR. DODGE: I'll move on. I apologize.

19 Q. (BY MR. DODGE) Mr. Link, PTCs are  
20 attracted to the utility, because it comes with the  
21 -- it comes with the production tax credit, but it  
22 allows the utility to build -- put in rate base that  
23 will defer purchases with no return.

24 Is that a fair statement?

25 A. PTCs are --

1 Q. The wind facilities with PTCs.

2 A. Yeah. PTCs are actually a benefit to our  
3 customers, because those get passed the credits --

4 Q. I understand.

5 Compare -- there are ITCs for solar  
6 resources. Right?

7 A. That's my understanding.

8 Q. And with an ITC -- a solar resource -- as  
9 soon as you are completed, there's a 30 percent  
10 reduction immediately to ratepayers -- correct? --  
11 if you were to build them, and if you were to  
12 qualify for the ITCs.

13 A. I don't believe that's correct.

14 Q. The ITCs are in the form of an investment  
15 tax credit for 30 percent of the construction cost.  
16 Right?

17 A. Its implications on rate base are  
18 different than an initial up-front credit of 30  
19 percent level.

20 Q. Depending on who built it, but in any  
21 event, the resulting net cost to the developer is  
22 30 percent lower with an ITC than with a PTC,  
23 because of that production tax credit. Right?

24 A. That's my understanding.

25 Q. And there's no risk to customers of the

1 ITC. It's granted the day that the project is  
2 completed and put into service, or it's -- you're  
3 eligible from that point. There's no chance of  
4 losing. Right?

5 A. I don't know for certain.

6 Q. With the PTC, the risk is just to the  
7 ratepayer, is it not? For whatever reason your wind  
8 is not producing like you project that it will -- if  
9 it goes down and something goes wrong with it --  
10 those credits only come if -- as wind kilowatt hours  
11 are different. Right?

12 A. PTC credit is assigned to the volume of  
13 generation from a wind facility.

14 Q. Does that explain why the company is more  
15 interested in wind than solar?

16 A. No.

17 Q. Because of rate-basing implications?

18 MS. HOGLE: Objection. Argumentative.

19 Beyond the scope.

20 MR. LEVAR: Do you want to respond to the  
21 objection?

22 MR. DODGE: Pardon?

23 MR. LEVAR: Do you want to respond to the  
24 objection?

25 MR. DODGE: I don't understand it.

1 I'm asking him is that a reason that they  
2 prefer wind to solar, and he hasn't answered it yet.  
3 I guess I don't understand what the objection is.

4 MR. LEVAR: I think it's a relevant  
5 question to answer it within the scope of your  
6 knowledge or opinion.

7 THE WITNESS: No. And the company doesn't  
8 have a preference for solar over wind. We're  
9 indifferent to the type of resource. What we have  
10 an interest in is pursuing projects that deliver  
11 benefits for our customers.

12 What we're proposing, in fact, is to test  
13 the market and explore opportunities to deliver just  
14 that; and so we're exploring a wind RFP, conditioned  
15 on executing agreements only if those projects  
16 deliver benefits, and we're perfectly fine with  
17 pursuing a solar RFP if those projects can  
18 demonstrate definite benefits for customers.

19 So I take issue with the assumption that  
20 we have a preference for wind over solar. It's all  
21 about timing and making sure that we have the  
22 opportunity, fundamentally, to produce benefits for  
23 our customers.

24 Q. (BY MR. DODGE) And yet you're mightily  
25 resistant to the notion that your customers want you

1 to do, and that is, check the market for other  
2 resources too. You resist that. Right?

3 A. We're offering to --

4 Q. Not at the same time. You say, "Only if  
5 you give us what we want, we will look at what you  
6 want you want."

7 You keep saying you represent the  
8 customers, sir. Is there one customer group in your  
9 six-state territory that's going to favor this  
10 project yet? Do you know of one.

11 A. Off the top of my head, I'm not certain.  
12 I guess the review process is ongoing in multiple  
13 jurisdictions, and I don't think it's concluded  
14 anywhere at this point in time.

15 Q. Customer representatives in Oregon  
16 unanimously asked you to open it up to other  
17 resources, did they not?

18 A. Can you clarify who you mean by "customer  
19 representatives"?

20 Q. CUB. ICNU (phonetic)?

21 A. Citizens Utility Board did not comment at  
22 all on the specific orders.

23 Q. ICNU (phonetic)? EMA (phonetic)?  
24 Commission staff?

25 A. I can't recall their exact arguments. If



1 you, presented it --

2 Q. They both argued to open it up to  
3 non-wind-only resources, did they not? Open it up  
4 beyond wind?

5 A. And the commission -- Oregon Commission  
6 approved the RFP as we proposed it.

7 Q. No, I understand that. But you're sitting  
8 here purporting to talk to customers, and I'm saying  
9 your customers don't agree with you, do they? The  
10 office and the UAE here -- do you have any customer  
11 groups that have said, "Yeah, we think it's a great  
12 idea to keep a perspective"?

13 A. When I'm making reference to customer  
14 benefits -- calculating our revenue requirement --  
15 and that rate pressure goes down with the projects  
16 that we're proposing.

17 Q. And they might go down further?

18 A. We're suggesting that they would.

19 Q. We've been there. We've been there. I  
20 don't want to go back.

21 You testified this morning recognizing  
22 that the economics of this project is not per se at  
23 issue in this document, you responded to those  
24 including UAE, who have argued that the benefits  
25 here are speculative, and you took umbridge with

1 that.

2 There are risks, are there not, associated  
3 with your -- the receipt of the benefits you're  
4 projecting for customers for your project?

5 A. Absolutely. There are risks with any  
6 investment that would be made for a project that has  
7 an operating life of 30 years or so going forward.  
8 In fact, fundamentally that's precisely why we run a  
9 bunch of scenarios and do risk analysis to determine  
10 cost and benefits relative to those risks.

11 Q. The risks include the possibility of cost  
12 overruns. Right?

13 A. Potentially.

14 Q. What if the U.S. were to drop the  
15 corporate tax rate to 20 percent? Would that affect  
16 the economic analysis that you would do for this  
17 project?

18 A. I don't know that we performed that  
19 particular analysis.

20 Q. And that concerns me. You know, our  
21 congress and president are talking about that today  
22 as we speak, basically. Right? They're talking  
23 about a 20 percent reduction in the corporate tax  
24 rate.

25 A. And I go back to my opening comments, and

1 what we're asking the commission to approve here  
2 today is the approval of the RFP and whether it's in  
3 the public interest. Prudence review around the  
4 risks, outcomes of the RFP will (inaudible).

5 Q. And yet you're the one who tried to  
6 respond by saying the risks are not speculative.

7 My point is simply they are speculative in  
8 the sense that you're assuming -- the analysis you  
9 used assumes a much higher tax rate than what could  
10 be the case in the future.

11 A. And if we have that information before we  
12 get to the place in this project where we are  
13 executing agreements, we have an opportunity to  
14 pivot. A resource acquisition proposal -- the RFP  
15 is not a commitment to acquire.

16 Q. I'm trying to point out you resisted the  
17 notion that customers think that these risks are  
18 somewhat speculative and risky. I'm trying to say  
19 there are risks that customers have a legitimate  
20 interest in knowing about. What if gas rates stay  
21 very low and there's no CO2 tax? Your own analysis  
22 shows that this will not produce benefits under that  
23 scenario. Correct?

24 MS. HOGLE: Objection. Mr. Link has  
25 already acknowledged that there are risks. I

1 believe he's already responded to that question of  
2 risk.

3 MR. LEVAR: And I think I'll say  
4 generally, I think we are having a fair bit of  
5 repetition, but I think that last specific question  
6 on gas prices and CO2 tax is a new discrete  
7 question; so I think that's an appropriate question,  
8 but I do think, generally, we're having some  
9 repetition.

10 THE WITNESS: Yes. So our economic  
11 analysis identifies that there are risks. Like I  
12 said, it's why we study different scenarios, and, in  
13 fact, across the scenarios we looked at, nine of  
14 them in aggregate from price of CO2 policy  
15 perspective, seven out of the nine of those produced  
16 net benefits for customers.

17 So a conclusion to this is that, yeah,  
18 there are risks, but those risks are manageable, and  
19 that the benefits outweigh those risks. We are more  
20 likely -- we are more likely than not to exceed  
21 benefits from this project, and the risk profile  
22 changes over time.

23 Q. (BY MR. DODGE) I recognize that's your  
24 opinion.

25 The company also gets significant benefits

1 from spending two and a half billion dollars in  
2 rates. Right?

3 A. What do you mean by "benefits"?

4 Q. Increased rate base, increased return on  
5 those rates. That's a benefit to the company, is it  
6 not?

7 MS. HOGLE: Objection. Beyond the scope.  
8 He's talking about returns. Mr. Link did not  
9 testify. There's nothing in his testimony about ROE  
10 or anything like that. It's an inappropriate line  
11 of questioning.

12 MR. LEVAR: Mr. Dodge, can you point to  
13 where in the scope of his testimony that issue is  
14 raised?

15 MR. DODGE: Yeah. My point is he's  
16 repeatedly said this produces benefit for customers  
17 and pretending that there's not something in this  
18 for the utility. That's basic economics 101.

19 MR. LEVAR: Has he testified that there's  
20 not a benefit to the utility?

21 MR. DODGE: No. But I'm asking if there  
22 is, and he's resisted -- she's resisting and won't  
23 even answer.

24 MR. LEVAR: The question kind of goes  
25 without saying, though, doesn't it?

1 MR. DODGE: It does. But I guess I get  
2 tired of people purporting to look out for customer  
3 interest when I don't think they are, and so I want  
4 to get at they're also benefiting. And that's --

5 MR. LEVAR: In terms of the objection, I  
6 will think about this.

7 Q. (BY MR. DODGE) Mr. Link, I don't think in  
8 your testimony -- and excuse me if I'm wrong -- you  
9 addressed an issue that UAE raised in its testimony  
10 about eliminating the disqualification of bidders  
11 that are in litigation with the company.

12 First of all, is it -- it is your intent,  
13 as I understand it, to change that requirement  
14 consistent with what the Oregon Commission ordered.  
15 Is that right?

16 A. That's correct.

17 Q. And the Oregon Commission -- I will try  
18 and paraphrase -- and you tell me if you disagree  
19 with it -- basically said, "We're going to change  
20 the threshold to \$5 million, and we're going to  
21 require you to go through the Oregon IE before you  
22 disqualify (inaudible)."

23 Is that a reasonable summary?

24 A. Yes.

25 Q. Why do you have a threshold at all? Why

1 is litigation with the company something that would  
2 disqualify a bidder who might produce lower prices  
3 for ratepayers?

4 A. It's -- I think it's a general protection.  
5 Because we get to choose, essentially, who we might  
6 want to do business with. Accounting for all the  
7 factors around the projects or the nuances of the  
8 litigation that might be at play in any given  
9 instance, but fundamentally there's inherit risk in  
10 doing business with potential counter parties that  
11 are known to be litigious and choosing to pursue  
12 litigation against the company in any number of  
13 forums.

14 I would highlight that, as of -- at least  
15 at the time we were in front of the Oregon  
16 Commission, there is no party with litigation in  
17 front of the company as it stands at that point in  
18 time. I haven't checked to see if, in the last few  
19 weeks that's changed.

20 Q. So you're representing that, as of today,  
21 unless a lawsuit's been filed in the last few days,  
22 there's nobody who would be disqualified by this  
23 requirement?

24 A. That's my understanding.

25 Q. So those who are currently in litigation

1 with you before a public service commission is over,  
2 tariff interpretation contract bites -- those don't  
3 fall within this restriction?

4 A. We're looking at litigation separately  
5 from issues around safe complaints of commissions.

6 Q. Litigation seeking monetary damages in  
7 excess of \$5 million -- is that how you interpret  
8 it?

9 A. That's my understanding.

10 Q. And will you agree -- UAE's  
11 recommendation, just so we're clear, is that be  
12 eliminated, because although that may be a risk to  
13 the company, you are shifting that risk to customers  
14 that we don't get a lower bid.

15 But in an any event, if the commission  
16 choses to leave that restriction in, are you  
17 representing that the same conditions that apply to  
18 Oregon would apply here, including working with the  
19 Utah independent evaluator to evaluate any potential  
20 disqualifications for litigation?

21 A. Yes.

22 Q. And then, finally, you testified earlier  
23 that you heard, generally, about concerns by solar  
24 developers recording solar panel tariffs.

25 Have you also heard developers complain



1 about delays in PacifiCorp's transmission system  
2 impact study and interconnection process that's  
3 causing them to have -- be a risk of meeting their  
4 commercial operation dates under the PPAs?

5 A. I'm generally aware, while I'm not part of  
6 the PacifiCorp transmission team per se, that there  
7 is a high volume of interconnection requests that  
8 they -- that team is working through to produce them  
9 as fast as they can.

10 Q. And you today said that you're willing to  
11 relax that requirement, that it only be underway by  
12 the time bids are submitted.

13 What about the requirement for when it's  
14 done? This is no more within a bidder's control  
15 than anything. It's completely within PacifiCorp  
16 transmission's control -- whatever control they have  
17 within the constraints of that -- how are you going  
18 to deal with that issue that, if the process begins  
19 but PacifiCorp transmission delays cause additional  
20 delays in project development, how are you going to  
21 deal with that?

22 A. Any definitive agreement that we'll  
23 execute as a result of the RFP will have conditions  
24 to ensure that all of transmission arrangements,  
25 whether they be through interconnection transmission

1 service, are met consistent with the proposal at the  
2 time; so we're not requiring the process to be  
3 necessarily completed, only that they're finished  
4 prior to any close of any definitive agreements  
5 prior to that result from the RFP process.

6 Q. And what time frame does that provide in  
7 terms of when you hope to have definitive agreements  
8 from the process?

9 A. We are looking to execute agreements -- I  
10 think it's in April of 2018 -- and closing will be  
11 dependent upon the actual winners of the final short  
12 list of bids in the process.

13 Q. One final area, and I apologize to the  
14 commissioners. I know I've taken more than my fair  
15 share of the time here.

16 But you have today indicated that you are  
17 opening up -- willing to open up the RFP to wind  
18 resources, at least, that do not deliver into your  
19 Wyoming Gateway D2 segment and its associated  
20 transmission facilities. Right?

21 A. Yes.

22 Q. How will the transmission costs -- the  
23 costs for those bidders to get power to the  
24 PacifiCorp system be charged against those bids? In  
25 other words, how will you deal with the cost of

1 transmission to get it to the PacifiCorp system be  
2 dealt with in those bids?

3 A. It would be specific upon what the bidders  
4 propose in terms of their documentation with their  
5 proposal; so if there are any available system  
6 impact studies proposed with those bids, we would  
7 look to those analyses to identify any of the costs  
8 associated with the project, whether those be for  
9 integration or connection transmission service or  
10 interconnection, and we'll require the bidders to,  
11 just like we are for all proposals, identify the  
12 difference between any direct assignment of network  
13 upgrade costs assumed within their proposal.

14 Q. With the benchmarks, if I understand your  
15 proposed RFP and evaluation correctly, you do not  
16 propose to include the cost of new transmission  
17 segments required to deliver the benchmarks to the  
18 transmission line -- to the new transmission line --  
19 until you get to the short list of (inaudible).

20 Is that a correct statement?

21 A. The network upgrades required to get the  
22 projects -- or the transmission compliant to get the  
23 projects essentially to the Aeolus to Bridger line  
24 will be incorporated into the analysis. The broader  
25 transmission project -- the Aeolus to Bridger

1 transmission investment will be incorporated into  
2 the final short list when all wind projects that  
3 require that very line to interconnect will be  
4 assigned to the entire portfolio, and we're  
5 assessing whether or not the -- in aggregate, the  
6 project provides the net benefit to customers that  
7 we're targeting.

8 Q. So two levels I need to understand there,  
9 again.

10 So if I'm a wind developer bidding  
11 somewhere else on your system, you're saying, if  
12 there are network upgrades required for the  
13 interconnection, you want to know that, and that  
14 will, presumably, be charged as part of the cost or  
15 require the bidder to bear it -- right? -- in your  
16 analysis. Correct?

17 A. Correct.

18 Q. When you're doing your benchmark  
19 resources, one of your benchmarks requires an X-mile  
20 230 KB line that doesn't currently exist to get to  
21 the new D2 segment.

22 Will those costs be included in the  
23 benchmark analysis prior to short-listing?

24 A. As part of the short-list process, yes.

25 Q. No. Prior to short list; so in other

1 words, you'll be comparing -- before determining the  
2 short list, you'll add those costs into the  
3 benchmark cost?

4 A. Yes.

5 Q. And then what you're saying is if -- but  
6 you're not going to add to those that do connect to  
7 the D2 line additional costs for that line until you  
8 do the overall analysis.

9 But how does that, then, show a fair  
10 comparison with people that deliver somewhere else  
11 that don't require the construction of that line?

12 A. We'll have to look at the projects as they  
13 come in. At this stage, I don't know what type of  
14 bids are going to come into the system. That kind  
15 of answer really requires us to know exactly where  
16 they're interconnecting. Are they connecting  
17 through a third-party transmission provider? Where  
18 are they delivering their output to our system  
19 across the broad transmission system that we have to  
20 establish what type to costs to assign the project?

21 And I'll highlight that we will work and  
22 coordinate and ensure that those costs are reviewed  
23 internally and also with the independent evaluator  
24 before we lock any of those in to process them.

25 Q. So if there were a set of bids that could

1 completely displace the need for the new  
2 transmission line in Wyoming, you're saying that  
3 will be taken into account in comparing the bids  
4 that are and are not delivering to the D2 segment?

5 A. Our intent is to take into account all of  
6 the transmission cost comparatively for any resource  
7 bid that's proposed into the RFP.

8 Q. Okay. Thank you. Appreciate your  
9 indulgence.

10 MR. DODGE: I have no further questions.

11 MR. LEVAR: Okay. Thank you, Mr. Dodge.

12 Ms. Barbanell?

13 MS. BARBANELL: Thank you.

14 EXAMINATION

15 BY MS. BARBANELL:

16 Q. I have one question.

17 So given your answer to Mr. Dodge's  
18 question about litigation and clarification that you  
19 made that it is intended really only to address the  
20 (inaudible), are -- is PacifiCorp willing to make  
21 that clear in the RFP? As it's currently written,  
22 it's unclear what it applies to; so with that  
23 clarification, is that something you are prepared to  
24 make that that does not apply to complaints before  
25 the PSC?

1 A. I think we can do that.

2 Q. **Thank you.**

3 MS. BARBANELL: Nothing further.

4 MR. LEVAR: Okay. Thank you.

5 Any redirect, Ms. Hogle?

6 MS. HOGLE: I wonder if now would be a  
7 good time to take a lunch break. I don't know how  
8 long my redirect is going to be.

9 MR. LEVAR: Okay. I think that be  
10 appropriate, then. We can reconvene at 1:00  
11 o'clock. I think we'll go to redirect at that  
12 point.

13 Just to let everybody know, I think the  
14 next thing we'll do is speak with Mr. Oliver.

15 I assume you'd like to get your testimony  
16 in this docket on the record in answering questions  
17 any of the parties have.

18 Is that a safe assumption?

19 MR. OLIVER: Yes. I have a constraint  
20 too. I have to leave tomorrow morning very early.

21 MR. LEVAR: Okay. Well, I think we'll  
22 plan, then, to go to you as soon as we're finished  
23 with everything with Mr. Link and then go forward  
24 from there.

25 Thank you.

1 So we're in recess until 1:00 o'clock.

2 (Lunch recess.)

3 MR. LEVAR: Okay. We are back on the  
4 record.

5 I'll just comment -- just had a  
6 conversation with the court reporter. It is  
7 important for us to have a good transcript of this  
8 proceeding. The transcript cannot recognize two  
9 people talking at once; so we need to make sure we  
10 don't talk over each other.

11 Also, there's some of us --I think I'm at  
12 the top of this list -- I have a tendency to trail  
13 off at the end of a sentence; so let's try not to do  
14 that so that our transcript be accurate. That is  
15 important for a lot of reasons.

16 And at this point, I think we're to Ms.  
17 Hogle for redirect of Mr. Link.

18 MS. HOGLE: Thank you.

19 FURTHER EXAMINATION

20 BY MS. HOGLE:

21 Q. Mr. Link, do you recall Mr. Moore's series  
22 of questions about Oregon's conditional approval,  
23 noting in particular the December 2017 date?

24 A. Yes.

25 Q. And so, to your knowledge, is Oregon's



1 conditional acknowledgement delay issuance of the  
2 2017R RFP?

3 A. No, it does not.

4 Q. Okay. Mr. Dodge questioned you about the  
5 EverPower complaints. Do you recall that line of  
6 questioning?

7 A. Yes.

8 Q. And he asked you about in particular  
9 pricing and project deliverability for the EverPower  
10 wind projects. Right?

11 A. Yes.

12 Q. And is it your understanding that the  
13 testimony he was crossing you on was about solar  
14 project pricing. Is that correct?

15 A. That's correct.

16 Q. Okay. And so is the pricing of wind  
17 comparable to the pricing of solar?

18 A. No. The two types of resources get  
19 completely different types of pricing based off  
20 their resource attributes.

21 Q. And do both of the cases that Mr. Dodge  
22 brought up -- and those would be the EverPower and  
23 sPower -- involve QF projects?

24 A. Yes.

25 Q. In your experience, is execution of a PPA

1 a reliable predictor of whether a QF will achieve  
2 commercial operation -- the QF project?

3 A. No, not necessarily. There are many QF  
4 projects. I think I said -- I may have indicated  
5 earlier where they execute a PPA and they never  
6 achieve commercial operation.

7 Q. Later on, Mr. Dodge questioned you about  
8 studies and showing that any solar to the RFP would  
9 make the timeline untenable. Do you recall that?

10 A. Yes.

11 Q. Do you know how many megawatts of solar  
12 projects are in the company's interconnection queue?

13 A. Not so much around the interconnection  
14 queue. I am familiar with the solar projects in the  
15 qualifying facilities where pricing queue --  
16 certainly in that arena there's -- I don't have the  
17 exact number. I'm confident in saying it's over  
18 4,000 megawatts.

19 Q. So let's assume that all of those projects  
20 or maybe just even half of them bid into the RFP --  
21 or ARP.

22 How much additional time would it take for  
23 your group to analyze those bids?

24 A. You know, subject to up to further  
25 validation, but at a high level, it would probably

1 at least add a month and a half to two months of  
2 evaluation time to process all of the individual  
3 projects in, say, that pricing queue.

4 **Q. Thank you.**

5 MS. HOGLE: That completes my redirect.  
6 Thank you.

7 MR. LEVAR: Thank you, Ms. Hogle.

8 Ms. Schmid, any recross?

9 MS. SCHMID: No.

10 MR. LEVAR: Mr. Moore?

11 MR. MOORE: No. Thank you.

12 MR. LEVAR: Mr. Longson?

13 MR. LONGSON: No. Thank you.

14 MR. LEVAR: Mr. Dodge?

15 MR. DODGE: No thanks.

16 MR. LEVAR: Ms. Barbanell?

17 MS. BARBANELL: No. Thank you.

18 MR. LEVAR: Okay.

19 Mr. Clark, do you have any questions for  
20 Mr. Link?

21 MR. CLARK: I do. I do thank you.

22 Good afternoon, Mr. Link.

23 Following up on your most recent  
24 testimony, am I safe in concluding, then, that the  
25 impact of extending the RFP to solar so that it

1 would include wind and solar, for example, would be  
2 the one and a half to two months of additional  
3 evaluation of the solar bids.

4 Does that capture the -- all of the  
5 critical path criteria?

6 THE WITNESS: That's just the evaluation  
7 piece; so a month to month and a half -- sorry --  
8 month and a half to two months to just accommodate  
9 the studies to price those out and price wars.

10 I think there's additional time up front  
11 in the RFP itself where we would also have to make  
12 edits to the RFP with the IE, in doing so develop  
13 our technical specifications for solar bids and then  
14 also make sure that we have gone through our pro  
15 forma contracts related to solar proposals; so  
16 roughly, let's say that could add a month or so to  
17 the front end of the process before we could even  
18 issue it.

19 Then we would issue it, and then once the  
20 bids came in, it would take us an additional month  
21 and a half to two months or so to process those  
22 bids.

23 MR. CLARK: And the implications of that  
24 delay with regard to the production tax credits we  
25 talked about this morning -- we heard some testimony

1 about that this morning -- tied to that is the  
2 Wyoming CPCN proceeding. Correct.

3 THE WITNESS: That's right.

4 MR. CLARK: And that is -- can you  
5 enlighten me a bit about the schedule for that  
6 proceeding.

7 THE WITNESS: Sure. I think what's  
8 critical about the CPCN schedule -- and there is a  
9 procedural schedule. There's a docket open with the  
10 Wyoming Commission similar to the proceedings in  
11 front of this commission, whereby we will provide  
12 supplemental information in that proceeding that  
13 essentially covers the RFP results -- the same type  
14 of analysis that we produced but now with market  
15 bids and actual projects that were selected to the  
16 final short list and that of course provide benefits  
17 that are criteria of the entire process.

18 Once that information is provided in  
19 January, then parties will have an opportunity to  
20 review that information, and ultimately we're  
21 seeking a conditional CPCN from the Wyoming  
22 Commission.

23 After that filing -- accounting for time  
24 for hearing and then ultimately an order from the  
25 Wyoming Commission in the April -- I think it's

1 March to April time frame -- it's important that we  
2 receive that conditional CPCN, which would be  
3 conditional on the acquisition of rights-of-way at  
4 that point in time so that then we could proceed  
5 with acquiring the rights-of-way necessary, because  
6 we can't begin construction on the transmission  
7 project in Wyoming until all of the rights-of-way  
8 are procured across the entire path. And the  
9 rights-of-way process is important, because it may  
10 -- it accommodates the potential need, if needed,  
11 because, of course, something we wouldn't pursue is  
12 go down the path of eminent domain and all of the  
13 processes that might be involved with that.

14 MR. CLARK: What's your planning estimate  
15 for the rights-of-way acquisition process.

16 THE WITNESS: I believe we're planning to  
17 wrap that up within -- and it really depends a  
18 little bit on how that proceeds with regard to  
19 whether or not we need to use eminent domain, and so  
20 we've scheduled it to accommodate that, if required;  
21 and I think that gets us into the early part of  
22 2019. We can then start to begin the construction  
23 process across three seasons. There's a seasonal  
24 element to when we can construct in Wyoming. 2019  
25 and 2020 is when the construction period will begin.

1 MR. CLARK: We know from the -- your  
2 testimony about the acquisition of equipment  
3 associated with executing this strategy that, at  
4 least as of the fall of 2016, this plan was taking  
5 shape.

6 And so could you explain, again, for me  
7 why the participants in the IRP were only  
8 enlightened about that with your -- with the filings  
9 you've made here, basically.

10 THE WITNESS: Sure. So in that time  
11 period -- the 4th quarter in 2016 -- we were seeing  
12 initial results from IRP portfolio (inaudible). And  
13 my supplemental direct testimony includes a table  
14 that generally summarizes our findings there, and I  
15 think, importantly, we were seeing 2- to 300  
16 megawatts of Wyoming wind consistently showing up  
17 throughout all of those portfolios, strongly  
18 indicating a likelihood that, somewhere down in the  
19 final IRP process, we would end up with some up  
20 amount of wind in the preferred portfolio that would  
21 be cost-effective as part of our least-cost,  
22 least-risk plan.

23 At that point in time, we had not yet  
24 developed the transmission sensitivity that  
25 ultimately led to increased volume of wind in the

1 IRP portfolio; so in the fall of 2016, we simply had  
2 enough evidence to secure the option, fundamentally,  
3 on behalf of customers to potentially be able to  
4 procure wind resources that would qualify for 100  
5 percent of the PTC, but the amount of purchase that  
6 we made really doesn't cover the full amount that  
7 could come out of the RFP as we're currently  
8 proposing it.

9           We've, essentially, purchased 14 turbines,  
10 and that just essentially covers the 5 percent on  
11 the anemic value for one of the other resources.  
12 The remaining balance is coming from rights --  
13 contractual rights that we negotiated with the third  
14 party, which we have developed the rights -- the  
15 other benchmark resources -- the ability to use  
16 their safe harbor for those projects.

17           As these sensitivities were prepared,  
18 which started in the first quarter of 2017 to  
19 evaluate the benefits of potentially subsegments of  
20 the Gateway project, we saw an increase in the  
21 amount of wind that would show up in those  
22 scenarios, and, essentially, we were just trying to  
23 communicate with our stakeholders as these were  
24 developing in real time what we were finding.

25           So parties were aware that were



1 participating that there was wind showing up in  
2 every one of the portfolios we were producing in the  
3 4th quarter of 2016. As soon as we were running the  
4 sensitivities that produced additional wind and  
5 additional benefits with the transmission, we  
6 happened to share those with our stakeholders, and  
7 it was generally in the March -- late March or early  
8 April time frame to the public input meeting process  
9 that we have.

10 We were, essentially, providing those  
11 study results and those findings in real-time, but  
12 to try to be transparent with the IRP stakeholders  
13 to let them know we were running these cases.  
14 Here's what we're finding. We're going to continue  
15 to assess this as we finalize the IRP prior to  
16 filing.

17 That was the intent of the communications  
18 -- was really all about sharing virtually in  
19 real-time what we were finding as a result of the  
20 studies we were preparing. There was no time at the  
21 end of the 4th quarter in 2016 where we had already  
22 devised some sort of plan that included the projects  
23 that we currently see in the preferred portfolio.  
24 That specific project, based upon analysis performed  
25 in the 1st quarter of 2017, was developed at that

1 point in time and shared with parties at that time.

2 MR. CLARK: Regarding the potential for  
3 completing the wind turbine construction and  
4 interconnecting it to the existing transmission  
5 facilities in some form, you -- I think you respond  
6 to question from Mr. Dodge that that could not be  
7 accomplished, and I wonder if you'd explain why.

8 THE WITNESS: Sure. I need to clarify. I  
9 think the intent is that it's possible to qualify --  
10 get the wind projects commercially online and to  
11 qualify for production tax credits. It's just that  
12 the risk profiles are different between the  
13 bright-line safe harbor equipment purchase versus  
14 relying an alternative of relying on continuous  
15 construction, which requires case-by-case assessment  
16 from the IRS to assess that. Whether the project  
17 will ultimately qualify for PTCs, and if that's  
18 really our contingency -- would be considered a  
19 contingency.

20 MR. CLARK: Am I right that what you'd  
21 need to demonstrate to maintain qualification is the  
22 interconnection-related delay that's referred to in  
23 the letter. Is that correct.

24 THE WITNESS: One of those delays and then  
25 -- once that delay occurs, still reverting back to a

1 continuous construction; so the proper evidence on a  
2 project that, in 2017, what steps documented more of  
3 was the company taking to complete construction?  
4 Same for 2018 and 2019 and so forth; and that's  
5 really, I think, where there IRS could look and  
6 suggest -- or make some judgments that are not as  
7 bright-lined as the safe harbor equipment purchase  
8 and determine whether or not that standard was met.

9 MR. CLARK: Okay. And then back to what  
10 -- my original question, just related to the  
11 existing transmission, is there no way to achieve  
12 interconnection of these new wind turbines to the  
13 existing facilities.

14 THE WITNESS: That's correct.

15 MR. CLARK: And help me to understand why  
16 that is.

17 THE WITNESS: Sure. While I'm not a  
18 transmission expert, I've had this conversation with  
19 our transmission expert several times; so I qualify  
20 my response with that caveat up front.

21 But essentially --

22 MR. CLARK: I should qualify my ability to  
23 understand the response too.

24 THE WITNESS: Okay.

25 MR. CLARK: We'll both labor together on

1 this.

2 THE WITNESS: We are prepared in that  
3 regard, then.

4 So, essentially, today's transmission  
5 system is at full capacity. We've, essentially,  
6 needed new transmission in this part of the system  
7 for some time; and really this project is a  
8 situation where we can capitalize on the PTCs for  
9 the wind to help pay for the transmission and make  
10 it cost effective.

11 But fundamentally at issue here, this is a  
12 230 kV system, and the other end of the transmission  
13 system in this part of Wyoming, there is a  
14 considerable amount of existing wind generation and  
15 essentially two coal-fire power plants. That's  
16 largely the construct of the generation.

17 Depending upon the loads in that part of  
18 the system and the amount of generation that's being  
19 produced at any given point in time, there are --  
20 there's potential for voltage issues -- instability  
21 related to voltage problems that can require us to  
22 take action on the system so that we can manage  
23 effectively within the reliability (inaudible).

24 And so at this point in time, looking at  
25 the interconnection queue, there are studies on

1 PacifiCorp's oasis segment -- lists the system  
2 impact studies for resources in this region. All of  
3 the projects, just to receive interconnection  
4 service on the line, identify the need for some  
5 component of the Energy Gateway projects to be  
6 rebuilt. It's not at issue, and it has to do with  
7 the voltage issues. Additional generation on the  
8 system will push that voltage issue to a level where  
9 it is no longer stable and can't meet the standards;  
10 and so the studies are being prepared that  
11 demonstrate and show that and require those  
12 investments to be made just to interconnect. It has  
13 nothing to do with transmission service or the flow  
14 of electricity across the line. Just to  
15 interconnect with the system, it will require  
16 investment in Energy Gateway elements.

17 MR. CLARK: And, finally, regarding the  
18 interchange that we heard that related to the south  
19 -- or Gateway South and whether or not the IRP has  
20 examined solar and augmenting segments of that South  
21 Gateway system, can you give me a little more detail  
22 about that.

23 And so are we talking about Red Butte to  
24 Sigurd, which has already, you know, been serviced  
25 for a few years? What -- what kinds of transmission

1 availability is there? What would need to be  
2 augmented to enable solar participation potentially  
3 in either the RFP or in an additional process that  
4 you alluded to this morning?

5 THE WITNESS: The Energy Gateway South  
6 component of the Energy Gateway project essentially  
7 goes from southeastern Wyoming down across the  
8 eastern half of Utah into --

9 MR. CLARK: To Mona?

10 THE WITNESS: To Mona.

11 MR. CLARK: Is that -- okay. Okay. Well,  
12 all right.

13 THE WITNESS: That path, which also, I  
14 think, has the record of decision -- permitting for  
15 these projects has been going on for quite some  
16 time; so those are, in the end, which is a big risk  
17 factor that's crossed out -- is there.

18 I think there are potential additional  
19 constraints in the Utah transmission system to move  
20 power from southwestern, or let's say or southern  
21 Utah up north to the load centers. This Energy  
22 Gateway South component does not necessarily -- may  
23 not satisfy cutting power -- moving across  
24 additional constraints from south to north in Utah.

25 And as I mentioned earlier, our

1 sensitivities in the IRP were intentionally focused  
2 on the types of transmission projects that could be  
3 used to come online within a certain time frame.  
4 Additional permitting and other projects may be  
5 needed to evaluate other -- or new transmission  
6 construction projects different and separate from  
7 segments or subsegments of the Energy Gateway  
8 project that were not explicitly analyzed in the  
9 IRP.

10 MR. CLARK: Thank you. So as you  
11 referenced Gateway South earlier, it was a reference  
12 to the Aeolus to Mona piece that's --

13 THE WITNESS: Yes.

14 MR. CLARK: -- part of the --

15 THE WITNESS: I should clarify it is not  
16 Signature Red Butte. It is not Signature Red Butte.  
17 It's separate.

18 MR. CLARK: Thank you. That concludes my  
19 questions.

20 Thank you very much.

21 MR. LEVAR: Thank you. Commissioner  
22 White?

23 MR. WHITE: I want to refer you to for a  
24 second to the RMP Exhibit 4 that was introduced this  
25 morning. Let me just start by saying I recognize

1 that, you know, Oregon's, you know, regulatory  
2 framework is distinct and nuanced in different ways  
3 than Utah's in various ways, but, you know, if you  
4 look at Page 2, it talked about approval condition  
5 with hierarchy acknowledgement, and I'm not going to  
6 try to put words in their mouth, but it sounds like  
7 what their basic idea was they're concerned about  
8 missing on what you're characterizing as a  
9 time-limited opportunity; so they're essentially  
10 saying we'll get a second bite of the apple and have  
11 a new IRP process.

12 One question I had is going forward in  
13 terms of additional information that's going to be  
14 at hand at that time. For example, will there be  
15 updated solar prices that will inform that IRP at  
16 that point that parties will have the ability to  
17 evaluate in the context of this RFP?

18 THE WITNESS: No, there wouldn't be. The  
19 acknowledgement process referenced in the Oregon  
20 Commission's order is really associated with the  
21 2017 IRP filing that we made in April; so on  
22 April 2nd, that document is the same IRP we filed  
23 here with this commission through -- Oregon goes  
24 through its own review process upon filing, similar  
25 to the process that occurs in Utah, and that's



1 really what they are referring to. There's no  
2 change in the document. It's just the parties'  
3 review of the study's analysis presented in that  
4 April 2nd filing and then whatever additional  
5 comments that are made back and forth with different  
6 parties that the commission will ultimately consider  
7 in establishing their acknowledgement order on the  
8 specific action items laid out in that April of 2017  
9 IRP.

10 MR. WHITE: And harkening back to this  
11 earlier discussion or proposal, I guess, is the  
12 company discusses, I guess, an alternate solar RFP.  
13 Help me understand the timing of that. I mean --  
14 and let me back up a step here to help you  
15 understand why I'm asking that.

16 I mean, one difference between Oregon's  
17 statutory framework and Utah's is that we have this  
18 these factors to consider, and so I'm trying to  
19 understand in terms of efficiencies and what makes  
20 most sense for parties to give the company the right  
21 information to go forward.

22 How are we getting the best information in  
23 the 40 Docket to make the right decision? So, for  
24 example, in this alternative RFP proposal, would  
25 that be -- will we have the benefit of information

1 from that alternate proposal? Is that going to be  
2 completely distinct, you know, after the fact of  
3 this RFP?

4 THE WITNESS: You know, I'd say a little  
5 bit of it is uncertain. I think our proposal to  
6 pursue an alternative path in the realm of solar  
7 resources is one in which we want to work with the  
8 parties to establish what that really means in terms  
9 of the requirements -- how much to ask for, the  
10 types of review on pro forma contracts or a PPA that  
11 hasn't yet happened in this proceeding because we  
12 haven't closed solar -- and make sure that we're  
13 coordinating with parties, not only here but maybe  
14 across other parts of the system.

15 I think that can all be done relatively  
16 quickly depending on the scope of that process, and  
17 by "relatively quickly," I'm thinking as soon as a  
18 couple of months. As I mentioned earlier, I think  
19 we could have a draft of a second parallel path RFP  
20 to target solar resources that addresses pro forma  
21 contracts and other issues. Parties would review  
22 and comment, and then, you know, go through the very  
23 similar process as we did here to give comments on  
24 that process and potentially proceed.

25 I don't think it's a scenario where we

1 actually have results in the final short list from  
2 that process by the time we are looking at  
3 supplementing the record in the 40 Docket with the  
4 wind resources from this RFP, but I go back to our  
5 intent in either process, whether it's the wind-only  
6 type of structure we're proposing, or the end of our  
7 parallel process of looking at solar is really  
8 fundamentally driven by this cost-effective  
9 principle -- that we would only pursue or execute  
10 projects that deliver -- ultimately add economic  
11 benefits for customers that we could use to  
12 demonstrate the value to proceed with.

13 MR. WHITE: And when, presumably, you are  
14 going to go forward with the separate process, I'm  
15 assuming you'd do the same types of, you know,  
16 IRP-esque analysis with an SO and the PAR and the PB  
17 and RR, et cetera, and all those modeling.

18 I guess my question is -- and I apologize  
19 by confusing concepts here -- but would -- in terms  
20 of resource to act, would it be the assumption that  
21 there'd be -- I guess I'm wondering would those be  
22 considered to be procured -- the current wind in  
23 this RFP -- if that goes forward, would that be  
24 considered -- in other words, would that be the, I  
25 guess, the -- what do you call it? -- cost or value

1 of those potential new solar acquisitions?

2 THE WITNESS: In the part of the process  
3 where we've already received the wind resource bids  
4 -- we have a final short list since January. We  
5 haven't yet completed the analysis, let's say, for  
6 solar, but that's coming on the heels -- I think in  
7 that instance, it's safe to say that the analysis  
8 would be affected by the wind resources and  
9 transmission. I can't say without the specifics  
10 around those projects directionally where that would  
11 go. There's scenarios where resources added in a  
12 supplemental or separate RFP process could actually  
13 improve as a result of having the wind in the  
14 transmission in the system and vice versa.

15 One concept to consider in that is the  
16 wind resource and the solar resource. There's more  
17 diversity added to the system with the wind that  
18 we're adding that doesn't match the same profile as  
19 the solar. Those inherently tend to provide  
20 ultimately benefits to projects that would come  
21 online after that; otherwise we --

22 So there are pros and cons to it. It's  
23 very difficult in advance to assess whether or not  
24 that would occur.

25 In the dialog I had earlier, I also

1 mentioned that we have a need in the IRP, and these  
2 resources are going to help, and I think -- I just  
3 want to drive home that the magnitude of that can be  
4 quite large, that, you know, mention FOTs -- the  
5 market purchases we made are -- assume to be up to  
6 1600 -- roughly -- megawatts in any given year.  
7 Capacity contribution for the wind projects are 174,  
8 offsetting that 1600 or so possibility, and solar  
9 projects generally double the capacity contribution;  
10 so even at an 1100 megawatt level, that's about 400  
11 megawatts. Right? So we're now at -- with the new  
12 wind 174, maybe around 400 or so megawatts of  
13 capacity contribution.

14 None of that has even gotten close yet to  
15 fully deferring or offsetting market purchases at  
16 the level of 1600 megawatts.

17 So just to highlight that there's  
18 sufficient capacity in the system to accommodate so  
19 long as the benefits are there -- ultimately a large  
20 component of renewable projects, whether that comes  
21 from wind or solar.

22 MR. WHITE: That's all the questions I  
23 have. Thank you.

24 MR. LEVAR: Okay. Thank you. I don't  
25 have any further questions.

1 I think we would like to request if  
2 possible that Mr. Link remain available in case  
3 there's a need for follow-up questions, depending on  
4 the rest of the testimony.

5 Is that a problem with his travel or  
6 schedule otherwise?

7 MS. HOGLE: No. That's fine.

8 MR. LEVAR: Okay. Thank you.

9 Our next witness will be Wayne J. Oliver,  
10 represented by counsel.

11 I'll work with you to get your testimony  
12 on the record.

13 Mr. Oliver, first off, I'll swear you in.

14 WAYNE J. OLIVER,  
15 called as a witness at the instance of Rocky  
16 Mountain Power, having been first duly sworn, was  
17 examined and testified as follows:

18 MR. LEVAR: Okay. Would you describe for  
19 us your business, the contract under which you are  
20 here in this docket and your role as independent  
21 evaluator?

22 THE WITNESS: Yes. I came by the  
23 commission to serve as independent evaluator for the  
24 wind 2017 RFP solicitation for PacifiCorp that was  
25 done through a competitive process, and we submitted

1 a proposal and were selected to serve as the IE.

2 We have served as the independent  
3 evaluator on three or four other PacifiCorp  
4 solicitations over the years.

5 MR. LEVAR: And then you issued a report,  
6 which is part of the record in this proceeding.

7 You've also filed rebuttal testimony.  
8 I'll just ask in the room is there any objection to  
9 entering his rebuttal testimony into the record as  
10 sworn evidence? If anyone has any objection or  
11 concern with that, please indicate.

12 I'm not seeing any; so I guess my motion  
13 is granted.

14 Mr. Oliver, do you have any -- would you  
15 like to summarize your testimony, or I don't know if  
16 you have anything prepared, but feel free to if  
17 you'd like to.

18 THE WITNESS: Yes. I'll just briefly  
19 summarize my testimony, and I would also like to  
20 supplement my testimony, if that's possible, to  
21 clarify my position on a few issues raised by other  
22 witnesses and addressed in this proceeding today, if  
23 that's okay.

24 MR. LEVAR: Yes. Surrebuttal was allowed  
25 during the hearing; so anything you'd like to add in

1 terms of surrebuttal, please do so.

2 THE WITNESS: Okay. Thank you very much.

3 Well, the purpose of my oral testimony is  
4 to respond to the Commission's order on August 22nd,  
5 2017, to determine whether the RFP will mostly  
6 likely result in the acquisition, production, and  
7 delivery of electricity at the lowest reasonable  
8 cost to the retail customers of electric utilities  
9 located in the state.

10 In my testimony, I discussed my  
11 conclusions and recommendations based on the report  
12 of the independent evaluator regarding PacifiCorp's  
13 draft renewable request for proposals, which we  
14 submitted on August 11th. My testimony also  
15 identifies the overall role of the independent  
16 evaluator and the solicitation process, thoughts  
17 about our experience as serving as independent  
18 evaluator in over 75 solicitations in 20 states and  
19 3 Canadian provinces that go back to 1989 in a  
20 number of different types of solicitations,  
21 including all sorts of information, generation of  
22 renewable resources, storage, that type of thing.

23 I also discussed my recommendations and  
24 the fact that PacifiCorp has accepted most of the  
25 recommendations that we had provided in our report



1 -- going back to the August 11th report -- and also  
2 Mr. Link had given some of the recommendations we  
3 made in that rebuttal testimony as well.

4           And if I could move on to, I guess, a few  
5 clarifying points that I had. You know, we did  
6 basically recommend that, in terms of the contracts  
7 that PacifiCorp allowed us to provide, instead of  
8 just the red line of a contract, separate comments  
9 that they view to be important with regard to the  
10 contract. We look at it as a way of facilitating  
11 the review of those contracts, and Mr. Link  
12 indicated this morning that PacifiCorp has agreed to  
13 that.

14           We also talked about the ten-year  
15 extension option and the fact that it's a ten-year  
16 extension and, of course, a 30-year contract could  
17 trigger capital lease accounting issues. It was  
18 argued that it made sense to at least -- the  
19 performance data -- that they should be very  
20 familiar with that -- with, you know, those  
21 implications; but I've seen a lot of other  
22 solicitations we've been involved in recently where  
23 accounting rules have been changing, and I'm finding  
24 some conflict between how the utilities are  
25 reviewing these -- the assessments of these

1 contracts and how the bid is viewed.

2 And that's why it's for renewable  
3 contracts but -- or at least has been for renewable  
4 contracts and certainly for convention generation  
5 contracts and resources.

6 But it could be an issue here because of  
7 the longer term contracts and suggested to be --  
8 basically to put everything underneath the playing  
9 field to be consistent with the term of the  
10 evaluation which is 30 years.

11 Let's move forward. I just want to make  
12 -- I'd just like to clarify my positions on a few  
13 issues regarding the RFP structure in light of the  
14 comments of the parties to the proceeding.

15 Obviously, the focus of this process is to  
16 assess whether the process will most likely result  
17 in the acquisition of resources at the lowest  
18 reasonable cost to consumers; and certainly the  
19 ideal situation will be to perform a comprehensive  
20 market test through an all-source solicitation, and  
21 that's the one area where we can, you know, evaluate  
22 all different types of resources at the same time.

23 The issue, however, in this case is that  
24 an all-source solicitation, in my view, would  
25 require a longer process. We've been involved in --

1 recently in several all-source solicitations that  
2 are taking up to a year to complete; so that does  
3 add, really, a month or so to the beginning front  
4 end; maybe two months to the back end.

5           And I know we are talking now about solar  
6 solicitation, but I think in the comments that were  
7 filed by witnesses, the focus seemed to be more  
8 all-source solicitation; so (inaudible), but  
9 anyways, the all-source solicitations can be quite  
10 complicated, because we're finding we have to really  
11 go back to the bidders and solicit feedback to  
12 really understand what type of products they're  
13 bidding.

14           If the RFP is further delayed and the  
15 process takes longer than currently planned, it may  
16 be a real challenge to complete the solicitation  
17 process with adequate time to take full advantage of  
18 the PTC benefits for wind projects as soon as  
19 possible given the lead time associated with any  
20 transmission project.

21           Again, you know, it's my experience in  
22 dealing with the solicitations, and, you know,  
23 working on these projects that transmission is the  
24 key issue, and the time frame for developing and  
25 getting a transmission project approved can take

1 quite some time. I think that's -- that is the long  
2 lead time item here in the critical path item, and  
3 certainly I don't think, you know, we talked about,  
4 you know, all this -- it could be time to -- you  
5 don't lose the PTCs if the transmission line is not  
6 built on time, but what happens if the generation is  
7 built and the transmission is delayed two years?  
8 You're sitting there with a, you know, wind  
9 generator that can't build out to the line.

10 That's what -- we're dealing with this  
11 issue in another RFP in Massachusetts where wind  
12 projects and hydro projects are linked to  
13 transmission, and it's a very large issue to ensure  
14 that these projects are linked together and are  
15 built at the same time, if possible.

16 It seemed to me that, if the solicitation  
17 process that PacifiCorp has offered today -- and I,  
18 you know, mentioned that as an option based on  
19 issuing this RFP at this time for wind resources  
20 only and a separate RFP for other renewable  
21 resources as soon as practical -- is not  
22 unreasonable and provides a significant opportunity  
23 to test the market and assess the potential system  
24 benefits associated with other renewable resources.

25 Ideally, if this solicitation can be done,

1 you know, in conjunction with a wind solicitation  
2 and at least provide some, you know, some initial  
3 information on pricing for those types of resources,  
4 I think would add a lot of value to the overall  
5 process.

6 A wind-only RFP for the entire PacifiCorp  
7 system as PacifiCorp now agrees to and as we  
8 proposed earlier really provides, I think, the best  
9 opportunity for a more robust and competitive wind  
10 solicitation process and should result in a  
11 reasonable market test for wind resources.

12 I do want to raise one clarification  
13 issue. PacifiCorp's August 18, 2017 reply comments,  
14 PacifiCorp stated on Page 7 that the company agreed  
15 with my proposal to allow bidders to offer either a  
16 30-year PPA term or a 20-year contract with up to a  
17 10-year extension option. Several witnesses  
18 testified that bidders should be allowed to offer  
19 30-year contracts. Perhaps I misinterpreted  
20 PacifiCorp's intent, but I expect -- I expect it  
21 based on PacifiCorp's reply comments that a 30-year  
22 contract term option would be allowed for bidders,  
23 you know, with a caveat that the bidder should  
24 assess the accounting implications of a 30-year  
25 contract; and I suggested that the RFP allow theirs

1 to submit either a 30-year contract option or a  
2 20-year contract plus a ten-year extension at  
3 PacifiCorp's discretion.

4 And that's all I have at this point.

5 MR. LEVAR: Okay. Thank you, Mr. Oliver.

6 MR. OLIVER: Thank you.

7 MR. LEVAR: Ms. Hogle, do you have any  
8 questions for Mr. Oliver?

9 MS. HOGLE: No questions.

10 MR. LEVAR: Ms. Schmid?

11 MS. SCHMID: No questions.

12 MR. LEVAR: Mr. Moore?

13 MR. MOORE: Just a few questions. Just a  
14 few questions, Chairmen.

15 EXAMINATION

16 BY MR. MOORE:

17 Q. Mr. Oliver, may I direct your attention to  
18 Page 9 and 10, Lines 188 to 198 in your rebuttal  
19 testimony. You state -- and I'm paraphrasing here  
20 -- that other utilities have made a push for wind  
21 resources due to PTC benefits; however, your  
22 testimony does not indicate whether these utilities  
23 you mentioned have similar solar resources as Utah  
24 and have had a similar vetting process or require  
25 hundreds of millions of dollars in transmission

1 **upgrades.**

2 **Could you address the similarities or lack**  
3 **of similarities?**

4 A. Well, first of all, I'm not sure what the  
5 situation is with solar resources on these systems,  
6 but I have heard that from -- specifically from one  
7 of the subsidiaries of American Electric Power that  
8 they're basically proposing to build a transmission  
9 system link to wind generation as well.

10 It's my understanding that the Public  
11 Service of Oklahoma -- it's been reported in the  
12 press that they have acquired development rates for  
13 wind projects from AM Energy, I believe, and that  
14 they're proposing to build up their systems to  
15 accommodate that wind.

16 Xcel Energy -- I know that their  
17 affiliates -- they have a number of subsidiaries  
18 that have issued and released RFPs recently, I  
19 believe, but again (inaudible).

20 **Q. May I direct you now to Page 4, Lines 67,**  
21 **68, 80-81 of your rebuttal testimony.**

22 A. Could you repeat those lines? I'm not  
23 sure if I'm --

24 **Q. Are you --**

25 A. Is it 67 and 68?

1 Q. Are you on Page 4?

2 A. Yes.

3 Q. Line 67, 68, unless I've made a mistake.

4 A. It says "the primary responsibilities of  
5 the IE are listed..."

6 Q. That's right.

7 A. Okay.

8 Q. And Page -- Line 80, 81, and I'm  
9 paraphrasing here.

10 This testimony states that, pursuant to  
11 Utah Code Section 54-17-203 (sic), one of the  
12 responsibilities of the independent evaluator is to  
13 render an opinion on whether the process is in  
14 compliance with the Utah Code and Regulations."

15 Is this your testimony?

16 A. Yes. But there's an error there. It  
17 should be "in compliance with."

18 Q. "In compliance with." Thank you.

19 A. There's a space between.

20 Q. In recording on your opinion as to whether  
21 the solicitation process is in compliance with the  
22 applicable code sections and regulation is an  
23 inherent part of your report and your rebuttal  
24 testimony.

25 Do you agree with this statement?



1           A.     Yes.  And when I define "in compliance  
2 with," I, you know, reviewed the requirements of the  
3 Utah Code of Regulations as it referred to what the  
4 utility is soliciting to that is listed in the  
5 solicitation is required to do to be in compliance  
6 with the Code.  It talked about a number of things  
7 that had to be accomplished, and that's the basis of  
8 my statement.

9           Q.     May I direct your attention to Page 5, 85  
10 to 100.  Are you there?

11          A.     85 says "Solicitation process."  Is that  
12 --

13          Q.     I'm sorry.  That's a mistake on my part.  
14                 How about 94 to 96?

15          A.     Okay.

16          Q.     You state "My overall conclusion is that  
17 the draft RFP document in process" -- whoops.  
18 That's not what I wanted.

19                 Oh, 80 -- 98 to 100.  I was correct in the  
20 first sentence:

21                 "However, under the structure of the draft  
22 RFP, it is not certain at this time if the  
23 solicitation process will lead to the acquisition  
24 and delivery of electricity at the lowest reasonable  
25 cost to retail customers."

1           And on Page 13, Line 261 to 265, you state  
2       "Whether the RFP would most likely result in the  
3       acquisition, production, and delivery of electricity  
4       at the lowest reasonable cost to retail customers,  
5       the potential benefits to customers and the ability  
6       of the process to meet the public interest  
7       requirement will not be known at the time of the  
8       issuance of the RFP."

9           Is this still your position?

10          A.     Yes. I mean, those results will, you  
11       know, ideally what you want to do is design an RFP  
12       that, you know, would, you know, likely lead to  
13       those results, but you're not sure whether those  
14       results are going to, you know, generated until you  
15       go through the process.

16          Q.     I'm going to hand you a copy of the  
17       commission's August 22nd, 2017 order. I'm not going  
18       to make this an exhibit because it's in the record,  
19       but I'll pass out copies.

20                May I direct your attention to the last  
21       sentence on Page 2 of the order. In the first  
22       sentence of Page 3 of the order where it states "The  
23       Commission must find a decision to limit the RFP to  
24       a wind resource so apparently satisfies the lowest  
25       reasonable cost standard that it warrants bypassing

1 the opportunity to test the decision on the open  
2 market against other bidders who might have chosen  
3 to bid a different resource type."

4 Do you see this language?

5 A. Yes, I do.

6 Q. Given this, your opinion at the time of  
7 the RFP, you will not know if the RFP satisfies the  
8 lowest reasonable cost standard. As a matter of  
9 logic and semantics, it is not possible for you also  
10 to state that the decision to limit the RFP to wind  
11 resources so apparently satisfies the lowest  
12 reasonable cost as it warrants bypassing the  
13 opportunity to test the decision in the open market  
14 against bidders who might choose a different  
15 resource type." Isn't that correct?

16 A. Well, as I mentioned -- as I stated in my  
17 comments just, you know, a few minutes ago, the  
18 ideal situation would be to find a comprehensive  
19 market test through a solicitation. I mean, that's  
20 consistent with, I think, this process.

21 However, not all solicitations are, you  
22 know, all solicitations are target solicitations  
23 based on unique, you know, cases in the market and,  
24 you know, this is a unique case.

25 So I think when you, you know, when you're

1 looking at -- when I'm looking at a solicitation,  
2 I'm looking at (1) does it provide a -- does it  
3 generate a reasonably robust process and a  
4 competitive process? Does it -- are the products  
5 clearly defined? Is the criteria defined that, you  
6 know, how to bid the process, and, you know, you  
7 want to make it is transparent as possible.

8 Like I said, not all solicitations are  
9 going to be all-source solicitations. If that's  
10 going to be, you know, if -- and I'd go back also to  
11 the fact that, you know, PacifiCorp has offered to  
12 follow-up this RFP with a, you know, with another  
13 RFP for solar, which will -- which even then won't  
14 satisfy what you're saying here, because it's not  
15 comparing against other resources -- other renewable  
16 resources or conventional resources.

17 And the all-source solicitations I'm  
18 working on are including, you know, conventional,  
19 renewable, demand response, storage resources --  
20 those take a long time to develop and implement and  
21 finalize, and then you have to get approval before  
22 the end results come out; so they're long lead-time  
23 processes that would not really fit into this  
24 process as far as I'm concerned.

25 **Q. Isn't it true that you mentioned in your**

1 testimony that there will be times during this  
2 process that, if the public interest does not seem  
3 to be met, the process can be terminated?

4 A. Yes. I mentioned the potential affects.

5 Q. Yes. It's true, isn't it, that if a  
6 wind-limited resource is terminated for lack of  
7 robust solicitation for some of the reasons, the  
8 consumers may lose the opportunities of the economic  
9 benefits that could have been obtained from a  
10 solicitation that included solar resources?

11 A. That's not -- that's not my understanding  
12 from what I heard today. It sounds like PacifiCorp  
13 has offered to issue an RFP for solar or other  
14 renewable resources.

15 MR. MOORE: I don't have any further  
16 questions.

17 MR. LEVAR: Thank you, Mr. More.

18 Mr. Longson, do you have any questions for  
19 Mr. Oliver?

20 MR. LONGSON: No questions. Thank you.

21 MR. LEVAR: Mr. Dodge?

22 MR. DODGE: Yes. Thank you.

23 EXAMINATION

24 BY MR. DODGE:

25 Q. Mr. Oliver, in your report, Page 61, you

1 include a recommendation -- in the top  
2 recommendation on there, and I won't review the  
3 whole thing. Excuse me. In the bottom  
4 recommendation on Page 61, it talks about the  
5 eligibility provisions.

6 Near the end of that paragraph you say --  
7 further down you agree with the division's  
8 recommendation to eliminate the limitations of the  
9 Wyoming restriction and say that will allow a  
10 determination whether or not the proposed facilities  
11 are economic and provide value to customers. Right?

12 A. I'm sorry. I'm just having trouble  
13 finding this.

14 Q. The very last sentence on Page 61 --  
15 starts with "This," and I'll just represent to you  
16 that "this" is referring to your recommendation to  
17 remove the Wyoming restriction.

18 A. Maybe we are on different pages. I'm not  
19 sure.

20 Q. You are not in your report?

21 A. I'm in my report, but I'm not sure if it  
22 syncs up exactly with --

23 Q. It must have printed differently.

24 So it's under "Recommendations." I don't  
25 know what page on yours. The last Section 7 is

1 "Conclusions and Recommendations."

2 A. Right. Right.

3 Q. On mine, that's on Page 59.

4 A. If you could tell me which  
5 recommendations?

6 Q. Yes. The third bullet recommendation. It  
7 starts with "Merrimack Energy is also recommending."

8 A. Okay. Okay.

9 Q. So now, when you start by saying you've  
10 recommended that the eligibility requirements can  
11 stand -- and you talk about a few that I'm not right  
12 now focused on -- then you say you agree with the  
13 division that the Wyoming restrictions for wind  
14 resources should be removed. And I'm focused on  
15 your last sentence. "This," meaning, removing that  
16 Wyoming wind restriction, "will allow PacifiCorp to  
17 determine if its action plan for 1270 megawatts of  
18 wind generation combined with construction" blah  
19 blah -- will -- "are economic and provide value to  
20 customers."

21 Did I paraphrase that well enough?

22 A. Yes.

23 Q. So, basically, my -- your concern was if  
24 they didn't expand it beyond just the Wyoming land,  
25 there would be a question when that could be

1 delivered and there would be a question whether or  
2 not that would be economic and provide value to  
3 customers. Right?

4 A. Right. Yeah. That's basically the point  
5 there. I mean, some way of assessing whether or not  
6 that resource option is providing value. How do you  
7 measure that value?

8 Q. And you -- you heard, I think, today,  
9 suggestions from Mr. Link that that is value just  
10 basically by showing that it's less -- it's more  
11 economical than the other proposal the state has  
12 quoted for projections.

13 But you are adding a different component,  
14 not just comparing what their proposed costs are for  
15 the wind resources and transmission with the status  
16 quo but also comparing what the market tells you  
17 about something. Right.

18 A. Well, I guess there would be another issue  
19 here. For example, if, say, 600 megawatts are  
20 selected from outside of Wyoming. You know, does  
21 that make this project, you know, the flow of  
22 transmission system in Wyoming not economic?

23 Q. Right.

24 A. Now you've got other -- less volume  
25 flowing through that system.



1 Q. Yes. And I suspect those are issues still  
2 to be addressed if that turns out true.

3 The point I was making is you weren't  
4 ready to accept in your report that just testing the  
5 company's projections against this alternative  
6 projections for the status quo is enough to  
7 demonstrate quote, "are economic and provide value  
8 to customers." End quote.

9 You were looking for the market to give  
10 some confirmation of the facts by expanding the pool  
11 of bidders it could bid in. Right?

12 A. So yes. I think, you know, the robustness  
13 of the market is one factor that you want to look at  
14 and how are other bidders pricing their product, but  
15 I, you know, think -- I think it does go back. I  
16 wasn't, you know, you look at alternatives, you  
17 know, but, you know, we were looking at primarily at  
18 wind-only RFP.

19 Q. And I do understand now.

20 And then in your rebuttal testimony -- and  
21 I'll refer to Lines 201 and 204, and hopefully the  
22 lines much up. Well, actually, 200 through 204, I  
23 guess.

24 There, you said -- you're paraphrasing in  
25 your report -- "I propose that wind projects that do

1 not necessarily have to connect to the proposed  
2 Aeolus to Bridger transmission facilities or  
3 demonstrate that they could deliver the power to  
4 Wyoming should be allowed to bid."

5           Again, so that's going back to the record  
6 that you were just talking about. "That  
7 recommendation was based on my concern that there  
8 may not be a sufficient response from eligible wind  
9 bidders located in or delivering power to Wyoming."

10           Again, your conclusion was and remains,  
11 does it not, that market testing and the company's  
12 assumptions is important to determine whether value  
13 is being delivered to customers.

14           A.     Market testing or, in this case, you know,  
15 vetted through the IRP.

16           Q.     Right. But because the IRP won't have  
17 vetted it by then, you're saying that's why you  
18 needed the market test. Right?

19           A.     Well, I think it's a combination of both  
20 in this case, and it seems to me like the, you know,  
21 the IRP will at least have addressed these issues at  
22 that point. So I'm not sure if the IRP means  
23 vetting needs to be improved, but at least there  
24 will, you know, be some assessment through the IRP  
25 relative to these resources.

1 Q. Okay. I understand what you're saying. I  
2 didn't read that -- what you said in your testimony  
3 -- but I understand what you're saying, and I accept  
4 that.

5 So despite kind of your notion that "we  
6 need do some market testing beyond just economic  
7 modeling to see whether or not benefits supposedly  
8 exceed cost," you concluded that you didn't think  
9 this needed to be opened up to all sources or even  
10 just solar; and if I read your testimony right, your  
11 concerns there are primarily based on timing  
12 concerns and circumstances in chasing, you know, the  
13 PTCs.

14 And based on your conclusion, the targeted  
15 solicitations are reasonable and (inaudible).

16 Is that a fair paraphrase?

17 A. Yes. And based on and to a point, I  
18 think, it is based on my concerns that I raised  
19 right from the very beginning about the timing of  
20 transmission and generation.

21 Q. Sure. So first of all, let's start with  
22 the fact that targeted solicitations may be reason  
23 and they may be done by others.

24 Did you read the RFPs that you referenced  
25 from the -- in your testimony? Did you actually go

1 look at those solicitations?

2 A. I read though the solicitations very  
3 quickly. I don't think (inaudible).

4 Q. The RFPs that I found online all require  
5 that the delivery be in the Mycell territory.

6 Is that your understanding?

7 A. I'm not certain.

8 Q. And they are for wind-only PTC chasing and  
9 RFPs for delivery into service territories of these  
10 utilities in Michigan, Minnesota, North Dakota,  
11 South Dakota, Wisconsin, Iowa.

12 Are you familiar with any other states  
13 where they are saying they will accept these wind  
14 resources?

15 A. No, not for these specific solicitations,  
16 but I know the companies that are generally located  
17 in those areas; so they, you know, they deliver to  
18 their subsidiaries in those areas.

19 Q. Sure. Have you ever looked, by chance, at  
20 a solar map of the country where the solar resources  
21 are on the map?

22 A. I've done many solicitations in California  
23 --

24 Q. Sure.

25 A. -- and Arizona and Hawaii. I'm pretty

1 familiar with those.

2 Q. Probably none in Michigan, Minnesota,  
3 North Dakota, South Dakota, Wisconsin or Iowa, is my  
4 guess?

5 A. No.

6 Q. That's not a solar --

7 A. There are other types of resources in  
8 those states.

9 Q. No, I understand that. But in those  
10 states, they would have no reason today, if they're  
11 doing an RFP-targeted -- excuse me -- a PTC-targeted  
12 RFP to think that maybe an investment tax credit --  
13 world class solar facility might be able to compete,  
14 because they are not in a solar area -- in the  
15 strong solar area like Utah and surrounding states  
16 are.

17 A. There are other states that I would  
18 consider not strong solar areas, and I don't -- I  
19 don't know the dynamics in those areas. I haven't  
20 done RFPs over in that area recently but, you know,  
21 I mean, I'm seeing solar built in a lot of different  
22 states.

23 Q. Oh, sure. They're building in Alaska and  
24 Utah as well.

25 A. In Massachusetts and --

1 Q. My point is -- my point is you said it's  
2 other util- -- you concluded it's reasonable to  
3 target an RFP and pointed to utilities in northern  
4 states -- in plains states, northern and eastern  
5 state -- northeastern states they're doing so.

6 Wouldn't you expect that, if any of those  
7 states had a reason to believe that there were  
8 available ITC-based solar resources that would be  
9 competitive with the PTC-based wind, that they might  
10 have expanded into that?

11 A. I don't know. But I know -- I'll tell you  
12 I've been involved in wind-only RFPs in Arizona.

13 Q. And is -- does Arizona have a statutory  
14 requirement that the RFP itself has to be shown to  
15 lead to the lowest cost resource?

16 A. Well, the RFPs have to be vetted through  
17 the commission -- through the utility's planning  
18 process.

19 Q. I understand through a planning process,  
20 but are you familiar with -- have you -- you've read  
21 -- I know you have -- the Utah Resource Procurement  
22 Act. Right? The one that -- which is being  
23 procured. It's fairly unusual, is it not, in that  
24 it offers preapproval so the prudence can never be  
25 changed down the road if the utility goes through

1 certain steps, including the RFP step and the  
2 resource procurement analysis step. You're familiar  
3 with that. Right?

4 A. Yes. And I -- you know, every state has a  
5 different process.

6 Q. Can you think of any state that has a  
7 similar process that you've dealt with?

8 MS. HOGLE: Excuse me. I'd just like to  
9 interject here. I'm not sure -- I'm going to lodge  
10 an objection. I'm not sure what Mr. Dodge is  
11 getting at. I think he's gone around and around and  
12 around, and I'm not sure what the point of Mr.  
13 Dodge's testimony is at this point and what he's try  
14 to accomplish; so I lodge my objection based on the  
15 fact that he's testifying, basically.

16 MR. DODGE: Frankly, I'm at a loss how to  
17 respond to that. My job isn't to keep Ms. Hogle  
18 clued in to where I'm trying to go. It's to ask  
19 relevant questions. If she's saying I haven't  
20 answered her question, I think that's an objection I  
21 can respond to; but I don't think I have to -- she  
22 has to understand where she thinks I'm going.

23 MR. LEVAR: I think -- I think Mr. Oliver  
24 has answered your questions on other state statutes.  
25 He appears to have answered that to the extent of

1 his knowledge, and I think -- I don't see anything  
2 in your line of question that you can't continue in  
3 the direction you were going.

4 MR. DODGE: It was simply is he aware of  
5 any other state that has a Utah approach to -- an  
6 RFP has to be approved showing that the result will  
7 be consistent with three sources and that it will  
8 then be approved with no chance for prudence  
9 challenges after.

10 Q. (BY MR. DODGE) So that's my question.

11 Are you aware of any state that has that  
12 requirement?

13 A. I can't think of any specifically offhand,  
14 subject to checking on the state regulations.

15 Q. So wind-targeted RFP in one state might be  
16 reasonable. It may or not be reasonable in another  
17 state with different statutory requirements or  
18 opportunities. Would you agree with that?

19 A. I don't see what the statutory climate has  
20 to do with the timing of an RFP. I guess that's --  
21 and I can't make that link.

22 Q. Let me try and help you, and you tell me  
23 if you disagree.

24 In Utah, the statute requires this  
25 commission -- and they've expressed some concern



1 over whether they can do that based on prior  
2 records, at least -- to find -- to reach a -- find  
3 that this RFP is most likely to lead to the  
4 procurement among other things of (inaudible).

5 With that statutory requirement, that may  
6 be different in applying that RFP -- targeted RFP as  
7 reasonable under such circumstances.

8 Would you agree with that?

9 A. Yes. I agree with that statement.

10 Q. Now, back to the first point you made.

11 Again, I asked you and you confirmed you were not  
12 recommending it to be open to all sources or even  
13 just to solar both because of the fact that you find  
14 targeted RFPs reasonable, and secondly, based on the  
15 unique circumstances.

16 I think you were here earlier for  
17 discussions by Mr. Link, and looking at the Exhibit  
18 that I viewed from Mr. Link, can you confirm whether  
19 it's your understanding that if the wind resources  
20 are completed in time, and the only reason they're  
21 not delivering kilowatt hours to the grid is because  
22 the transmission project is delayed, is it  
23 consistent with your understanding that the IRS says  
24 that's an "excusable situation" that allows you not  
25 have to meet that won't throw you outside of the

1 **requirement if you continuously construct the**  
2 **resource?**

3 A. Well, this is a risk -- today was the  
4 first I heard that specifically, but, you know, like  
5 you said, you look at a situation. What happens if  
6 the transmission is not built but the wind is built,  
7 and it could be two years down the road or more, and  
8 those production tax credits may not be valuable, or  
9 the -- if you have to go before the IRS to get  
10 approval, that may not -- that's another issue.

11 I don't -- I don't see this as black and  
12 white, I guess, because, you know, then we're  
13 involved in situations with transmission that, you  
14 know, (inaudible) going to complain. Right? You  
15 know, customers have to pay for costs for, you know,  
16 for generation facilities that are not completed; so  
17 there's all those issues that come into play with  
18 the, you know, the transmission and generation, and  
19 that's -- that was -- that's still my big concern  
20 about, you know, the need to, you know, the timing  
21 of this issue, because I think, you know, the ideal  
22 situation is going to be that those projects are  
23 done together.

24 **Q. Let's explore that.**

25 **So if the transmission isn't completed for**

1 two years after the wind is completed, even if the  
2 RFP is approved as is, that won't change that risk,  
3 will it? And this RFP approval as is or being  
4 expanded to include solar isn't going to drive  
5 whether the transmission line is two years late, is  
6 it?

7 A. Well, it's -- but it's, again, if you're  
8 -- if you're going to the route you're looking at  
9 going, you know, to expand to solar, I think it has  
10 more risk if the transmission line wouldn't be  
11 completed.

12 Q. How so?

13 A. Because the timing of the -- of the  
14 application process and, you know, in Wyoming and  
15 the time frame that's been laid out for this whole  
16 thing, and I think, like I said, the transmission,  
17 in my experience, transmission generally takes  
18 longer than you anticipate.

19 Q. No question that it does. My point is if  
20 the solar -- if the RFP were expanded to solar and  
21 more economical projects were not in line, we  
22 wouldn't even be talking transmission; but if it  
23 turned out those are still the most economical, by  
24 Mr. Link's estimate it would have delayed it a few  
25 months? That doesn't suggest a 2-year delay in

1 **transmission, does it?**

2 A. But -- but if on the other hand, if by  
3 extending the, you know, ending the RFP to solar, it  
4 does, you know, cause, you know, the -- these  
5 projects -- not -- the wind projects -- not to be  
6 able to get built is something to take advantage of  
7 the PTCs, you know, there's a big loss of benefit  
8 there as well; so you're looking at it from both  
9 sides.

10 Q. If the PTC is lost, but we started earlier  
11 by saying the IRS has made very clear that, if what  
12 delays your completion is interconnection, that's  
13 excused. Right? So if it's the interconnection, we  
14 don't have a risk, do we?

15 A. Well, I don't know that. I don't know  
16 that, because I think, you know, I think it's still  
17 uncertain. I can't imagine that the IRS is going to  
18 allow a transmission project to be delayed multiple  
19 years and -- and still -- still provide production  
20 tax credits. I think --

21 Q. Who's talking a couple of years here  
22 related to this RFP issue?

23 A. But, you know --

24 Q. There's no connection.

25 A. Well, I'm just -- I'm just throwing that

1 out as an example. I mean, I don't know how long  
2 it's going to take. I think, like I said, I think  
3 -- I think transmission is on a long -- long lead  
4 time. It's a long lead time. I don't know how long  
5 it's going to take. Certainly, it's not unusual for  
6 transmission projects to get delayed multiple years.

7 **Q. Right. Probably not because they decided**  
8 **to add solar to the RFP. Right?**

9 A. No. What that does is, like I said, that  
10 changes the schedule. It changes the approval  
11 process.

12 **Q. I understand. At the end of the day, you**  
13 **understand your job here is to look after the**  
14 **interests of Utahns. Right?**

15 A. My -- my job here is to look after the  
16 interests of consumers. That's --

17 **Q. And that's what I'm doing too.**

18 **And so if you -- if your proposal goes**  
19 **forward and it is not expanded to other resources,**  
20 **and if it turns out that we then procured higher**  
21 **cost resources, you haven't done your job and**  
22 **neither have I, have we?**

23 A. Well, that's like I said. We'll find out  
24 as we go along. You know, there's offramps.

25 **Q. There's offramps, but you won't know what**

1 the solar numbers are in time to take those  
2 offramps. We heard today that January is the date  
3 by which we have to do the short list, and by April  
4 they've got to have contracts.

5 Are you telling me we'll have another RFP  
6 with solar in time to stop that process if it's less  
7 expensive and comparatively head-to-head?

8 If you're telling me that, then I may have  
9 a different view of what your recommendations are.  
10 I might --

11 A. I don't know -- I don't know what the  
12 schedule is. I mean, I can -- it sounds like  
13 there's a possibility that we'll at least see the  
14 bids -- the solar bids or the all-renewable bids.

15 Q. In the past, the company has proposed in  
16 2018 to issuing them -- that they'd be open to  
17 issuing them. If that were to happen, how long do  
18 you think the process would take before you had bids  
19 that had been vetted through the IE process and be  
20 able to compare it head-to-head with the proposal?

21 Just make a guess for me.

22 A. Well, I mean, you know, if it takes two  
23 months to issue the RFP, and, you know, and if it's  
24 marketed properly, you know, where you start  
25 informing bidders that this RFP is coming out so

1 that they're aware of it, you can probably turn  
2 around and get a response pretty quickly.

3 Q. Let's say that you go down this road that  
4 you're proposing, and it turns out that you won't  
5 have done the evaluation or even created a short  
6 list for the solar resources until, say, July of  
7 next year, will you be -- are you prepared to commit  
8 that you will recommend to this commission they hold  
9 up approval of any of the wind resources so they  
10 could be compared head-to-head?

11 A. I think it's hard to say at this time. I  
12 don't know what the exact situation is going to be  
13 with the transmission approvals. There's a lot of  
14 moving parts -- a lot of variables in this process,  
15 and, you know, I mean, one of my roles as IE is to  
16 keep the commission informed of what's going on. We  
17 write monthly status reports, and those status  
18 reports definitely inform as much as we can what's  
19 actually happening so that everyone is aware of the  
20 time frame.

21 Q. You accept that the consumers are the ones  
22 that are going to take the risk if this process  
23 proceeds without testing the broader market, at  
24 least the solar market, and it turns out that was a  
25 cheaper resource, then we lose the opportunity to

1 get in wind resources.

2 Do you understand that's a risk that  
3 consumers are taking?

4 A. Well, I'm hoping it's not a risk consumers  
5 are going to pay, because there's benefit -- if  
6 there's benefits, consumers will get benefits to  
7 this process.

8 Q. Well, you didn't listen to my assumption.

9 I said if, in fact, the wind resource  
10 process proceeds and is approved -- and the resource  
11 is approved and now you can never challenge the  
12 prudence again before you have a whole and realistic  
13 opportunity to compare those resources to what we  
14 could have gotten through the solar -- if that  
15 happens, it's consumers that will bear the burden of  
16 that higher cost resource. Is that not true?

17 A. I'm not certain how that would pan out.

18 Q. It's also consumers who will potentially  
19 bear the risk of a couple -- three months' delay in  
20 completing the transmission if that were to happen  
21 and the ability to demonstrate to the IRS that that  
22 construction is continuing throughout the process.

23 That's also a risk we would take if they  
24 slow it down. Right?

25 A. Unless -- I don't know. I'm not sure. I



1 don't know. I mean. I don't know what, you know,  
2 what, I think I would assume that there's, you know,  
3 some opportunities to basically, you know, disallow  
4 those costs if they're not preapproved.

5 Q. And we can have a discussion about what  
6 preapproval means, but I won't go through that now.

7 You said you were a little confused  
8 because parties proposing all purpose -- or all  
9 source RFPs -- and now we're talking about solar --  
10 UAE was one of those who proposed an all-source RFP,  
11 and I suppose, had the company accepted that, we'd  
12 be way down the road in getting that to the market.

13 Today, because they resisted that, we  
14 don't have an RFP issued. I don't -- I haven't seen  
15 any evidence in this document that conventional  
16 resource pricing has changed significantly since the  
17 IRP analysis was done last year; so maybe could that  
18 be a reason why you are not seeing people pushing  
19 for an all source RFP now, because they don't have  
20 any reason to think gas or coal or geothermal  
21 projects again have dropped dramatically in price?

22 A. I'm responding to what I read in the  
23 comments, which was all of it, and the market seemed  
24 to be all source.

25 Q. Sure. Well, and you admitted that's the

1 ideal circumstance, and you retest the market, and  
2 you really get the lowest cost resource available.  
3 Right?

4 If that slows it down dramatically as  
5 opposed to a few months for solar only, do you see a  
6 reasonable argument that the solar expansion is in  
7 the consumers' best interest, because it won't slow  
8 it down by years, and it will allow evaluation of a  
9 resource, for there's evidence in the testimony in  
10 this docket that the prices dramatically dropped,  
11 from what the company said.

12 A. Well, if it's solar only, certainly, it  
13 makes, you know, it makes the process a bit easier,  
14 yes.

15 Q. Let's move to a different subject.

16 You addressed, I believe, in your  
17 testimony in court some of the risks that customers  
18 face with a company build versus a BPA, and you came  
19 up with ways to try and address that.

20 One of the risks I think that you  
21 acknowledged was -- and you said it here today --  
22 the construction of the transmission line risk in  
23 putting the marbles in a transmission line -- cost  
24 overruns, time delays, all of that. Right?

25 A. Right. And like I said, transmission is a

1 long lead time. That's what I said.

2 Q. And I don't know what how much of a  
3 transmission expert you are, but do you also see  
4 litigation risk related to transmission? There's  
5 testimony in this docket that the company may or may  
6 not be complying with the procedures assumed under  
7 Appendix K -- planning for this resource or  
8 discrimination in other context.

9 Does that risk factor in any way to your  
10 evaluation of customer risk with self-build versus  
11 PPAs?

12 MS. HOGLE: Excuse me. I object to that  
13 line of questioning. He's --

14 (Telephonic interruption.)

15 MR. LEVAR: Would you start over.

16 MS. HOGLE: Mr. Oliver doesn't know about  
17 litigation risk. It calls for speculation. Perhaps  
18 legal conclusion, legal interpretation.

19 He's not a lawyer.

20 MR. DODGE: If that was perceived as  
21 asking a legal question, I will withdraw it, but I'd  
22 like to try another one to find whether -- if he did  
23 that evaluation. That's the question I'm asking.

24 MR. LEVAR: What -- describe for me the  
25 question you're trying to --

1 MR. DODGE: The question is in his  
2 evaluation of risk for a company-build benchmark  
3 with transmission versus PPAs, did he take into  
4 account the risk to customers of litigation over the  
5 way in which the company has handled its  
6 transmission analysis of proposing it?

7 MR. LEVAR: Whether he considered that  
8 litigation?

9 MR. DODGE: Did he take that into account?

10 MR. LEVAR: I think that's a fair  
11 question.

12 THE WITNESS: I didn't -- I didn't take it  
13 into account, specifically, for this project. I,  
14 you know, I was aware of the different type of risks  
15 that have occurred in other transmission projects.

16 Q. (BY MR. DODGE) And then the last issue  
17 that I wanted to ask you about is you indicated that  
18 you are recommending that bidders be allowed to bid  
19 in a 30-year PPA, and I appreciated that  
20 clarification, or a 20-year with a 10-year option.

21 You also say that the parties -- the  
22 bidders should be told that tax implications will be  
23 considered.

24 Having sat in this room over many years,  
25 having litigating over the tax implications of these

1 types of bid versus self-builds, how will that be  
2 taken into account in evaluation? If the company  
3 has one position, I guarantee my experts will have a  
4 slightly different one.

5 How are you going to take that into  
6 account?

7 A. Well, we've said to the company, which  
8 they accepted, and I've been involved in this issue  
9 in several recent RFPs, and I'm not -- I can't --  
10 I'm not an accountant. I'm not sure what the right  
11 answer is, because it's so complex, and the rules  
12 are evolving. It's very difficult, and you're  
13 right. Deloitte will disagree with Price  
14 Waterhouse; so the issue is that that's why my  
15 suggestion was at least the bidders recognize and do  
16 some research. I've seen bidders that have no idea  
17 what the implications are of, you know, like a  
18 30-year PPA; so at least just put them on notice  
19 that they should, before they bid -- they should at  
20 least do their own due diligence to make sure they  
21 fully understand what those implications might be.

22 And we've asked the company to put in a  
23 statement in the RFP, which they have done, that  
24 says that, if the company decides to, you know,  
25 eliminate any bidders for, you know, violating the

1 requirements for accounting requirements, that they  
2 have to, you know, basically draft up their basis  
3 for that and provide it to the IEs.

4 **Q. And you will -- you will let this**  
5 **commission know and the parties know if parties are**  
6 **disqualified over that issue --**

7 A. Yes.

8 **Q. -- even if they otherwise were --**

9 A. Yes. I had one case where the utility was  
10 going to-- and I'm not an expert -- but the utility  
11 was going to eliminate a bidder because they felt  
12 that the bidder was, you know, was basically in a  
13 trigger-release provision, and that was against what  
14 they said in the RFP, and they were going to  
15 eliminate them; and I said, "Wait a minute". This  
16 was a cogeneration project, and I said, "I don't  
17 know if you --" and I gave my reasons why I thought  
18 they should be looked at and vetted again to see if  
19 they, in fact, should be eliminated or if they would  
20 qualify.

21 So the utility went out and actually hired  
22 Deloitte, and Deloitte came back and said, "No.  
23 They're not in trigger." So they didn't eliminate  
24 them. They ended up signing the contract; so it's  
25 -- that's why I suggested at least, you know,

1 putting the IEs on notice who could review it and,  
2 you know, get back to them and say, "You know, we  
3 have some issues with this. Here's what we  
4 suggest."

5 Q. Thank you.

6 MR. DODGE: That's all my questions.

7 MR. LEVAR: Okay thank you.

8 Ms. Barbanell?

9 MS. BARBANELL: Thank you.

10 EXAMINATION

11 BY MS. BARBANELL:

12 Q. Afternoon, Mr. Oliver.

13 A. Good afternoon.

14 Q. In the commission's August 22, 2017 order,  
15 it stated that, "neither the DPU nor the IE make  
16 specific recommendations with respect to the RMP  
17 selection of resource type. This lack of any  
18 recommendation comprised part of the concern that it  
19 has an insufficient record before it to make  
20 findings of fact pertinent to that decision by Rocky  
21 Mountain Power."

22 Is it correct that the independent  
23 evaluator's report issued on August 11, 2017, did  
24 not take a position on whether the RFP should expand  
25 to include a broader set of resource types than

1 wind?

2 A. That's correct.

3 Q. Okay. Will you please turn to Page 9 of  
4 your rebuttal testimony, Lines 20-25.

5 On those lines, you note that your IE  
6 report issued on August 11, 2017, "did not take a  
7 position on whether the RFP should expand to include  
8 a broader set of resource types than wind."

9 You then note on Lines 185-188 that "a  
10 targeted solicitation is reasonable given the unique  
11 circumstances associated with the potential value to  
12 customers of procuring additional wind resources at  
13 this time to take advantage of the PTC benefits."

14 Since the commission's August 27, 2017  
15 order in this docket, and as part of the preparation  
16 of your rebuttal testimony, did you engage in any  
17 analysis of the inputs used in PacifiCorp's 2017 IRP  
18 related to wind and solar resources?

19 A. I did review PacifiCorp's testimony. It  
20 had, you know, included their analysis of wind  
21 resources that would be (inaudible).

22 Q. So did you also look at their analysis of  
23 solar resources?

24 A. Not specifically, no.

25 Q. So the rebuttal testimony of my witness,



1 Mr. Isern, at Lines 146 to 164, as well as the  
2 similar testimony of Sarah Wright of Utah Clean  
3 Energy at Lines 80 to 88 state that PacifiCorp's  
4 2017 IRP used outdated solar cost assumptions. Mr.  
5 Isern's rebuttal testimony states that sPower's  
6 levelized cost of solar in Utah today is the \$30 per  
7 megawatt hour range. It also states that the 2017  
8 IRP numbers are in the \$51 to \$56 per megawatt hour  
9 range for 2019.

10 Did you analyze these specific inputs in  
11 the 2017 IRP as part of determining that  
12 PacifiCorp's limited eligibility type is reasonable?

13 A. No. Because I hadn't seen that \$30 number  
14 until I read the testimony.

15 Q. Okay. So that analysis hasn't been taken  
16 into consideration in saying that it is reasonable  
17 to do wind only?

18 A. I also have, you know, it says it involved  
19 solar solicitations (inaudible). I haven't seen  
20 that very often either.

21 Q. Well --

22 A. So I thought that, you know, that was on  
23 the low side.

24 Q. Okay. Well, when Mr. Isern testifies  
25 later, we can explore that some more. Thank you.

1 MR. LEVAR: Commissioner White, do you  
2 have any questions for Mr. Oliver.

3 MR. WHITE: No. I don't have any  
4 questions.

5 MR. LEVAR: Thanks.  
6 Mr. Clark?

7 MR. CLARK: Hi, Mr. Oliver.  
8 From your experience with solar  
9 solicitation processes, if the company were to begin  
10 1st of October to prepare a solicitation, and say it  
11 took -- I think you said 60 days would be a fair  
12 estimate -- could you outline what the rest of the  
13 process would be and to your sense of what  
14 appropriate time frames would be that would lead to  
15 a short list of solar bidders being identified?

16 THE WITNESS: I'm an optimist but --

17 MR. CLARK: And I'd like you to be  
18 optimistic.

19 THE WITNESS: So if -- I would suggest,  
20 basically, like I said, I would -- if you're going  
21 to issue an RFP, I think you can do it in a couple  
22 of months, you know, but it is going to take, you  
23 know, developing contracts for solar. If it's just  
24 solar, it's a lot easier, because then you only have  
25 the solar contract, not PB or thermal solar or

1 anything like that.

2 But anyways, I'd say a couple of months to  
3 develop the RFP and the contracts, and I would  
4 market it up front so that bidders can then reduce  
5 the time the bidders need to prepare their  
6 proposals.

7 So really it gets down to start thinking  
8 about that first, and I would say probably could do  
9 it, you know, six weeks to two months for proposals  
10 being due, and then another couple of months for  
11 evaluation, and maybe cut that down a little bit.

12 MR. CLARK: If we cut it a little bit so  
13 we're talking about 5 to 6 months to being able  
14 identify at least a short list of bidders.

15 THE WITNESS: I think you could probably  
16 do that yeah it depends on how many bidders you get.

17 MR. CLARK: Sure. Sure. And we are, at  
18 least from the record evidence this morning, we have  
19 some reason to believe there might be -- the list  
20 might be significant, and I hope you've taken that  
21 into account in the time frames that you've given  
22 us.

23 THE WITNESS: I don't know how many bids  
24 you'll get. I mean, in California, we got hundreds  
25 and hundreds of bids every time there are solar

1 projects and wind projects for renewable RPS. I  
2 don't know how many you have here.

3 MR. CLARK: Let's assume there are 20.

4 THE WITNESS: That would be five to  
5 six months I think is -- can be good. Six months,  
6 probably.

7 MR. CLARK: Thank you very much.

8 MR. LEVAR: Thank you. I don't have any  
9 other questions, Mr. Oliver; so thank you for your  
10 testimony and your participation here today.

11 MS. HOGLE: Mr. Chairman.

12 MR. LEVAR: Yes?

13 MS. HOGLE: I wonder if, after the  
14 questioning from the parties, if you can indulge me  
15 in allowing me to ask some questions of Mr. Oliver.

16 MR. LEVAR: Sure. Since there really  
17 isn't anyone who did direct examination of Mr.  
18 Oliver, I think we can allow a little of that and  
19 then give everybody else the opportunity to respond.  
20 Thank you.

21 MS. HOGLE: Thank you.

22 EXAMINATION

23 BY MS. HOGLE:

24 Q. Mr. Oliver, can you turn to your report  
25 Page 10, please. Your August 11, 2017 report.

1 A. Okay.

2 Q. There's been a lot of discussion all  
3 morning and this afternoon about the standards.  
4 Correct?

5 A. Yes.

6 Q. I'd like you to read for me, if you will,  
7 starting on the second sentence about the middle of  
8 page where it says "A proposed solicitation and  
9 solicitation process" and reads all the way down to  
10 your -- the end of your last bullet point, please.

11 A. Okay.

12 "A proposed solicitation and solicitation  
13 process must be reasonably designed to (1) comply  
14 with all the applicable requirements of the Act and  
15 commission rules; (2) be in the public interest,  
16 taking into consideration whether they are  
17 reasonably designed to lead to the acquisition,  
18 production, and delivery of electricity at the  
19 lowest reasonable cost to retail customers of the  
20 soliciting utility located in the state; long-term  
21 and short-term impacts, risk, reliability, financial  
22 impacts on the soliciting utility, and other factors  
23 determined by the commission to be relevant."

24 Q. And I'm sorry, if you would stop there.

25 So in your view, is risk -- should risk be

1 assigned a higher value in terms of determining  
2 whether it's in the public interest than whether the  
3 resource will likely lead to the acquisition -- or  
4 excuse me -- whether the RFP will likely lead to the  
5 acquisition, production, and delivery of electricity  
6 at the lowest reasonable cost, other than the fact  
7 that -- or aside from the fact that everybody today  
8 has been focusing on one specific factor.

9 Does it appear to you from reading the  
10 different factors here that one risk is more  
11 important than the other in terms of the  
12 consideration that the commission should balance  
13 when making this decision?

14 A. I'm not sure if these are in order of  
15 importance or they have, just all the same, you  
16 know, risk value.

17 Q. Okay. So is it reasonable to assume based  
18 on that that it's the balancing of those factors and  
19 not focused on one specific factor?

20 A. Right. I think this refers to multiple  
21 factors.

22 Q. Okay. Thank you.

23 You recall earlier Mr. Dodge's questioning  
24 and asking you about whether you would acknowledge  
25 that, if the commission accepts your recommendation,

1 and that is that the commission allow the RFP to  
2 move forward as an all wind -- all-system wind and  
3 that, if solar is cheaper -- ends up being cheaper  
4 than the new interconnected transmission, then  
5 that's a risk.

6 Do you recall that?

7 A. Yes.

8 Q. Okay. Would you also acknowledge that it  
9 would also be a risk if the commission did not  
10 accept the RFP as you recommend in terms of the  
11 timing and that that would be definitely one factor  
12 that the commission would have to consider in its  
13 public interest consideration?

14 A. Yes. As I mentioned, I think, you know,  
15 if the process is delayed, you know, further, then  
16 there could be a risk that the PTC benefits won't be  
17 generated in the time frame that's expected that  
18 leads to delays in the transmission.

19 I don't think the generation projects will  
20 be delayed because of it, necessarily, but the  
21 transmission (inaudible).

22 Q. And you mentioned the timing issue several  
23 times during the questioning of Mr. Dodge. I mean,  
24 you consider that to be a significant risk?

25 A. I do, yes.

1 Q. Okay. And were you in the room when, in  
2 fact, I think you alluded to it -- Rocky Mountain  
3 Power offered to issue a solar RFP in conjunction or  
4 parallel to this RFP that you're recommending today.

5 Is that correct?

6 A. Yes. I heard that.

7 Q. And I think Ms. Barbanell asked you a  
8 question about whether you had made or conducted an  
9 analysis on the \$30 megawatt number and whether this  
10 was taken into consideration in the IRP.

11 Do you recall that discussion?

12 A. I think it was \$50 value that was in the  
13 IRP as opposed to the \$30 an hour Mr. Isern  
14 mentioned in his testimony.

15 Q. Okay. Thank you. And you were here in  
16 the room when Mr. Link testified earlier today that  
17 the solar projects that have been built --that he's  
18 seen -- the cheapest one that's actually been built  
19 and operating was actually coming in at \$52? \$50  
20 per megawatt hour? Were you here in the room when  
21 he testified to that today?

22 A. Yes.

23 Q. Okay.

24 MS. HOGLE: Those are all the questions I  
25 have.



1 MR. LEVAR: Thank you. Any further  
2 follow-up for Mr. Oliver?

3 MR. DODGE: Mr. Chairman, I would like a  
4 brief follow-up. I'd like to request, if I may,  
5 that Mr. Oliver read the last three bullet points  
6 from his statutory description that I think Ms.  
7 Hogle originally asked him to read and then stop.  
8 These are additional requirements that you indicated  
9 from the Act that the solicitation must comply with.

10 THE WITNESS: Okay.

11 (3) Be sufficiently flexible to permit the  
12 evaluation and selection of those resources or  
13 accommodation of resources determined by the  
14 commission to be in the public interest.

15 (4) Be designed to solicit a robust set of  
16 goods to the extent practicable;

17 And (5) Be commenced sufficiently in  
18 advance of the time of the projected resource need  
19 to prevent -- to facilitate compliance with the Act  
20 and commission rules and the reasonable evaluation  
21 of resource options that can be available to fill  
22 the projected need."

23 Q. (BY MR. DODGE) Had this RFP process been  
24 commenced several months earlier, we would not be  
25 having this discussion. Is that a fair assumption?

1 A. I don't know.

2 Q. And do you think it would be reasonable  
3 for someone sitting in Utah -- a Utah resident -- to  
4 suggest that the accommodation of resources that the  
5 commission should determine to be in the public  
6 interest be evaluated might include solar resources  
7 right in our own backyard?

8 A. As I mentioned in my, you know, comments,  
9 I'm assuming that, you know, and also an RFP would  
10 be the solicitation that was, you know, provided to  
11 be the best market test.

12 Q. Sure. And my question is more limited  
13 now. Can you accept that it might be reasonable  
14 view from Utah residents that the accommodation of  
15 resources should include those in our own backyard?

16 A. Yes, if you're going to allow that.

17 Q. I'm just saying solar. I mean, I guess my  
18 last question is would your -- do you believe that  
19 your and mine objectives might be achieved if the  
20 commission were to require the utility to literally  
21 pursue both RFPs simultaneously and condition the  
22 approval of one on the result -- evaluation results  
23 of the other?

24 A. I think my answer would be it would have  
25 been ideal if they were approved together, but I

1 don't -- I don't -- I think where things are at now,  
2 I don't think it would be beneficial to sequence it  
3 together. I think that the best thing to do would  
4 be to get all the separate RFPs followed closely  
5 with the wind RFP.

6 **Q. Well, and that's what I was trying to**  
7 **suggest, that immediately following the issuance of**  
8 **the wind RFP, the company be directed within so many**  
9 **weeks of issuance of the solar RFP or an**  
10 **all-renewable RFP to solicit other types of**  
11 **resources but then condition approval of one on the**  
12 **ability to evaluate the other so that we really do**  
13 **collect a pool of resources.**

14 **A. I can't make any judgment on whether it**  
15 **should be conditioned -- one conditioned on the**  
16 **other, but it would be ideal if one could inform**  
17 **you.**

18 **Q. Thank you. No further questions.**

19 MR. LEVAR: Thank you, Mr. Oliver. We  
20 appreciate your testimony today.

21 This is a natural time for break, although  
22 I'll mention we have a hard time for break at about  
23 ten to three. We have to switch court reporters; so  
24 we can go about ten minutes into Mr. Peterson's  
25 testimony, or we can take a longer than usual break,

1 and I'll defer to Ms. Schmid on that issue.

2 If you prefer to spend a few minutes with  
3 him now and then take a break, or if you prefer a  
4 longer than average break right now?

5 MS. SCHMID: The division is happy with  
6 either option.

7 MR. LEVAR: Okay. Why don't we break  
8 until 3:00 o'clock, then.

9 We're are in recess until 3:00.

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1 MR. LEVAR: Okay. We're on the record. And just  
2 before we came on, Mr. Dodge asked about what happens if this  
3 hearing runs late. We have six witnesses remaining. This  
4 hearing was only noticed for one day. We did not reserve a  
5 second day for the hearing.

6 The commission staff are prepared to stay late  
7 into the evening. I don't know if parties are. We have that  
8 option. Or it takes 24 hours' notice under the Open and  
9 Public Meetings Act to notice a continued hearing. So I  
10 don't know if it makes sense to discuss that with parties now  
11 or give ourselves another hour and see where we are at four  
12 or 4:30-ish.

13 Maybe everybody just wants to think about that.  
14 And then we can move forward and maybe have a discussion in  
15 an hour or two when we see where we are. Unless anyone wants  
16 to say anything else about it now, let me know if you do.  
17 I'm not --

18 MR. DODGE: My personal preference would be to  
19 push forward tonight and get it done.

20 MR. LEVAR: I can tell everyone in the room --  
21 the commission is prepared to do that. I don't know if all  
22 the parties are. So why don't --

23 MR. MOORE: Our witnesses are not available on  
24 Thursday.

25 MR. LEVAR: Okay.

1 MR. MOORE: We can push forward tonight.

2 MR. LEVAR: Is there anyone who cannot keep going  
3 past five o'clock tonight? Maybe that's good enough to ask  
4 now. Or does anyone need a little time to figure out if you  
5 can stay past five o'clock tonight?

6 MS. WRIGHT: I have to leave at five to six to  
7 make it to another meeting at the capital. So if I leave by  
8 five, I'm good.

9 MS. BARBANELL: I think that some of the folks on  
10 the phone are having trouble hearing, so if people can be  
11 sure to speak into their mics.

12 THE REPORTER: Let me just interrupt and say I  
13 couldn't hear you at all because you weren't at the mic. So  
14 if you want to be heard, you have to get to the mic, because  
15 I'm clear across the room.

16 MR. LEVAR: Thank you. And that's also important  
17 for streaming and for people on the phone.

18 MS. SCHMID: The division is prepared to stay  
19 late tonight as well.

20 MS. HOGLE: So is Rocky Mountain Power.

21 MR. LEVAR: Okay. Well, I think we're in good  
22 shape generally then to just keep going forward. If we start  
23 getting towards the end of the day and Mr. Isern hasn't  
24 testified, we may -- but I think we're probably safe to go  
25 with Mr. Peterson first before we go to the office. So,

1 Ms. Schmid?

2 MS. SCHMID: Thank you. The division would like  
3 to call Mr. Charles E. Peterson as its witness. May he  
4 please be sworn.

5 MR. LEVAR: Mr. Peterson, do you swear to tell  
6 the truth?

7 MR. PETERSON: Yes.

8 CHARLES E. PETERSON,  
9 having been first duly sworn, was examined and testified as  
10 follows:

11 EXAMINATION

12 BY MS. SCHMID:

13 Q. Mr. Peterson, could you please give your full  
14 name, business address, and title and employer for the  
15 record?

16 A. Yes. Charles E. Peterson. I am a utility  
17 technical consultant with the Division of Public Utilities  
18 located here in this building on 160 East 300 South, Heber  
19 Wells Building.

20 Q. Have you participated in this docket on behalf of  
21 the division?

22 A. Yes.

23 Q. Could you please briefly describe your  
24 participation?

25 A. My participation began with the solicitation for

1 an independent evaluator by the Public Service Commission. I  
2 was invited to participate in that process. The commission  
3 has also delegated certain administrative functions relative  
4 to overseeing the independent evaluator, delegated those  
5 functions to the division.

6 I've been involved in reviewing the RFP as filed  
7 by the company. And I filed, or caused to be filed,  
8 memoranda and testimony in this docket.

9 **Q. Did you prepare and cause to be filed what's been**  
10 **previously identified as DPU Exhibit No. 1.0 REB in both**  
11 **confidential and redacted forms?**

12 A. Yes.

13 **Q. Do you have any changes or corrections to that**  
14 **testimony?**

15 A. Yes, I do.

16 **Q. Do they perhaps involve omitted words?**

17 A. Yes, they do. Apparently my brain sometimes  
18 works faster than I can type. On page, what I have as page  
19 7, starting with the sentence on line 142, it goes on to line  
20 145 where it currently ends with "transmission line." But  
21 that as it stands right now does not form a complete sentence  
22 or make very much sense, although perhaps its meaning could  
23 be inferred.

24 Anyway, what should be added after "line" is "is  
25 not yet complete." And then the following sentence should



1 start out, "Therefore, the division is not yet prepared to  
2 render an opinion."

3 Q. With that correction, if I were to ask you the  
4 same questions that are in your testimony today, would your  
5 answers be the same?

6 A. Yes.

7 Q. The division would like to move for the admission  
8 of what's been identified as DPU 1.0 rebuttal in both  
9 confidential and redacted form.

10 MR. LEVAR: If any party objects to that motion,  
11 please indicate to me. And I'm not seeing any objections, so  
12 the motion is granted.

13 Q. (By Ms. Schmid) Mr. Peterson, do you have a  
14 summary to present today?

15 A. Yes, a very brief one. The division recommends  
16 the conditional approval of the company's RFP. The  
17 condition -- the conditions include the adoption of the  
18 independent evaluator's recommendations along with the  
19 geographic expansion to include wind resources outside of  
20 Wyoming.

21 I understand from sitting here today that the  
22 company is agreeable to those conditions and that the company  
23 is also relaxing its conditions on system impact statements,  
24 which the division also thinks is a good move even though we  
25 haven't particularly -- especially proposed that.

1           The division also wants to reiterate that it  
2 continues to study a number of issues related to this RFP and  
3 the docket 17-035-40. It has not yet completed its  
4 investigations and analyses and my impression has been that  
5 much of the testimony in this docket by other parties is  
6 reflective of issues and concerns that the division had  
7 intended to raise in the prudence docket, which I'll  
8 reference as being the 40 docket.

9           **Q. In addition, the procedure order allows the**  
10 **opportunity for a witness to give live surrebuttal. Do you**  
11 **have any comments on that or other things?**

12           A. Yes. The division had understood, up until this  
13 morning at least, that the company was bringing forth this  
14 proposal, this RFP and related wind repowering and  
15 transmission proposals as strictly economic opportunities.  
16 This morning was the first time that I'm aware that a company  
17 representative has said that it is to satisfy a need.

18           Particularly, Mr. Link referenced the need, as he  
19 put it, to offset front office transactions that are  
20 available apparently to be offset by wind and perhaps other  
21 future resources.

22           Now, this was different than the division's  
23 understanding of the purpose of these dockets. And the  
24 division will have to analyze what to make of it and perhaps  
25 seek clarifying explanations from the company as a result of

1 the apparent move to the company to represent that these  
2 dockets represent fulfillment of a need that the company has  
3 apparently specifically identified and not strictly an  
4 economic opportunity.

5 So that is a concern that the division raises.  
6 It may affect to some extent our testimony going forward, if  
7 not in this RFP solicitation docket, in the other dockets.  
8 And that concludes my surrebuttal testimony.

9 MS. SCHMID: Mr. Peterson is now available for  
10 cross-examination and questions from the commission.

11 MR. LEVAR: Thank you. Ms. Hogle, do you have  
12 any questions for Mr. Peterson?

13 MS. HOGLE: No questions.

14 MR. LEVAR: Mr. Longson, do you have any  
15 questions for him?

16 MR. LONGSON: No questions. Thank you.

17 MR. LEVAR: Okay. Mr. Moore?

18 MR. MOORE: Just a few questions.

19 EXAMINATION

20 BY MR. MOORE:

21 Q. Mr. Peterson, could I direct your attention to  
22 pages 7 and 8, lines 150 to 156 of your rebuttal testimony?

23 A. Okay.

24 Q. That's a question and answer. Can you read that  
25 for me for context? I stumbled over it.

1           A.     "Question:  What is the Division's position with  
2     respect to the wind-only versus an all-source RFP.

3                     "Answer:  The Division believes that the RFP  
4     should be restricted to wind-only resources.  The reason for  
5     this is that the point of issuing the RFP is to potentially  
6     reap the benefits of the PTCs," or production tax credits.

7                     "Furthermore, the Company's analyses to this  
8     point suggest that ratepayers will be better off with the  
9     wind resources the company has proposed versus the more  
10    standard IRP resource decisions.  For whatever it is worth,  
11    the company is not alone among utilities in making a push for  
12    wind resources due to the PTC benefits."

13           **Q.     Thank you.  First, in making your recommendation**  
14    **regarding wind-only RFP, you relied on the tax benefits of**  
15    **the PTCs for wind, but solar and similar tax advantage was**  
16    **the investment tax credit; isn't that true?**

17           A.     I've heard that that's true but I have no special  
18    knowledge about the nature of those tax credits.

19           **Q.     Second, the company's analysis to point is based**  
20    **on the company's unacknowledged IRP, both the initial stages**  
21    **and the updated -- an update styled Energy Version 220 update**  
22    **and a 260 RFP.  Is this your understanding?**

23           A.     I'm sorry, could you repeat the question?  I  
24    guess I didn't follow it as well.

25           **Q.     Let me try to restate it.  In stating your**

1 reasons why you agreed to a wind-only RFP, one of the reasons  
2 was the company's analysis at this point suggests that the  
3 ratepayers will be better off with wind resources.

4 A. Yes.

5 Q. And the company's analysis at this point, it is  
6 the office's understanding it is based on the RFP, the  
7 initial stages of the IRP, and then its recently updated  
8 supplement entitled Energy Division 220 -- 2020 update and  
9 also a 2016 RFP. Does that comport with your understanding  
10 of the company's analysis of this point?

11 A. Well my testimony, I've discounted the value of  
12 the 2016 RFP.

13 MS. SCHMID: Pardon me. IRP?

14 A. No, RFP.

15 MS. SCHMID: RFP. Thank you.

16 A. However, your question, it is based upon the  
17 company's analyses that the division accepts, provisionally,  
18 that ratepayers be better off with proceeding with the RFP  
19 versus not proceeding with the projects that the company is  
20 proposing.

21 Q. Now, I'm going to direct your attention to your  
22 testimony on page 9 --

23 A. Okay.

24 Q. -- lines 174 to 175 in your rebuttal testimony.

25 A. Okay.

1 Q. In arguing against the company's initial  
2 assertion that the geographical scope of the RFP should be  
3 limited to Wyoming you noted -- I believe your testimony is,  
4 "The IRP analyses were necessarily made based upon  
5 restrictive assumptions regarding what wind in other  
6 locations might be able to provide." And that, "The company  
7 may or may not be accurate in these assumptions." Is that  
8 still your opinion?

9 A. Yes.

10 Q. Is it not true that some assumptions can be made  
11 regarding the type of resources that may be able to compete  
12 with Wyoming wind or wind in general may also be incorrect?

13 A. Well, the company's analyses are based upon the  
14 assumptions that it made in its IRP. And those assumptions  
15 are always subject to challenge and they may be correct or  
16 incorrect.

17 Q. One assumption that is almost certainly incorrect  
18 is the assumption that cost tracking solar is in the high  
19 fifties to \$65 dollar per megawatt hour when evidence from  
20 interveners and leasing QF contracts by the Southern Utah  
21 Solar Resource have a leveling price approximately 40 percent  
22 below that in the low \$30 dollar megawatt hour range?

23 MS. SCHMID: I will object to that question.

24 Mr. Peterson's testimony does not go into that level of  
25 detail at all. And I would say it's beyond the scope of his

1 testimony.

2 MR. LEVAR: In response to that objection,  
3 Mr. Moore, are you aware of anywhere that Mr. Peterson has  
4 discussed solar pricing in his testimony? I think the  
5 objection hinges on whether Mr. Peterson has discussed solar  
6 pricing.

7 MR. MOORE: Mr. Peterson discussed incorrect  
8 assumptions that are possible in the IRP. To the extent that  
9 that doesn't -- my question was, does that extend to  
10 assumptions made to solar resources. If that is -- my  
11 question extended beyond his testimony, I'll withdraw the  
12 question.

13 MR. LEVAR: So far, your question is: Does that  
14 assumption extend to solar resources?

15 MR. MOORE: Right. My question is: Does the  
16 statement -- the assumptions that may be incorrect in his  
17 analysis of wind resources also apply to -- possibly apply to  
18 assumptions the company made with regards to solar or other  
19 resources?

20 MR. LEVAR: I think that's a fair question,  
21 Mr. Peterson.

22 A. Yes, it could extend to those assumptions and any  
23 number of other assumptions.

24 Q. You stated recently that you discounted the  
25 company's reliance on its 2016 RFP; is that correct?

1 A. Yes. I think it's in my testimony.

2 Q. Now may I direct your attention to pages 9 and  
3 10? I'm going to retract that and, just to make this quick,  
4 with regard to the division's reliance on the contention that  
5 the utilities have made a (inaudible) wind resources --

6 THE REPORTER: I'm sorry, have made a --

7 MR. MOORE: I'm sorry. I'll rephrase. With  
8 regards to the division's reliance on the contention that  
9 other utilities have made a perishable wind resource due to  
10 PTC benefits, your testimony does not indicate whether the  
11 other utilities you've mentioned or referred to may have  
12 similar solar resources in Utah or have a different vetting  
13 process or require transmission upgrades.

14 Do you address the similarities between the  
15 utilities you mentioned or the dissimilarities between the  
16 utilities you mentioned in Utah?

17 MS. SCHMID: Again, I would object to the extent  
18 that the question goes beyond the scope of his testimony to  
19 solar resources.

20 UNIDENTIFIED: Hello. You have been conducting a  
21 meeting for a long period of time. If you need to continue  
22 meeting, hit one.

23 MR. LEVAR: Press one.

24 MR. MOORE: Chairman, his testimony was that it  
25 was reasonable to apply to restrict the IRP to solar -- to



1 wind only resources because other utilities have made  
2 restrictions to wind only resources. So I'm asking him  
3 whether he knows whether those other utilities that he was  
4 referring to have the same situation as occurs in Utah via  
5 the solar resources we have and the unusual vetting process  
6 we had in this proceeding as well as the requirement for  
7 transmission upgrades.

8 MS. SCHMID: Objection to the characterization of  
9 Mr. Peterson's testimony.

10 MR. LEVAR: What's -- if you would clarify what's  
11 mischaracterized.

12 MS. SCHMID: Mr. Peterson probably could explain  
13 that better.

14 A. Mr. Moore suggested that I said that these were  
15 wind only RFPs out of which other utilities were seeking to  
16 acquire or were actually in the process of constructing wind  
17 resources. I made no such representation related to how  
18 these solar, or how these utility companies went about  
19 getting approval if they needed approval to acquire thousands  
20 of megawatts of wind resource.

21 I only made my exact statement, and this is my  
22 testimony on lines 155 and 156. I said, "For whatever it is  
23 worth, the company is not alone among utilities in making a  
24 push for wind resources due to PTC benefits." And I cited to  
25 a Standards & Poor Global Market Intelligence Report of

1 August 15th, 2017.

2 MR. MOORE: Mr. Chairman, I think I should be  
3 able to inquire to the extent of his knowledge of the  
4 circumstances of those utilities that are making a push for  
5 PTC sources if his testimony goes to the fact as to why he  
6 only -- the division is only making a recommendation for wind  
7 only resources.

8 MR. LEVAR: You know, where he's made that  
9 statement with the reference to an S&P article, I think it  
10 would be fair to ask him if he's aware of any more of the  
11 details of those solicitations represented in the article.  
12 And I think that's probably the next appropriate question.

13 **Q. Mr. Peterson, I won't reask the question. I'm**  
14 **sure you can phrase it better than that.**

15 A. To the best of my knowledge, the report does not  
16 discuss the RFP processes that these various companies and  
17 utilities went through. It was merely a citation to the fact  
18 that utilities seeking to construct wind resources to benefit  
19 from the PTCs is a widespread phenomenon. And I made no  
20 assumption or have no particular knowledge about the  
21 processes that approval of these different utilities went  
22 through. I don't know what they are.

23 **Q. That answers my questions. Thank you. I have no**  
24 **further questions. Thank you, Mr. Peterson.**

25 A. Thank you.

1 MR. LEVAR: Mr. Dodge?

2 EXAMINATION

3 BY MR. DODGE:

4 Q. Thank you, Mr. Chairman. Mr. Peterson, I hope  
5 that this will be quick. I'll refer you to pages 8, 9 and 10  
6 of your testimony, at least on my copy, and I hope it's the  
7 same as yours. There's a question on my copy that begins on  
8 line 168, "The Company's position seems to be..." Are you  
9 there?

10 A. Yes.

11 Q. So, that question -- again, I'll reference, you  
12 were asked about the company's position resisting opening up  
13 the RFP to wind outside of Wyoming. And you were giving your  
14 reasons why you disagreed with their conclusion; is that  
15 accurate?

16 A. Yes.

17 Q. I'd like -- I think you give basically six  
18 answers there. The first one on lines 173 to 175 that I  
19 believe Mr. Moore referenced, the IRP analyses were made upon  
20 restrictive assumptions. The company may or may not be  
21 accurate in these assumptions.

22 My question -- again, I'm trying not to overlap  
23 Mr. Moore -- but putting aside whether you -- whether you  
24 recommend opening the RFP to solar, I want to understand, do  
25 these reasons -- would they apply similarly to solar if there

1 weren't other reasons not to expand it? So, in other words,  
2 would that same analysis, that same conclusion, also apply in  
3 responding to why one would not open it to solar, that the  
4 assumptions in the RFP may not be accurate?

5 A. I guess my attorney isn't going to make an  
6 objection. We unfortunately have to share microphones here.  
7 So, as I said earlier in response to Mr. Moore, we have a  
8 situation where we do not have an acknowledged fully vetted  
9 IRP. And even if we had one, they're all -- the company  
10 makes numerous assumptions in the construction of the various  
11 scenarios it makes and in its forecast that may or may not be  
12 accurate, both in a practical sense in that forecasts are  
13 invariably wrong, and perhaps occasionally in a factual sense  
14 that they just have bad data in the IRP.

15 And that may or may not be discovered by parties  
16 as they investigate the IRP. But that is a kind of a  
17 blanket -- I would agree that that's a blanket potential  
18 problem with the IRP.

19 Q. And therefore you're recommending allowing the  
20 market to test the assumptions made in the IRP, open it to  
21 other bids so you can test assumptions in the IRP?

22 A. That was the primary concern, especially -- I  
23 think in our second reply memorandum that we've attached as  
24 my Exhibit 3, we identify reasons why we at least are  
25 concerned that the RFP may not be robust. The company of

1 course completely disagrees with that analysis. But we had  
2 concerns and we wanted -- we want to see what the market  
3 really is, especially as a comparison to the company's  
4 benchmark bids.

5 Q. Beginning at the end of line 176 you added  
6 another reason, "However, to the best of the division's  
7 knowledge, wind projects in states other than Wyoming could  
8 still qualify for the PTCs, which are the driving force  
9 behind the company's proposals."

10 If you were to replace PTC with ITC and wind with  
11 solar, that would still be an accurate statement, wouldn't  
12 it?

13 MS. SCHMID: I will object to this question as  
14 beyond the scope.

15 MR. DODGE: I guess I'm struggling here with  
16 trying to limit -- I mean this is an expedited proceeding  
17 where the division that's supposed to be giving an opinion on  
18 the public's interest can't be asked questions about whether  
19 expanding the scope to solar, which he said don't do, whether  
20 the rationale for proposing that it be expanded to out of  
21 Wyoming wind wouldn't also apply to solar. That's clearly  
22 within the scope of his recommendation.

23 MR. LEVAR: Well, it depends on whether his  
24 recommendation includes an affirmative recommendation not  
25 to include solar or whether his testimony is silent on the

1 issue. And so it's -- does his testimony specifically say  
2 the RFP should not include solar or is it silent on the  
3 issue?

4 Q. It says the division -- excuse me. It said, and  
5 we read it a minute ago. Yeah, on line 151, "The division  
6 believes the RFP should be restricted to wind-only  
7 resources."

8 So I'm exploring his rationale for proposing to  
9 expand beyond Wyoming wind, why they don't also apply to  
10 expanding to solar.

11 MS. SCHMID: I'll withdraw my objection.

12 Q. Thank you. And, again, I'm not asking for a  
13 debate -- you've given your reasons, Mr. Peterson, why you  
14 recommended wind-only and I've been through that with  
15 Mr. Oliver. I'm not going to go through it again with you.  
16 But I just want clarification if you think any of your  
17 rationale for extending it beyond a Wyoming limited wind  
18 resource RFP would not apply when we're considering solar.

19 So my question again is: If you replace wind  
20 with solar and PTCs with IPCs, would that still be an  
21 accurate statement?

22 A. Well, to the extent that I have not investigated  
23 solar IPCs, I'm uncertain whether I could agree that they  
24 could be substituted one for one.

25 Q. Fair enough. The next sentence you say, "Utah

1 ratepayers could potentially benefit from PTCs generated in  
2 other states as well as in Wyoming." If we substituted PTCs  
3 with ITCs, would that still be a fair statement, Utah rate-  
4 payers could potentially benefit from ITCs generated in  
5 states other than Wyoming?

6 A. Well, are you asking me a hypothetical to equate  
7 PTCs and ITCs?

8 Q. No, no. And I'm accepting that you have not done  
9 any investigation of ITCs. I'm saying, is it possible that  
10 ITCs generated from projects in other states could  
11 potentially benefit ratepayers just like PTCs generated from  
12 non Wyoming resources could?

13 A. Well, I would have to say it's possible, yes.

14 Q. The next point you made on lines 181 and 182 is  
15 that, "...it may be possible for a bidder/developer to be  
16 competitive with a project location outside of Wyoming." I  
17 assume that also would apply to a solar project outside of  
18 Wyoming. It may be possible for it to be competitive;  
19 right?

20 A. Well, if we were to open the solicitation to  
21 solar, then I guess it would be possible.

22 Q. You also, down on lines 187 and 188, you said,  
23 "While it is true that Idaho wind was not selected when the  
24 proposed Wyoming wind was locked into the model, there  
25 appears to be some possibility that Idaho wind may be

1 competitive." Do you accept that there may be some  
2 possibility that Utah solar might be competitive?

3 A. I would accept that there would be some  
4 possibility.

5 Q. The next cue is, "If the company receives a  
6 number of non-Wyoming bids that just are not competitive,  
7 won't that waste a lot of time, given the short supply."

8 Your response on the next page was, "Possibly,  
9 but such a bidder would have to spend time and money to bid  
10 knowing that it was going against Wyoming wind project,  
11 including the company's benchmark bids, and it may face  
12 unfavorable transmission costs." At the end of that you  
13 said, "The company should be able to quickly identify  
14 out-of-the-money bids."

15 Would that analysis also apply if they're looking  
16 at solar bids that may be out-of-the-money?

17 A. I can only say it's a potential possibility.

18 Q. And I guess then just finally, as a  
19 representative of the state agency in Utah, do you not agree  
20 that Utah residents and ratepayers feel like the economic  
21 benefits being touted of this development in Wyoming ought to  
22 at least be opened up to competition for projects located in  
23 this state?

24 A. Well, the division does support opening it up  
25 and has supported opening it up to projects potentially in



1 Utah. The benefit that we have been told we get from these  
2 projects is primarily the PTCs. And we haven't been looking  
3 into this as a Utah only economic development project.

4 Usually the division does not support projects  
5 merely because they're economical -- they're an economic  
6 development type of project in some locality.

7 Q. And that was clearly not the import of my  
8 question or the intent of the question, because I'm here  
9 representing customers who care as much as -- probably more  
10 than you do -- about costs.

11 My point is, if there's a possibility that there  
12 are Utah resources that can be competitive and even superior  
13 to the ones the company is proposing, as a Utah agency  
14 representative, don't you think it would be fair, if it can  
15 be done in a reasonable way, that Utah be allowed to compete  
16 straight up with Wyoming for the economic benefits?

17 A. Well, certainly the division would like to see  
18 Utah based companies be developed in the sense that you  
19 could. I'm just not prepared to say that we're going to  
20 favor any particular developers in that regard or any  
21 particular localities within Utah.

22 The proposals that the company brought forth, as  
23 the division understands them -- or understood them -- was  
24 that this was a purely economic opportunity. And we did  
25 argue that developers outside of Wyoming should be allowed to

1 compete, which would include Utah developers as well.

2 And so I'm not sure I follow what the point is  
3 you're trying to make with your line of questioning. We do  
4 favor having Utah developers be able to bid in.

5 Q. The point is that we as UAE support allowing Utah  
6 solar developers also to bid in because we have reason to  
7 believe that would be a competitive resource. And if that  
8 were the case -- and I understand you haven't evaluated  
9 that -- but if that were the case, you wouldn't want to  
10 discriminate against Utah locales or developers any more than  
11 you'd want to favor them; right?

12 A. I certainly don't want to discriminate.

13 Q. Thank you. No further questions.

14 MR. LEVAR: Thank you. Ms. Barbanell?

15 MS. BARBANELL: I have no questions.

16 MR. LEVAR: Any redirect, Ms. Schmid?

17 MS. SCHMID: None.

18 MR. LEVAR: Thank you. Commissioner Clark, any  
19 questions for Mr. Peterson?

20 EXAMINATION

21 BY MR. CLARK:

22 Q. Yes. Just a couple of questions, Mr. Peterson.  
23 I'm going to focus on your answer that begins on page 7  
24 regarding the restriction of the RFP to wind only. I think  
25 what I've heard you say is that your support for that

1 restriction has been based at least on the belief that the  
2 motivation for the RFP is to take advantage of the  
3 production tax credits that are available to wind. Is that  
4 accurate?

5 A. Yes.

6 Q. And so at the beginning of your testimony, you  
7 expressed a new understanding gained this morning regarding  
8 the prospect that the RFP is need-based and is related to the  
9 need to offset front office transactions. And I'm wondering  
10 how that realization affects the conclusions that you  
11 expressed in the answer to the question at the bottom of page  
12 7?

13 A. Part of the issue with this RFP and related  
14 dockets is that we do not have an acknowledged IRP that has  
15 been fully vetted that has been accepted as demonstrating  
16 that the resources that the company is proposing, both the  
17 transmission and the wind, meet the usual criteria as set  
18 forth in the statute and in the commission's rule that  
19 slightly expands the statute. I think it's 402 or -- but  
20 anyway -- right, R-746-420-3, and especially looking down on  
21 -- let's see, 1F5.

22 Q. Would you mind reading that for us?

23 A. Sure. Other factors -- F starts out "Other  
24 factors determined by the commission to be relevant." And  
25 then the commission lists what I interpret to be the other

1 factors. And Roman Numeral V, it says, "Be commenced  
2 sufficiently in advance of the time of the project resource  
3 needed to permit and facilitate compliance with the act and  
4 the commission rules and a reasonable evaluation of resource  
5 options." And this is the point I want to highlight. "But  
6 can be available to fill the projected need and will satisfy  
7 the criteria contained within Section 54-17-3023C."

8 Part of the problem with this process as the  
9 division sees it is that it does not -- if it's strictly an  
10 economic opportunity that the company is presenting and that  
11 is how the division has understood it to this point, then the  
12 criteria that are set forth in the statute in particular, the  
13 commission rule may not be applicable, at least in the way  
14 that we normally think of them, because there is no need that  
15 the company has previously identified that it's trying to  
16 solve. And, as I said, it's been strictly an economic  
17 opportunity.

18 So, the division has evaluated it as an economic  
19 opportunity up to this point, at least to the extent of  
20 advocating to some extent for allowing the company to issue  
21 its RFP is that we're not solving a need but there is the  
22 potential that ratepayers will be better off if we allow the  
23 company to go forward with this than if they did not.

24 And the same issue I think would arise -- and  
25 this perhaps -- would perhaps arise with expanding the RFP to

1 solar. There is no need that has been identified that we're  
2 going to solve with this. It's strictly a question of  
3 whether ratepayers are going to be better off or not. And  
4 the division is of the opinion that that may open this up to  
5 an endless investigation into what is the very best way or  
6 very best economic solution for ratepayers that go on  
7 endlessly. That's at least a potential. And I mentioned  
8 that in my testimony.

9 So, given that explanation, the division believes  
10 that we do not want to necessarily foreclose the company  
11 looking out for opportunities to economically benefit rate-  
12 payers even if they're not necessarily fulfilling a need.  
13 And that seems to be what the company has brought forward.  
14 And that's how the division has been evaluating it, not as  
15 something that we need to perhaps try to endlessly search for  
16 the very best combination of transmission and other resources  
17 in every conceivable location.

18 So, that's kind of -- I hope that gives you a  
19 better flavor of where the division has been coming from in  
20 this RFP process.

21 MR. CLARK: Thank you. That concludes my  
22 questions.

23 MR. LEVAR: Mr. White?

24 \*\*\*

25 \*\*\*

1

## EXAMINATION

2 BY MR. WHITE:

3 Q. Your explanation or information to Commissioner  
4 Clark was helpful. It sounds like then that really from the  
5 division's standpoint -- I don't want to put words in your  
6 mouth -- but the next step in the 40 docket, would it be a  
7 benefit to the commission -- I mean to the division to have a  
8 solar resource to consider in the context of that or not? I  
9 mean it sounds to me like you're looking at it solely as just  
10 an economic time and opportunity, you're not looking at it  
11 in -- or at least at this point, you've not had the  
12 opportunity to even evaluate solar in the same context as not  
13 a need but as an economic time limited opportunity.

14 A. That's basically correct. We've been looking at  
15 it as the PTC expiration date. I remember hearing or reading  
16 somewhere that solar ITCs last at least another year,  
17 potentially, beyond what the wind PTCs do. I can't testify  
18 to that for sure.

19 But, yes, we've been looking at it as the company  
20 has brought forth an economic proposal and we're evaluating  
21 the value and risks of those proposals on that basis. I  
22 suppose if a wind -- I mean, excuse me -- an alternative  
23 solar proposal could be brought forward in competition, that  
24 might help evaluate the decision in the 40 docket. However,  
25 it still doesn't answer the question, do we want to grab the

1 wind PTCs perhaps at the expense of taking solar ITCs. These  
2 are issues that the division hasn't contemplated and, to this  
3 point, we haven't been investigating.

4 **Q. That's all the questions I have. Thanks.**

5 MR. LEVAR: Okay. And I don't have anything for  
6 Mr. Peterson. Ms. Schmid, anything further?

7 MS. SCHMID: Nothing further.

8 MR. LEVAR: Thank you. Mr. Moore?

9 MR. MOORE: Yes. The office would call Bela  
10 Vastag.

11 MR. LEVAR: Mr. Vastag, do you swear to tell the  
12 truth?

13 A. Yes, I do.

14 BELA VASTAG,  
15 having been first duly sworn, was examined and testified as  
16 follows:

17 EXAMINATION

18 BY MR. MOORE:

19 **Q. Could you please state your name and business**  
20 **address for the record?**

21 A. My name is Bela Vastag. That's B-E-L-A  
22 V-A-S-T-A-G. I am a utility analyst employed by the Office  
23 of Consumer Services. And my address is 160 East 300 South  
24 in Salt Lake City, Utah.

25 **Q. For whom are you testifying for today?**

1 A. The Office of Consumer Services.

2 Q. Did you file rebuttal testimony in this docket on  
3 September 13th?

4 A. Yes.

5 Q. Do you have any changes to this testimony?

6 A. No, I don't.

7 Q. If I asked you those same questions in your  
8 testimony, would your answers be the same?

9 A. Yes.

10 Q. At this time I move for admission of his  
11 testimony.

12 MR. LEVAR: If there's anyone who objects to that  
13 motion, please indicate to me. I'm not seeing any objections  
14 so the motion is granted.

15 Q. Have you prepared a statement summarizing your  
16 testimony?

17 A. Yes, I have.

18 Q. Please proceed.

19 A. Good afternoon. The commission's August 22nd,  
20 2017 order in this proceeding stated that there was an  
21 insufficient record to determine if the company's RFP would  
22 result in the lowest cost electric resource or resources as  
23 required for a solicitation process under the Utah Energy  
24 Procurement Act and the commission rules.

25 The office retained the firm of J. Kennedy and



1 Associates to assist us in determining whether the company  
2 has demonstrated that the design of their RFP would achieve  
3 the requirements of being able to solicit the lowest cost  
4 bids for resources. Mr. Philip Hayet conducted a detailed  
5 analysis on behalf of the office and explains in his rebuttal  
6 testimony that the company's restriction to only allow  
7 Wyoming wind to bid would eliminate the opportunity for  
8 potentially lower cost resources to compete, which would  
9 violate the Energy Procurement Act.

10 The office does recognize that there is a near  
11 term opportunity to acquire cost effective renewable energy  
12 resources that qualify for tax credits, whether it's the  
13 production tax credits, the PTC, or the investment tax  
14 credit, the ITC.

15 The company claims its IRP analysis shows that  
16 Wyoming wind is low cost, however, the statute does not  
17 require the utility to seek just low cost resources but the  
18 lowest cost resources. The company has chosen to bring the  
19 RFP before the commission using the RFP section under the  
20 Energy Procurement Act, therefore, the RFP should be allowed  
21 to demonstrate which resources are lowest cost.

22 Unless the company redesigns its RFP to allow all  
23 types of renewable resources that can connect anywhere to the  
24 company's system to bid, the office recommends that the  
25 commission reject the RFP because it will not be compliant

1 with the requirements of the Energy Procurement Act. That  
2 concludes my statement.

3 Q. Do you have any surrebuttal to offer at this  
4 time?

5 A. I do not.

6 Q. Mr. Vastag is available for cross-examination.

7 MR. LEVAR: I'll go to Ms. Barbanell first. Do  
8 you have any questions for Mr. Vastag?

9 MS. BARBANELL: No questions.

10 MR. LEVAR: Mr. Dodge?

11 MR. DODGE: No. Thank you.

12 MR. LEVAR: Mr. Longson?

13 MR. LONGSON: No questions. Thank you.

14 MR. LEVAR: Ms. Schmid?

15 MS. SCHMID: No questions.

16 MR. LEVAR: Ms. Hogle?

17 MS. HOGLE: No questions.

18 MR. LEVAR: Commissioner White?

19 MR. WHITE: No questions. Thank you.

20 MR. LEVAR: Commissioner Clark?

21 MR. CLARK: No questions.

22 MR. LEVAR: And I don't either. Thank you,  
23 Mr. Vastag. Mr. Moore?

24 MR. MOORE: At this time, we would like to take  
25 our first telephonic witness.

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EXAMINATION

BY MR. MOORE:

**Q. Can you hear me, Mr. Hayet?**

A. Yes, I can hear you.

MR. LEVAR: We're not hearing you very well, so we'll try to get the volume turned up and get the microphone on you.

A. It is a little hard for me to hear as well, I have to say.

MR. LEVAR: Okay. While we're doing telephonic witnesses, basically get your mouth as close to the microphone as you can. It's not comfortable for any of us but...

Mr. Hayet, do you swear to tell the truth?

A. I do.

MR. LEVAR: Okay, Mr. Moore.

PHILIP HAYET,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. MOORE:

**Q. What is your name, address and by whom are you employed?**

A. My name is Philip Hayet. My business address is 570 Colonial Park Drive, Suite 305, Roswell, Georgia, 30075.

1 I'm a utility regulatory consultant and vice president of J.  
2 Kennedy and Associates.

3 Q. Who are you testifying for today?

4 A. Yes, I am.

5 Q. For whom are you testifying today?

6 A. I'm testifying on behalf of the Office of  
7 Consumer Services.

8 MR. LEVAR: Sorry. That didn't help.

9 Q. (By Mr. Moore) Did you file rebuttal testimony  
10 in this docket on September 13?

11 A. Yes, I did.

12 Q. Do you have any changes to this testimony?

13 A. I'm sorry?

14 Q. Do you have any changes you'd like to make to  
15 this testimony now?

16 A. Yes. I have one change on line 19 in my  
17 testimony.

18 THE REPORTER: I can't hear you, I'm sorry. Will  
19 you tell him I cannot hear him?

20 MR. MOORE: Excuse me, Mr. Hayet. We have a  
21 problem with the court reporter.

22 MR. LEVAR: Is the microphone on? Is the green  
23 light on on the microphone?

24 A. No.

25 (Briefly off the record.)

1 MR. LEVAR: Okay, Mr. Hayet, will you continue?

2 A. Okay, I'll start the answer over again. I do  
3 have -- I'm sorry?

4 Q. Yes. Could you start the answer over again  
5 regarding the changes you may have to your pretrial  
6 testimony?

7 A. Yes. I have one change, page 1, line 19 which  
8 reads, "I respond to PacifiCorp witness Link's testimony..."  
9 I am responding to his direct and rebuttal testimony. So  
10 change the word "direct" to the words "direct and rebuttal."

11 Q. Is that the only change you need to make today?

12 A. Yes.

13 Q. If I asked you the same questions contained in  
14 your pretrial testimony, would your answers be the same?

15 A. They would.

16 Q. I would like now to move to introduce his  
17 testimony together with exhibits to his testimony, OCSR --  
18 OCS - 2.1 Philip Hayet's resume, and OCS 2.2, S&P article  
19 Oregon approves PacifiCorp wind request for proposals.

20 MR. LEVAR: If anyone objects to that motion,  
21 please indicate to me. I'm not seeing any objection in the  
22 room so the motion is granted.

23 Q. Have you prepared a summary of your testimony?

24 A. Yes, I have.

25 Q. Will you please provide a summary now?

1           A.     Yes.   Good afternoon, commissioners.   The company  
2   is seeking approval of its solicitation process.   And in its  
3   August 22nd order, the commission has made it clear that it  
4   wants to ensure the company's process will likely result in  
5   the acquisition of resources at the lowest reasonable cost  
6   to customers, recognizing the company has placed restrictions  
7   on resources bid.

8                   I was retained to assist the office to determine  
9   whether the company has adequately demonstrated its  
10  solicitation process will meet the lowest reasonable cost  
11  standards.   I recognize that the company has now lifted the  
12  location restriction but is still planning to exclude  
13  renewable resources other than wind from being able to bid,  
14  which I am still concerned about.

15                   My conclusion is that the company has still not  
16  provided sufficient evidence proving no other renewable  
17  resources to be offered that would lead to the company  
18  acquiring the lowest cost resources available.   Therefore,  
19  unless the company is willing to revise its RFP to open up to  
20  other renewable resources, I believe the commission should  
21  reject the company's solicitation process.

22                   The main issue in this case is whether the  
23  company, by placing restrictions on the bid, is precluding  
24  the possibility that even more economic resources can be  
25  offered to serve customer load which would violate the Energy

1 Procurement Act.

2 As opposed to other parties who originally had a  
3 location objection, which I will realize has now been  
4 eliminated, I have a resource type objection. It may be fine  
5 for utilities in other parts of the country to have  
6 restricted their solicitations to a specific resource type  
7 because they may have clearly demonstrated beyond a shadow of  
8 a doubt that a specific resource type is economic.

9 In PacifiCorp's case, there remains doubt as to  
10 whether another resource type would lead to the lowest  
11 reasonable cost resources being selected. I have reviewed  
12 the 2017 IRP process and the company's 2016 RFP, and I still  
13 agree with the commission's statement in its August 22nd  
14 order that those providing insufficient record to accept the  
15 company's RFP as currently designed.

16 Furthermore, I reach the same conclusion based on  
17 my review of the company's recently filed IRP updates. It  
18 did little more to address the question of whether, for  
19 example, solar resources could be potentially economic.  
20 While PacifiCorp's updated assumptions concerning Wyoming  
21 wind, it did not update cost assumptions for non wind  
22 resources.

23 My testimony also notes that there already is a  
24 considerable amount of solar QF in PacifiCorp's systems which  
25 suggest if the solicitation were opened up, other potentially

1 cost effective resources would bid in.

2           Finally, my testimony discusses that PacifiCorp  
3 has expressed its concern that broadening the scope of the  
4 RFP would create an untenable delay that could jeopardize its  
5 ability to capture the full value of PTCs, which it says  
6 could undermine the viability of the 2017 RFP.

7           Up to now it was unclear what the company had in  
8 mind by this, but it is now clarified that this could add  
9 three to four additional months to the RFP process. I am not  
10 convinced this would cause a problem. But if taking  
11 additional time to conduct a proper RFP evaluation could call  
12 the economics into question, the commission may want to  
13 require the company to explain what the potential impact on  
14 the economics of the new wind, new transmission projects  
15 could be if transmission construction delays were to occur,  
16 which has a consequential chance of occurring. And this  
17 concludes my testimony.

18           **Q. Do you have any --**

19           A. I'm sorry. My summary.

20           **Q. Do you have any surrebuttal to offer today?**

21 **Mr. Hayet?**

22           A. Yes. I'm sorry?

23           **Q. Do you plan to provide any surrebuttal testimony**  
24 **today?**

25           A. I do not have any.



1           **Q.     Mr. Hayet is available for cross.**

2                   MR. LEVAR: Ms. Barbanell, we'll go to you first.

3                   MS. BARBANELL: No questions. Thank you.

4                   MR. LEVAR: Mr. Dodge?

5                   MR. DODGE: No questions. Thank you.

6                   MR. LEVAR: Mr. Longson?

7                   MR. LONGSON: No questions. Thank you.

8                   MR. LEVAR: Ms. Schmid?

9                   MS. SCHMID: No questions.

10                  MR. LEVAR: Ms. Hogle?

11                  MS. HOGLE: No questions.

12                  MR. LEVAR: Commissioner Clark?

13                  MR. CLARK: No questions. Thank you.

14                  MR. LEVAR: Mr. White?

15                  MR. WHITE: Yes.

16                                   EXAMINATION

17           BY MR. WHITE:

18                  **Q.     Just one question, Mr. Hayet. You used a**  
19 **reference QF pricing in the cue for Utah solar -- I guess**  
20 **solar in general --**

21                  A.     I'm sorry, I'm not catching the question.

22                  **Q.     Let me choke it up here a bit. The question is:**  
23 **You reference QF pricing as a potential market indicator of**  
24 **what we may expect if --**

25                  A.     Yes.

1           **Q.     -- PacifiCorp were to expand the scope. Is there**  
2           **any reason to distinguish between QF pricing that's based**  
3           **upon presumably the commission's approved Schedule 38 cost**  
4           **pricing and what the company might expect in a solar**  
5           **solicitation?**

6           A.     If I understand the question correctly, which is,  
7           would there be a difference between a QF based price for  
8           solar versus the price the company might receive through its  
9           bids, yes, there could be a difference. And -- but I think  
10          it's instructive that the pricing that the -- A, that the  
11          pricing that the solar may -- that we heard through  
12          testimony, it's instructive that those prices are  
13          dramatically different than the numbers that are in the IRP.

14                   And so it's entirely possible that the ultimate  
15          pricing of solar could be much lower than what the company  
16          has used in the IRP. And we also note that the company did  
17          not update its solar prices at the same time that it updated  
18          its wind prices.

19           **Q.     Thank you. That's all the questions I have.**

20                   MR. LEVAR: I have one follow-up question to  
21          Commissioner White's question. Are you aware if there are  
22          any Utah QFs, Utah solar QFs that have actually become  
23          operational and on line with pricing significantly lower than  
24          what was modeled in the IRP to justify this solicitation  
25          process?

1           A.     I am not aware for sure but I suspect that not  
2 yet.

3           MR. LEVAR: Thank you. That's my only question.  
4 Any redirect, Mr. Moore?

5           MR. MOORE: No. We rest.

6           MR. LEVAR: I should have done that before our  
7 questions but I forgot.

8           MR. MOORE: There was no cross, so no redirect.

9           MR. LEVAR: Thank you, Mr. Hayet. We appreciate  
10 your testimony today.

11          A.     Thank you.

12          MR. LEVAR: Anything further, Mr. Moore?

13          MR. MOORE: None. Thank you.

14          MR. LEVAR: We'll go to Mr. Dodge next.

15          MR. DODGE: Is it okay if we --

16          MR. LEVAR: If you would like to have Mr. Isern  
17 go next --

18          MR. DODGE: Yes, let's go with him next. That's  
19 fine with us.

20          MS. BARBANELL: Thank you. So now we'll call  
21 Hans Isern by cell phone to join us.

22                 Hans, are you on the phone?

23          A.     I am on the phone. Thank you. I would just add,  
24 it's very hard to hear the questions. I'm not sure if it's  
25 possible to adjust the microphone or not, but it is a little

1 bit difficult to hear.

2 MS. BARBANELL: Okay. I will do my best to speak  
3 right into the microphone. Will you state your name, address  
4 and title for the record?

5 MR. LEVAR: I'll place him under oath first.

6 MS. BARBANELL: Oh, sorry.

7 MR. LEVAR: Mr. Isern, do you swear to tell the  
8 truth?

9 A. I'm sorry, could you say that again?

10 MR. LEVAR: Do you swear to tell the truth?

11 A. I do.

12 MR. LEVAR: Thank you.

13 HANS ISERN,

14 having been first duly sworn, was examined and testified as  
15 follows:

16 EXAMINATION

17 BY MS. BARBANELL:

18 **Q. Please state your name, address and title for the**  
19 **record.**

20 A. My name is Hans Isern. I work at 201 Mission  
21 Street, Suite 540, San Francisco, California. My title is  
22 senior vice president at sPower.

23 **Q. And who are you representing by your testimony**  
24 **today?**

25 A. I'm representing sPower. sPower is one of the

1 leading developers and owners of solar in the U.S.

2 Q. Did you file rebuttal testimony in this docket?

3 A. I did.

4 Q. Do you have any corrections to make to any of  
5 your testimony?

6 A. No.

7 Q. If I ask you the same questions today as set  
8 forth in your testimony, would your answers be the same?

9 A. They would.

10 Q. I move to introduce Mr. Isern's pretrial  
11 testimony into evidence.

12 MR. LEVAR: If anyone objects to that motion,  
13 please indicate to me. I'm not seeing any objections, so  
14 that motion is granted.

15 Q. Thank you. Mr. Isern, do you have a summary of  
16 your testimony to present to the commission?

17 A. I do.

18 Q. Please proceed.

19 A. First of all, thank you to the commission and all  
20 of the parties involved who ensure that we have a fair,  
21 equitable and transparent RFP. sPower believes that without  
22 modifications to allow solar, the RFP should be rejected. By  
23 allowing solar, we agree with many of the other witnesses  
24 that we will have a much more robust process.

25 Limiting the RFP to only wind and really only a

1 small subset of available renewable resources will compromise  
2 competition and it will deprive Utahns of economic benefits  
3 associated with solar investment in the state. We strongly  
4 believe that the RFP should offer bids for other resource  
5 types, including solar, because those bids, we believe will  
6 be very competitive and may ultimately provide the least  
7 cost, best option and also support significant economic  
8 development in the State of Utah.

9           We'd also like to talk about the cost of solar.  
10 sPower is one of the largest owners of solar in the U.S. We  
11 have spent significant money on development. The costs for  
12 solar in Utah is well below the \$51 to \$59 dollar a megawatt  
13 hour range given in this hearing and also well below the the  
14 \$57 to \$55 dollar megawatt hour range that I believe was  
15 testified to by PacifiCorp on another matter.

16           Those costs really make no sense given current  
17 market prices and PacifiCorp's own upgrade. I would say that  
18 sPower's current required cost for new solar PTAs is at or  
19 under \$30 dollars a megawatt hour. We have recently signed  
20 PTAs in this range and we have been requesting other PTAs to  
21 serve to us programs well below the ranges given by  
22 PacifiCorp.

23           We also are a little bit confused by PacifiCorp's  
24 claim that other resources would necessitate a long delay in  
25 RFP evaluation. We have seen other utilities evaluate solar

1 bids as part of the same RFPs without needing multi months.  
2 We don't really understand PacifiCorp's concern there, and  
3 believe that if other utilities are able to evaluate multiple  
4 technologies, that PacifiCorp is as well.

5 (Inaudible)...agrees with sPower's view that high level like  
6 price, development stage and interconnections, study process  
7 could eliminate significant numbers of bids without  
8 substantial time investment by PacifiCorp, which would allow  
9 for more expedited review and high level of screening  
10 process.

11 We think that through proper RFP design,  
12 PacifiCorp can get access to all of the data it needs to  
13 really evaluate full wind and solar, and, frankly, any other  
14 renewables that choose to bid.

15 We'd also like to address the concern around  
16 missing the December 31st, 2020 production tax credit cutoff.  
17 We do believe that that is a real product day that needs to  
18 be kept in mind, however, we think that there's substantial  
19 time for projects that are even in early phase of development  
20 to come on line under this RFP.

21 Furthermore, we think that the commission should  
22 recognize that there's also a deadline under the ITC. And by  
23 not having an RFP that would include solar, it might deprive  
24 Utah ratepayers of opportunities to have low cost resources  
25 in solar.

1 I'm not sure if or when PacifiCorp might issue an  
2 RFP for solar but integrating solar into this RFP would in  
3 our minds enable PacifiCorp to capture full the ITC from  
4 solar as well as the PTC from wind. So it makes sense to  
5 have an integrated RFP process now to ensure that all tax  
6 credits are properly captured for and on behalf of Utah  
7 ratepayers.

8 We believe that the RFP needs other changes  
9 beyond the inclusion of solar and other renewable resources.  
10 The interconnection requirements, we still have concern  
11 around. We understand that PacifiCorp has offered to modify  
12 some of these requirements. These means however point to  
13 substantial delays from PacifiCorp's transmission team and  
14 interconnection team in getting study results back.

15 So we would seek some form of assurance that the  
16 studies would be timely completed along the lines of what's  
17 given in PacifiCorp's tariff. We have delays going upwards  
18 of eight months. And I think all of our projects have -- in  
19 PacifiCorp's territory have delays.

20 So we would worry that without some sort of  
21 assurance to developers and Utah ratepayers, projects that  
22 might not be initially excluded could easily become excluded  
23 due to an inability to get these interconnection studies  
24 completed.

25 Such studies are completed by PacifiCorp really



1 with no ability of the developer to expedite. It's pretty  
2 much out of our hands and only in PacifiCorp's hands. So we  
3 would seek some level of assurance that PacifiCorp is  
4 adequately staffing their interconnection team or were out-  
5 sourcing as the case may be.

6 The third area that we'd like to discuss changes  
7 on and that we also feel strongly need to be changed is on  
8 PPA. We understand that the incident evaluator established  
9 for this unfair for PacifiCorp to evaluate benchmark  
10 resources on a 30-year basis but allow for 20 year PPA.  
11 PacifiCorp's solution was to adopt a 20-year PPA plus a ten  
12 year PacifiCorp option to expand.

13 This is very inefficient for developers because  
14 we can't count on PacifiCorp extending. If we were able to  
15 bid 25 and 30 year PPAs, we would know that our contracted  
16 cash flows are contracted for 25 and 30 years. That allows  
17 us to raise very efficient financing for 25 and 30 year debt,  
18 which leads to lower prices for Utah ratepayers.

19 Any time that you make it an option agreement,  
20 you are pushing uncertainty onto developers, and that will be  
21 at the detriment of our bid price. So, we believe that  
22 PacifiCorp needs to allow for both 25 and 30 year PPAs in  
23 addition to 20 year PPAs with a potential of extension rates.

24 The fourth item that we think needs change is  
25 that bidders will be ineligible if that bidder is in

1 litigation with PacifiCorp or threatened litigation with  
2 PacifiCorp. No developer should be forced to effectively  
3 waive their right to participate in an RFP. And that is what  
4 is going to happen. In order to participate in one of the  
5 opportunities to sell power, renewable power in Utah which  
6 we're -- you know, PacifiCorp has a regulated monopoly, we  
7 cannot have any litigation or threatened litigation with  
8 PacifiCorp.

9           So effectively we're waiving our rights to any  
10 potential claims we might have regardless of their validity.  
11 So, we think that is incredibly ineffective and unfair to  
12 developers. Developers should have rights as well. And  
13 there are processes in place set up by the Utah PSC. It's  
14 important that those processes be honored and that if  
15 developers have complaints, that they can be heard.

16           So, we think that the restriction is improper and  
17 frankly unconscionable. And, in summary, sPower recommends  
18 that the RFP be opened to the solar across the service area,  
19 that there be some level of guarantee or appropriate staffing  
20 to get interconnection studies completed in line with the  
21 tariff time lines, that PacifiCorp allow bidders to submit  
22 for 25 and 30 year PPAs in addition to 20 year PPAs so that  
23 there can be a straight comparison to benchmark pricing. And  
24 that the exclusion of bidders who are in litigation or  
25 threatened litigation with PacifiCorp be removed from the

1 arc. That concludes my summary. Thank you.

2 Q. Thank you, Mr. Isern. By way of surrebuttal, I  
3 would like to ask the following questions: During his direct  
4 testimony, PacifiCorp witness Mr. Link stated that solar  
5 development projects that are bidding power purchase  
6 agreement prices in the \$30 dollar per megawatt hour range  
7 are not getting built. Is that true?

8 A. I'm not sure what the basis for that is, but we  
9 plan on building several projects with PPAs above \$30  
10 dollars. And so I would argue that from a broad level, that  
11 would not be indicative of the market.

12 Q. And do the prices sPower bids to sell utility  
13 scales solar via PPAs include all end costs like sPower's  
14 development and construction costs?

15 A. They do.

16 Q. Does the potential for the imposition of a tariff  
17 on imported solar panels create a risk for sPower's ability  
18 to put solar projects into commercial operations?

19 A. It does create a risk for sPower, yes. There is  
20 risk around the 201 case. However, that is sPower's risk and  
21 that is what our investors sign up for. And that is why we  
22 pay PPA security deposits, in case there is a risk that comes  
23 out of a trade case such as that or really any other  
24 development risk that we normally take on in the normal  
25 course of business.

1           **Q.     Thank you. Does sPower have any facilities in**  
2 **operation that are selling their output via QF power purchase**  
3 **agreements?**

4           A.     We do. If you have power purchase agreements, we  
5 have approximately 225 megawatts of facilities.

6           **Q.     Thank you. Does sPower have any solar projects**  
7 **in operation at below a \$50 dollar per megawatt hour**  
8 **levelized cost?**

9           A.     I believe we do but I think that's really the  
10 wrong question. The question isn't how many solar projects  
11 are in operation but how many projects are planned and funded  
12 appropriately. Renewable costs declined. And I don't think  
13 that there's anyone on the commission who would disagree that  
14 solar costs have fallen rapidly over the last several years  
15 and are projected to continue falling.

16                   But we shouldn't be backwards looking. Every  
17 developer is forward looking. And I can tell you that we are  
18 bidding substantially less than \$50 dollars a megawatt hour.  
19 We are putting down multi million dollar deposits and making  
20 multi million dollar investments on our ability to deliver  
21 power at \$50 dollars.

22                   You know, the market price for solar, which is a  
23 multi billion dollar industry, would be probably in that kind  
24 of \$20 to \$40 dollars a megawatt hour range depending on your  
25 location and several PPA terms. Solar is well below \$50

1 dollars in most regions of the country, including Utah.

2 **Q. Do you anticipate a significant amount of**  
3 **drop-off between the PPAs you have signed at lower cost and**  
4 **putting actual projects into service?**

5 A. No, we don't fund PPAs that we don't intend on  
6 building. Typically there are large securities that we put  
7 in place to guarantee our obligations. And when we sign a  
8 PPA, we fully intend on building that project.

9 To date, across over a hundred projects that we  
10 have operating, I believe that there's only been a handful  
11 that have not come on line as expected. You're talking a  
12 failure rate of really just a few percent. And a lot of that  
13 is due to both the development team, but also our ability to  
14 deliver and execute on falling market prices and secure our  
15 obligations when we intend to move forward.

16 **Q. Thank you, Mr. Isern. I have nothing further.**

17 MR. LEVAR: Thank you. Mr. Dodge, do you have  
18 any questions for Mr. Isern?

19 MR. DODGE: No, questions. Thank you.

20 MR. LEVAR: Mr. Moore?

21 MR. MOORE: No questions. Thank you.

22 MR. LEVAR: Mr. Longson?

23 MR. LONGSON: No questions. Thank you.

24 MR. LEVAR: Ms Schmid?

25 MS. SCHMID: One question. You referenced a \$30

1 dollar per megawatt hour figure. Is that a constant  
2 levelized price for 15 or 20 years or is it a starting value  
3 that increases each year?

4 A. What I was referencing was intended to be a  
5 constant price with no escalation.

6 MS. SCHMID: Thank you.

7 MR. LEVAR: Is that all of your questions, Ms.  
8 Schmid?

9 MS. SCHMID: Yes, it is.

10 MR. LEVAR: Thank you. Ms. Hogle?

11 MS. HOGLE: Just a few.

12 EXAMINATION

13 BY MS. HOGLE:

14 Q. Mr. Isern, you just testified as a matter of fact  
15 that you intend to build several projects in the \$30 dollar  
16 per megawatt hour range. Are those projects cited in  
17 transmission constrained areas or are you quoting the cost of  
18 power and not transmission or service?

19 A. Typically our costs include all of the required  
20 upgrades that are funded by sPower. So, when we quote costs,  
21 it is all-inclusive of our costs, including any transmission  
22 upgrades we have to pay to the utility to come on line. So,  
23 there may be transmission constraints, and we seek to  
24 alleviate those constraints. Sometimes there's special  
25 protection teams, sometimes through upgrades for the

1 transmission network. But I would just say that in broad --  
2 in broad terms, the market price of solar --

3 UNIDENTIFIED SPEAKER: Hello. You have been  
4 conducting a meeting for a long period of time. If you wish  
5 to continue meeting, press one now.

6 A. Sorry. I think I was interrupted by the --

7 Q. Yes.

8 A. The market price of solar is well below \$30  
9 dollars on an all-in basis for forward looking projects.

10 Q. You were here this morning. Were you present  
11 this morning when Mr. Dodge referenced a lawsuit between Glen  
12 Canyon and Rocky Mountain Power?

13 A. I was not present for that.

14 Q. He mentioned a lawsuit dealing with, I believe  
15 transmission network upgrades, in case you didn't know. So,  
16 I have one other question. You mentioned a deadline for ITCs  
17 earlier. Isn't it true that the phaseout schedule for ITCs  
18 is actually 2021, not 2020 like the PTCs?

19 A. I'm sorry, can you please repeat the question  
20 maybe closer to the microphone? I'm having a very difficult  
21 time hearing you.

22 Q. Isn't it true that the phaseout schedule for ITCs  
23 is not the same as it is for PTCs?

24 A. Yes, that is true. It is slightly different.

25 Q. And how is that?

1           A.     The ITC was extended through '19 and they will  
2 start construction. We're anticipating that it can go  
3 through 2022. With PTCs, the start of construction we're  
4 looking at on line date of 2020 or earlier. So, there are a  
5 couple of years difference between the ITC and PTC. There  
6 are step-downs in both. So the full IPC and PTC would be  
7 available through the dates I mentioned but then a reduced  
8 amount would be available on those two dates.

9           **Q.     You also mentioned that costs are below current**  
10 **QF prices, I believe you said. Is there any reason for**  
11 **developers to bid projects lower than this QF price?**

12          A.     We've had extreme difficulty getting PacifiCorp  
13 to tender QF PPAs. Beyond that, QF PPAs in Utah will only  
14 offer a 15 term. And we can offer substantially reduced  
15 prices on a 20, 25 and 30 year term. So yes, it is possible  
16 that developers -- I'd say possible and probable that  
17 developers would bid lower prices than through an RFP.

18          **Q.     Do your PPA prices that you quote reflect**  
19 **assumptions for renewable energy credit revenues?**

20          A.     I need to check. I'm not clear on who is taking  
21 the recs in our PPA. I believe it's PacifiCorp, but, like I  
22 said, I would need to check.

23          **Q.     No more questions.**

24                MR. LEVAR: Okay. Thank you. Ms. Barbanell, any  
25 redirect?



1 MS. BARBANELL: No redirect. Thank you.

2 MR. LEVAR: Commissioner Clark?

3 EXAMINATION

4 BY MR. CLARK:

5 Q. Mr. Isern, when did your last project come on  
6 line in Utah?

7 A. That's a good question. The projects that I've  
8 personally been involved with in Utah are the Glen Canyon  
9 projects which are yet to come on line and result in a  
10 dispute with Rocky Mountain Power. So, the projects I've  
11 worked on directly does not yet come on line. There are  
12 plans to come on line in 2019, late 2019.

13 The last projects that we brought on line, I  
14 believe were at the end of 2016. And we have several hundred  
15 megawatts in construction right now across the country. And  
16 we are seeking to kick off construction of several hundred  
17 megawatts very shortly, once again, across the country.

18 Q. Recognizing that it might not be directly  
19 comparable, but what's the levelized cost of the most recent  
20 project that's come on line, the ones that you referred to at  
21 the end of 2016?

22 A. They're near the \$50 dollar a megawatt hour range  
23 for what's come on line at the end of 2015. But, once again,  
24 that's the the wrong question because our costs in 2016 are  
25 multiples higher than our projected costs in 2020.

1           So, it doesn't make sense to be backwards  
2 looking. We should be forward looking. And if we're going  
3 to be bidding projects that can come on line in 2020 for the  
4 PacifiCorp RFP, we should be evaluating them based on a 2020  
5 cost structure.

6           So I don't think that looking at historical  
7 prices is of any use at all, especially given how quickly  
8 renewable technologies can advance in their efficiency and  
9 price.

10           **Q. Is the principal driver in that reduction the**  
11 **efficiency in the panels, the improvement in the efficiencies**  
12 **or improvements in construction costs for the panels, or**  
13 **both? Or something else?**

14           A. Well, really both are combined with other factors  
15 as well. So, we see lower costs for major equipment, not  
16 just panels but also inverters and racks, the costs have  
17 fallen. We've seen greatly reduced operating costs as solar  
18 has increased its employment in penetration. Our own end  
19 costs are much lower today than they were a few years ago.

20           We've seen more efficient financing as solar  
21 really has hit the scale. There's a myriad of reasons. You  
22 know, our financial model has probably a hundred plus inputs.  
23 So there's really a myriad of reasons why solar prices have  
24 fallen so drastically. But there is an impact for the items  
25 you discussed. There are many other items as well.

1           **Q.     That concludes my questions. Thank you.**

2           MR. LEVAR: Commissioner White?

3           MR. WHITE: No questions. Thank you.

4           MR. LEVAR: And I don't have any additional  
5 questions. So, thank you, Mr. Isern.

6           Ms. Barbanell, do you have anything else?

7           MS. BARBANELL: No, nothing else.

8           A.     Thank you once again to the members of the  
9 commission.

10           MR. LEVAR: Thank you. I think we'll take a  
11 brief break right now. We'll come back maybe in a few  
12 minutes, you know 4:30, 4:35. And I notice Ms. Wright  
13 mentioned some time constraints. So we'll let you tell us  
14 when we come back. But I think those are the only two  
15 witnesses left, Ms. Wright and Mr. Knudsen. So we will  
16 recess for five or ten minutes.

17           (Recess taken from 4:24 p.m. to 4:37 p.m.)

18           MR. LEVAR: Okay, I think we have all of the  
19 parties in the room. So we're back on the record and we'll  
20 go now to Mr. --

21           MR. DODGE: Thank you, Mr. Chairman. And I'm  
22 wearing two hats here briefly. I would like to start with my  
23 Utah Clean Energy hat and call Sarah Wright to the stand.

24           MR. LEVAR: Ms. Wright, do you swear to tell the  
25 truth?

1 MS. WRIGHT: I do.

2 SARAH WRIGHT,  
3 having been first duly sworn, was examined and testified as  
4 follows:

5 EXAMINATION

6 BY MR. DODGE:

7 Q. Ms. Wright, what is your name and your position?

8 A. My name is Sarah Wright and I'm the executive  
9 director of Utah Clean Energy.

10 Q. And please describe your participation in this  
11 docket.

12 A. On behalf of Utah Clean Energy, I submitted  
13 rebuttal testimony.

14 Q. And do you have any corrections to your  
15 testimony?

16 A. Yes, I do. There was one phrase somehow omitted  
17 and this is in lines 82 to 83. What it currently states is,  
18 "The IRP assumes pricing" -- excuse me. "The IRP assumes  
19 solar pricing of \$57 dollars a megawatt hour in 2021, rising  
20 with inflation to \$65 dollars per megawatt hour in 2022."

21 Oh, sorry. He's helping me read. It's hard for  
22 me to read with my questions on and see so -- I'll take them  
23 off. "...in 2027." So how it should read is the same  
24 language to start "The 2017 assumes" with the insertion of  
25 this language: "2019 Utah solar pricing with the ITC credit

1 between \$51.30 per megawatt hour and \$56.39 a megawatt hour."  
2 And then the remainder of the phrase remains intact with the  
3 citation to the -- after the \$56.39 per megawatt hour, the  
4 citation to the PacifiCorp 2017 integrated resource plan,  
5 Table 6.2, page 111.

6 **Q. And with that correction, if I were to ask you**  
7 **the same questions today as you were asked in your pretrial**  
8 **testimony, would your answers be the same?**

9 A. They would.

10 **Q. I would move to admit Exhibit UCE 1R, Ms.**  
11 **Wright's pretrial testimony.**

12 MR. LEVAR: If anyone objects to that motion,  
13 please indicate to me. Not seeing any objection, so the  
14 motion is granted.

15 **Q. Thank you. Would you provide a summary of your**  
16 **testimony?**

17 A. Yes. Thank you. And thanks for everyone's time  
18 and attention on this long day. Utah Clean Energy  
19 appreciates the company's effort to expand wind generation  
20 within its fleet of resources and to capitalize on the  
21 expiring production tax credits for the benefit of rate-  
22 payers.

23 However, Utah Clean Energy's concern is that by  
24 limiting the scope of the RFP to certain Wyoming wind  
25 resources, the company has not and will not consider the

1 competitive costs and benefits tied to solar and other  
2 renewable resources located in the broader geographic area,  
3 including Utah. It is true that the PTC is expiring, but so  
4 is the 30 percent ITC for solar. We believe that expanding  
5 the scope of the RFP to other renewable resources into a  
6 broader geographic area is necessary to provide information  
7 about the most cost effective resources.

8 The RFP is based upon the results of the 2017 IRP  
9 update. Neither stakeholders nor the commission have had the  
10 opportunity to fully review the IRP and IRP update.

11 Further, Utah Clean Energy has significant  
12 concerns with the solar cost assumptions used in the IRP.  
13 And inputs into the system also monitor the model because  
14 they are significantly higher than the costs of recent solar  
15 QF PPAs.

16 The 2017 IRP -- the Q -- yeah, PPAs -- did I say  
17 QF PPAs? Okay. The 2017 IRP assumes 2019 Utah solar pricing  
18 with the ITC credit between \$51.30 a megawatt hour and \$56.39  
19 a megawatt hour and solar pricing of \$57 dollars a megawatt  
20 hour in 2021, rising with inflation to \$65 dollars per  
21 megawatt hour in 2027.

22 Solar pricing has declined significantly and  
23 current solar pricing is closer to the \$30 dollar a megawatt  
24 hour range than it is to the \$50 dollar megawatt hour range,  
25 which would prohibit -- which would handicap solar selection

1 in the IRP.

2 The IRP does call for over a gigawatt of solar  
3 between 2028 and 2036, when the IRP assumptions for solar  
4 costs are projected to be over \$65 dollars a megawatt hour.  
5 If the system optimizer model was given more realistic  
6 pricing in the near term when the benefits of the ITC could  
7 be passed on to ratepayers, it may very well, on selected  
8 solar in the early years, just as it collected significant  
9 amount of wind after Rocky Mountain Power updated the wind  
10 assumptions.

11 So without accurate solar pricing input, it's  
12 impossible to conclude that the solar in Utah is not  
13 economic. Consequently, it is not proven that the benefits  
14 identified in the IRP update are limited to only certain wind  
15 resources in Wyoming.

16 Further, it is not clear whether the IRP update  
17 -- and I think it was clarified today that it did not include  
18 revisions to the solar assumptions. Utah Clean Energy is  
19 concerned that the RFP is not designed to identify the lower  
20 cost resource if the company has not adequately updated the  
21 costs tied to solar resources and resources tried outside of  
22 Wyoming.

23 Utah Clean Energy's rebuttal testimony urges the  
24 company and the commission to expand the scope of the current  
25 RFP to include all renewable resources in a broader

1 geographic area, including solar resources in Utah. This  
2 would give solar projects that can take advantage of the  
3 expiring 30 percent ITC the opportunity to compete and to  
4 provide Utah ratepayers with the associated benefits of those  
5 reduced costs. That concludes my testimony.

6 MR. DODGE: Thank you. Ms. Wright is available  
7 for cross-examination.

8 MR. LEVAR: Ms. Barbanell, do you have any  
9 questions for Ms. Wright?

10 MS. BARBANELL: No questions.

11 MR. LEVAR: Mr. Moore?

12 MR. MOORE: No questions.

13 MR. LEVAR: Mr. Longson.

14 MS. LONGSON: No questions. Thank you.

15 MR. LEVAR: Ms. Schmid?

16 MS. SCHMID: No questions.

17 MR. LEVAR: Ms. Hogle?

18 MS. HOGLE: Just one moment.

19 No questions.

20 MR. LEVAR: Any questions, Commissioner White?

21 MR. WHITE: No questions. Thank you.

22 MR. LEVAR: Mr. Clark?

23 MR. CLARK: I have no questions. Thank you.

24 MR. LEVAR: I don't have any either. Thank you.

25 MR. DODGE: Thank you, Mr. Chairman. UAE would



1 like to call Steve Knudsen to the stand, or not to the stand  
2 but to testify.

3 MR. LEVAR: Mr. Knudsen, do you swear to tell the  
4 truth?

5 MR. KNUDSEN: Yes, I do.

6 MR. LEVAR: Thank you.

7 F. STEVEN KNUDSEN,  
8 having been first duly sworn, was examined and testified as  
9 follows:

10 EXAMINATION

11 BY MR. DODGE:

12 A. Mr. Knudsen, would you please explain your  
13 current occupation?

14 A. Yes. I'm currently an independent consultant  
15 having retired from Bonneville Power Administration in 2014.

16 Q. And did you cause to be filed in your name  
17 rebuttal -- excuse me -- yes, rebuttal testimony on behalf of  
18 UAE in this docket?

19 A. Yes, I did.

20 Q. And do you have any corrections to that  
21 testimony?

22 A. No, I do not.

23 Q. Does that testimony represent your testimony here  
24 this morning -- or this afternoon under oath?

25 A. Yes, it does.

1           **Q.     I'd like to move the admission of UAE Exhibit**

2   **1.0.**

3           MR. LEVAR:  If anyone objects to that motion,  
4   please indicate to me.  I'm not seeing any objections so the  
5   motion is granted.

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

7           **Q.     (By Mr. Dodge)  Mr. Knudsen, do you have a**  
8   **summary of the pretrial testimony that you filed that you**  
9   **would like to offer?**

10          A.     Yes, I do.

11          **Q.     Please proceed.**

12          A.     Thank you.  My name is Steven Knudsen and I have  
13   about 35 years' experience in the energy industry,  
14   approximately 30 years with Bonneville Power Administration,  
15   and approximately -- I'm sorry, approximately twenty, 22  
16   years -- or 27 years.  And about eight years in private  
17   sector, three of which I was an IPP developer bidding in to  
18   RFPs for large projects.  And I actually bid into at least  
19   one RFP in the State of Utah.

20                 The experience in the 1980s with Bonneville in  
21   the financial analyst area, I was a revenue requirements  
22   manager for 2000 -- I'm sorry, a 1987 rate case.  I moved on  
23   and supervised development of load forecasts for rate pay and  
24   transmission planning.

25                 THE REPORTER:  Could you move a little closer to

1 the mic, please?

2 A. I was a supervisor in various groups over the  
3 period of '88 to '95 responsible for load forecasting of  
4 RFPs, integrated resource planning, and actually was with the  
5 supervisor group that conducted several RFPs, one of which  
6 resulted -- and negotiated PPAs, one of which resulted in the  
7 -- eventually in the construction of PacifiCorp's.  
8 ...(inaudible)... generating project in the state of  
9 Washington.

10 And then I spent five years in the natural gas  
11 industry. Then I spent about three years as IPP developer,  
12 went back to Bonneville, and spent about six or seven years  
13 in their transmission group. I was tariff -- in the tariff  
14 and policy group and was responsible for tariff  
15 implementation. And also was responsible for the revenue  
16 requirement and rate development process in Bonneville in, I  
17 believe it was a 2007 rate case.

18 My last years were in the power side of  
19 Bonneville where I worked with long-term structured  
20 acquisition, asset acquisition, and primarily working with  
21 IPPs.

22 To summarize my testimony -- and I realize the  
23 time has elapsed in between -- and the conclusion of this  
24 proceeding, so I'll try to be as brief as possible, but I  
25 think it is important that I summarize a few things, some of

1 which have been I think testified to by many other parties  
2 today, but some of which are somewhat unique or have some  
3 additional information that's worthwhile for the record.

4 My position is that the commission order said the  
5 record was insufficient to approve this RFP. And I was not  
6 able to find any meaningful or substantive additional  
7 information for the record that would suggest that limiting  
8 the RFP to Wyoming wind and transmission will result in a  
9 robust set of bids or in any way can provide any assurance  
10 that the resources selected represent the lowest cost  
11 resources.

12 In particular, having been responsible for  
13 developing several IRPs while at BPA, I'm aware that the  
14 scenario planning models or capacity expansion models used in  
15 the IRP planning process, such as the system optimizing model  
16 used by PacifiCorp, while incredibly helpful and informative  
17 in doing capacity expansion planning, cannot in any way  
18 confirm the lowest cost resources.

19 That can only be done by creating a competitive  
20 environment and a fair and open solicitation process. And an  
21 example that we've heard today is the fact that the IRP  
22 planning process is using very outdated estimates of costs of  
23 wind. And even if they were updated to the ones today, it's  
24 quite likely that the bids, if the RFP is truly competitive  
25 and in a sense the developers could compete against each

1 other, for them to provide -- the cost or the bid prices will  
2 probably be even lower than those represented today.

3 The concerns about time delays associated with  
4 the RFP process that might be -- or are alleged to compromise  
5 the ability to capture PPA benefits for customers, I think  
6 have been very overstated and are not accurate.

7 The majority of time, at least in my experience  
8 in dealing with evaluation of bids, is in the in-depth  
9 analysis of short listed resources and the negotiation of the  
10 PPA process. The concept that limiting competition upfront  
11 is somehow necessary to achieve the goals of this RFP in  
12 terms of acquiring those resources for Utah ratepayers is --  
13 I don't believe is supported in the record, and, by my  
14 experience, is not enough.

15 Every bidder is required to pay \$10,000 dollars  
16 bid fee. If they got 50 more bids, that would be another  
17 half a million dollars that they would contribute towards  
18 supporting the resources necessary to evaluate and screen  
19 those initial bids in a timely manner. And the screening  
20 process at the front end to potentially weed out those bids  
21 that clearly are not competitive or clearly don't warrant  
22 consideration for the short list is relatively efficient.

23 Also, the delay in the RFP, delay in the  
24 selection of resources, I don't believe will compromise, as  
25 others have said, won't compromise the ability to complete

1 the development of renewable energy projects and have them in  
2 or at least ready for commercial operation by 2020.

3 And the -- that my testimony shows, or as has  
4 been shown here today, the production tax credits not expire  
5 at 2020. They expire if the project has not made continuous  
6 progress towards development. And I believe it's  
7 illustrative that the IRS went out of its way to say non  
8 exclusive lists but these are -- these excuses for delay,  
9 such as a delay in the completion of the interconnection for  
10 which the developer does not have control, are excused  
11 absences -- I'm sorry, excused delays.

12 Wyoming resources could -- I should say Wyoming  
13 resources with about a three-quarter billion dollars worth of  
14 transmission investment could very well turn out to be the  
15 loaded cost resources. But I'm very skeptical. There have  
16 been a number of studies done at the WEK wide level by WEK  
17 transmission planning who have looked at this issue of, well,  
18 if we just invested in, you know, large chunks of  
19 transmission and -- would Wyoming wind be competitive. And  
20 they've been inconclusive.

21 So, I see nothing in PacifiCorp's analysis in  
22 this IRP, which is very quite -- very difficult to evaluate  
23 the quality of their analysis because it did not go through  
24 any public review process. And it's largely a black box that  
25 they brought out at the last minute.

1           But I have doubts, very -- doubt that the  
2 proposed Wyoming wind and transmission resources would show  
3 to be the lowest cost alternative for Wyoming ratepayers if  
4 the -- if the RFP were restricted, or were opened up and it  
5 was truly fair and promoted competition from multiple  
6 resource types.

7           Some of the reasons I believe that to be true is  
8 in order for Wyoming wind plus transmission to essentially  
9 achieve the benefits that PacifiCorp claims, there needs to  
10 be the ability for that wind to do dispatch and...  
11 (inaudible).

12           And Mr. Link's testimony confirmed that the sub  
13 segment of Gateway West that they're proposing to build,  
14 along with approximately a hundred million dollars, give or  
15 take, of 230 AV lines that appear to be directly proposed to  
16 interconnect their benchmark resources, those transmission  
17 investments will not increase the capability or transfer  
18 capability of the transmission system and move power west out  
19 of Wyoming to the PacifiCorp's loads.

20           It will allow a large amount of wind to inter-  
21 connect and be able to be dispatched at probably fairly -- or  
22 not dispatched but be able to avoid curtailment for most of  
23 the time. However, in many hours, and in the most critical  
24 hours of the year, peak hours of the year when Jim Bridger  
25 Power is needed, there really won't be an alternative to

1 displacing Jim Bridger Power to get that wind out.

2 That's problematic because the Jim Bridger  
3 resource is the major resource in the PacifiCorp system and a  
4 major source of their balancing reserves to actually be able  
5 to balance and integrate wind into the system. So, in many  
6 cases, displacing Jim Bridger to allow the wind to generate  
7 will not be an option and it will force the curtailment of  
8 the wind.

9 Another reason that I believe that the limiting  
10 or not opening the solicitation to a broader range of  
11 resources as far as geographic location is that doing so, you  
12 will avoid the ability to evaluate the cost savings and  
13 capacity of benefits associated with reduced transmission  
14 lockers on the system.

15 Wyoming -- and this is not a criticism of Wyoming  
16 or a criticism of the way PacifiCorp's system is built out or  
17 the way the grid has evolved in the west -- but Wyoming --  
18 locating resources to Wyoming is the highest -- the area that  
19 will create the highest transmission losses.

20 And in my testimony to demonstrate that, I  
21 used -- commissioned some reports or studies from a power  
22 simulator using actual WEK 2018 operating cases for heavy  
23 winter and heavy summer loads, basically looking at the  
24 system, the entire WEK system, using approved operating cases  
25 that have been approved by PacifiCorp transmission planners,



1 as well as the transmission planners of every balancing  
2 authority area in WEK at fairly representing the topology,  
3 loads and resource of a heavy summer day and heavy winter day  
4 in 2018.

5           And I looked at and calculated the differential  
6 losses of a resource dispatching at Jim Bridger represents  
7 the wind project that they were built versus an identical  
8 size resource dispatching elsewhere on the PacifiCorp system.  
9 And it showed essentially, whether you were looking at  
10 southern Utah, northern Idaho, southern Idaho or southern  
11 Oregon, there's about ten percent loss savings by dispatching  
12 a resource at those other locations in comparison to Wyoming  
13 wind.

14           Stated another way, if you are acquiring a  
15 resource that's going to be dispatching on peak, it's like  
16 getting ten percent more capacity at no cost. And given the  
17 peak hours are when PacifiCorp, as Rick explained today,  
18 needs capacity to displace and save the ratepayers money,  
19 they're going to get ten percent more bang for their buck  
20 from an identical resource located almost anywhere else on  
21 the PacifiCorp system than Wyoming during winter and summer  
22 heavy load conditions.

23           There is an issue that it doesn't appear to me  
24 that PacifiCorp's representations of revenue requirements  
25 resulting from the Wyoming wind and transmission includes all

1 of the costs, in particular, wind integration costs.  
2 PacifiCorp has assumed wind innovative costs of about .57  
3 cents a megawatt hour for wind in their IRP. At the same  
4 time, they filed and placed into service a few months back  
5 new wind balancing rates that are charged all old customers  
6 transmission -- transmission customers that are on the order  
7 of about \$3 dollars a megawatt hour versus 50 cents.

8 So, that's -- if the actual -- the accurate cost  
9 of integrating winds in the system are not included in the  
10 forecast revenue requirements of any resource acquisition,  
11 then that's questionable.

12 Now, that's not a criticism of Wyoming wind in  
13 general, that's saying that if you're going to use or compare  
14 resources and different types of resources, that you need to  
15 look at the full costs of integrating those resources into  
16 the system.

17 Finally, Rocky Mountain Power's analysis doesn't  
18 appear very robust in terms of the production costs in the --  
19 the production -- additional production costs, incremental  
20 production costs associated with placing 1,100 plus megawatts  
21 of wind in an area that is transmission constrained and will  
22 remain transmission constrained after the investment is made.

23 We talk about Bridger curtailment. That's one  
24 example. And I don't know if it's appropriate to say this  
25 for surrebuttal but I think it's -- is it permissible to add

1 a comment here that -- while we're on the subject that is  
2 surrebuttal testimony or would you prefer -- I'm not sure of  
3 the process.

4 MR. LEVAR: Yes, go ahead.

5 A. One additional information in the area of  
6 production cost curtailment. The additional information that  
7 I heard today for the first time was Mr. Link stating that  
8 there actually is a need. They do have a need for resources.  
9 And that need is for displacing front office transactions.  
10 The front office transactions represented in the IRP that  
11 Mr. Link is referring to are forward capacity purchases that  
12 they are required to have the capacity to meet load and to  
13 meet their reserve obligation.

14 And the Wyoming wind and transmission resources  
15 do not bring capacity and cannot be relied on to displace any  
16 front office transaction that -- the front office  
17 transactions that are represented in the IRP. The IRP has a  
18 set of front office transactions who represent forward  
19 capacity purchases. In reality, the front office is creating  
20 power all the time. And the actual front office transaction  
21 buys and sells are orders of magnitude greater than those.

22 So, I do not understand the -- Mr. Link's  
23 representation that Wyoming wind behind its constrained  
24 transmission can replace front office transmission.

25 I also don't understand Mr. Link's claim that no

1 additional resources can be interconnected and decided  
2 voltage issues. There can be issues of low voltage, high  
3 voltage, but -- and I'm not like -- like Mr. Link, I am not a  
4 transmission planning engineer. But one concept I do  
5 understand is that if a generator is interconnected but it is  
6 not generating, then it is not -- then the system cannot see  
7 or cannot possibly cause voltage issues.

8           And, as my testimony said, PacifiCorp, consistent  
9 with their obligations under their open access transmission  
10 tariff, continues to offer interconnections in Wyoming in the  
11 exact location where Mr. Link claims that they can't inter-  
12 connect any more resources.

13           I do believe that -- there's been some discussion  
14 of possible litigation associated with the way Rocky Mountain  
15 Power has rolled out their proposed transmission expansion  
16 paired with their own benchmark resources. I won't go into  
17 detail, but I think that that has created some, at least the  
18 appearance of discrimination against existing resources that  
19 have already gone through the interconnection process and  
20 been told they cannot receive network resource  
21 interconnection in Wyoming unless and until the entire  
22 Gateway west segment D, the entire Gateway south and  
23 additional transmission reinforcements are built.

24           The only recourse for projects in that situation  
25 is to seek redress from (inaudible). And that brings the

1 issue of the sole discretion language that has been  
2 discussed. I believe that all references to sole discretion  
3 by PacifiCorp should be removed. And this is just an example  
4 of -- you know, Mr. Link today was questioned on what they  
5 mean when they say litigation. Well, they don't really think  
6 a regulatory proceeding is litigation.

7 Well, basically what it says is they want to keep  
8 the clause in the RFP that says anybody that has even ever  
9 threatened litigation with PacifiCorp is -- will be rejected.  
10 And what is the definition of litigation? At PacifiCorp's  
11 sole discretion.

12 So I don't believe that --

13 MS. HOGLE: Excuse me. I'm sorry. I think we've  
14 -- I've been waiting a little bit. And I object because it  
15 seems like he's going beyond surrebuttal. And, with respect  
16 to the point that he's making, I believe that Mr. Link  
17 stipulated that he would change that litigation provision in  
18 accordance with what counsel for sPower requested.

19 And so I'm not sure what the need to bring this  
20 up again -- why it's needed and why we're going on about  
21 that. Yes, so --

22 MR. LEVAR: So you're objecting to his discussion  
23 of the litigation issue that was discussed earlier in the  
24 hearing today?

25 MS. HOGLE: Yes, because I believe that has

1 already been resolved. And so I'm just -- I guess I'm  
2 wondering why he's bringing it up if we've already stipulated  
3 to change that provision.

4 MR. DODGE: If I could respond, I don't see -- we  
5 haven't seen a stipulation. We saw some testimony here  
6 today, but no one proposed language whether it will still be  
7 within the company's discretion. It's certainly within the  
8 scope of surrebuttal presented here today, so he can  
9 certainly respond to that.

10 MR. LEVAR: And I think we do have Mr. Link's  
11 testimony from this morning. We also have the Oregon  
12 Commission's language on the issue. My understanding of Mr.  
13 Knudsen's testimony is he's describing his concerns about the  
14 language of the RFP even with those two things. That's my  
15 understanding of what he's saying.

16 So, with that, I think we'll let you continue  
17 your surrebuttal at this point.

18 A. One comment to finish that and then I'll move.  
19 With reference to the Oregon solution, I don't believe that  
20 that is a practical solution for two reasons. No. 1, it has  
21 a dollar threshold and much of a litigation, if you will, is  
22 not seeking a specific dollar amount of damages, it's seeking  
23 performance or other -- where any compensation or any level  
24 of damages otherwise will be decided as far as proceeding, it  
25 can't be determined upfront.

1           And I'm not sure how you apply a ten million --  
2   or five million dollar threshold to a threat in -- a threat  
3   in writing to litigate if PacifiCorp doesn't do something.  
4   So it just seems totally unworkable.

5           Finally, to have the IE responsible for  
6   determining when discrimination against a bidder is not undue  
7   versus okay in connection to this unsupported litigation  
8   clause in the RFP just doesn't seem practical or workable  
9   and certainly doesn't meet the goals of UAE in seeking to get  
10  that clause removed.

11           In conclusion, wind only RFP will be  
12  fundamentally unfair to Utah residents and ratepayers.  
13  Available low cost solar and other resources must be allowed  
14  to compete on a fair and equitable basis with PacifiCorp's  
15  proposed self build wind transmission project. And there's  
16  no other way really to determine whether the lowest cost  
17  resources will be acquired other than allowing an open, broad  
18  and fair competition. Thank you.

19           **Q.    Thank. Did you have anything else by way of**  
20 **surrebuttal that you wanted to cover?**

21           A.    That's it.

22           MR. DODGE: Thank you. Mr. Knudsen is available  
23  for cross.

24           MR. LEVAR: Ms. Barbanell, do you have any  
25  questions?

1 MS. BARBANELL: No questions.

2 MR. LEVAR: Mr. Moore?

3 MR. MOORE: No questions. Thank you.

4 MR. LEVAR: Ms. Schmid?

5 MS. SCHMID: No questions.

6 MR. LEVAR: Mr. Longson?

7 MS. LONGSON: No questions. Thank you.

8 MR. LEVAR: Ms. Hogle?

9 MS. HOGLE: No questions.

10 MR. LEVAR: Commissioner White?

11 MR. WHITE: Just one quick question. A lot of  
12 the summary you provided addressed the issue of Wyoming only  
13 wind with respect to the current RFP. If I heard correctly,  
14 it really seems like the company expanded or was willing at  
15 least at this point on the record to --

16 UNIDENTIFIED SPEAKER: Hello. You have been  
17 conducting a meeting for a long period of time.

18 MR. WHITE: That's correct.

19 UNIDENTIFIED SPEAKER: If you need to continue  
20 the meeting, press one now, if not...

21 MR. WHITE: I guess my question is that -- has  
22 your testimony changed at all based upon that, I guess  
23 proffer or offer to expand to all wind locations?

24 A. I think if I actually saw something in writing  
25 that had what the substance behind that proposal, I think, in



1 principle, that's moving in the right direction. I don't  
2 believe that at limine is only if wind meets the criteria can  
3 -- I also think that there's the evaluation criteria, as I  
4 understand them, that are behind the current RFP is targeted  
5 for only evaluating a group of essentially identical  
6 resources located in a very small geographical area relative  
7 to PacifiCorp's footprint.

8 And I don't -- and I don't believe that that --  
9 that just expanding it to more of the same kind of resource  
10 but in some other areas really can be fairly evaluated in the  
11 way they've structured their RFP and RFP evaluation now.

12 For instance, you know, how are they going to  
13 evaluate and treat transmission losses, for instance? And  
14 how are they going to treat and evaluate the differential  
15 capacity contributions? I think it's moving in the right  
16 direction. It's necessary but wholly insufficient.

17 MR. WHITE: That's all the questions I have.

18 MR. LEVAR: Mr. Clark?

19 MR. CLARK: No questions. Thank you.

20 MR. LEVAR: And I don't have any. Thank you,  
21 Mr. Knudsen. Anything further, Mr. Dodge?

22 MR. DODGE: No. Thank you.

23 MR. LEVAR: Before we adjourn, I have one  
24 clarification question. Mr. Link had made a request on Rocky  
25 Mountain Power's behalf for a decision in this docket based

1 on this hearing. I think his words were by September 25th.  
2 I just wanted to clarify, does that mean before or by the  
3 close of business of September 25th, just so we know what the  
4 request is?

5 MR. LINK: Well, since you opened it up, I think  
6 we would be happy with before, but we'll take by the end of  
7 September 25th. The key issue is, frankly, just to make sure  
8 that we, if possible, with all due respect, that we have  
9 information that we can take in our update to the Oregon  
10 Commission on September 26th.

11 MR. LEVAR: Okay.

12 MR. LINK: So if we get it by the end of the day,  
13 we'll be --

14 MR. LEVAR: There's a proceeding in Oregon on the  
15 26th?

16 A. Yeah. On September 26th, we're giving them an  
17 update. It's at a regularly scheduled public meeting that  
18 the Oregon Commission holds on basically the events that  
19 occurred today.

20 MR. LEVAR: Thank you. Any additional matters  
21 before we adjourn? Ms. Hogle?

22 MS. HOGLE: Yes, just one more thing. I believe  
23 that there's been some confusion on economic opportunity  
24 versus need about what we testified to or, rather, Mr. Link  
25 testified to. And I am wondering if you would indulge the

1 company to clarify some of that confusion before we conclude  
2 and close the record.

3 MR. LEVAR: Sure. Would you like to call Mr.  
4 Link back to the stand?

5 MS. HOGLE: I would. The company calls Mr. Link  
6 so he can clarify that point. Thank you.

7 MR. LEVAR: I think that would be appropriate  
8 based on the discussion we had this afternoon.

9 So, Mr. Link, you're still under oath. Ms.  
10 Hogle?

11 EXAMINATION

12 BY MS. HOGLE:

13 Q. Mr. Link, as I indicated before, there have been  
14 several parties who have, I believe, maybe mischaracterized  
15 or misunderstood your comment today about need. Would you  
16 expand on that and clarify what you meant by that and how  
17 that -- what the relationship is, or the relationship between  
18 that economic opportunity, etcetera?

19 A. Yes, I'd be happy to clarify that. Thank you for  
20 the opportunity. Just in case it might be useful for folks,  
21 I think fundamentally the primary issue is that -- or  
22 clarification I would like to make, it's not a question of  
23 whether or not a resource is needed or it's an economic  
24 opportunity. I think it can be both. And that's what we're  
25 encountering.



1 wind resources with the transmission as the least cost, least  
2 risk plan to meet that need, that capacity need.

3 And therefore this RFP as originally proposed was  
4 tailored to specifically go acquire those resources, clarify  
5 it as for today or expand the scope to include wind resources  
6 elsewhere on our system.

7 Q. It's my understanding, and I could be wrong,  
8 because I'm not as fluent in the IRP as some, but that the  
9 IRP showed that there was no physical need for resources  
10 until perhaps 2028. Is that what I read?

11 A. I'd be happy to clarify that. In fact, in our  
12 executive summary in the first couple of pages of the IRP we  
13 lay out a load and resource balance that identifies when the  
14 timing of a new generating resource might be required if  
15 PacifiCorp took no further action and we lived within our  
16 existing resource portfolio for the next 20 years.

17 We present that in a fashion that includes -- and  
18 we've highlighted the maximum amount of front office  
19 transactions, which, traditionally, market purchases tend to  
20 be lower cost than ending new seal in the ground for  
21 generated resources. It provides a signal for when the first  
22 generating resource might show up in the portfolio that  
23 you're about to analyze in an IRP.

24 In this case what's unique is we have a resource  
25 that has an economic opportunity that actually can lower

1 those costs. So, if you remove those maximum level of front  
2 office transactions entirely and extend this case for many  
3 IRP cycles, there's a capacity, sort of need immediately  
4 coming out of the IRP.

5 **Q. When did the company identify the need for front**  
6 **office transactions to be replaced?**

7 A. We've identified in the IRP the need for  
8 resources. It's one of the first steps we do in the IRP. So  
9 I go back to the fall of last year. It's not a matter of  
10 replacing them because we haven't yet procured them. They  
11 are a resource in our plan, just like any other resource will  
12 be.

13 So a front office transaction, assume for 2021,  
14 the first full year these projects would be on line has not  
15 yet been purchased in the market, it's a future product that  
16 needs to be acquired.

17 **Q. Does anything in the IRP talk specifically about**  
18 **replacing as an option those front office transactions with**  
19 **this wind?**

20 A. The resource portfolios for every simulation we  
21 do in the IRP are included with the IRP and presented and  
22 discussed. And that's available for all to review. The  
23 front office transactions in the case with this project are  
24 lower, particularly through the first ten years of the  
25 planning period, than they are in the case without it.

1 MS. SCHMID: The division would just like to note  
2 that it is at this hearing this morning that the division  
3 heard for the first time that this RFP was to meet a resource  
4 need. The division's analysis has been based on a  
5 representation or at least the division's interpretation of  
6 the representation that the RFP was based on an economic  
7 need -- sorry, an economic opportunity. That's it.

8 MR. LEVAR: All right. Thank you. Mr. Moore, do  
9 you have any questions for Mr. Link based on this --

10 MR. MOORE: I have nothing further. Thank you.

11 MR. LEVAR: Okay. Ms. Barbanell?

12 MS. BARBANELL: No questions. Thank you.

13 MR. LEVAR: Mr. Dodge?

14 MR. DODGE: No questions.

15 MR. LEVAR: Mr. Longson?

16 MR. LONGSON: No questions.

17 MR. LEVAR: Okay. And then if there's nothing  
18 else, we mentioned that we understand Rocky Mountain Power's  
19 request with respect to an order on this. We also will be  
20 issuing a written order memorializing our bench ruling  
21 regarding sPower's intervention. I anticipate that will not  
22 happen until probably sometime after we issue our main order  
23 on this hearing. And with that, we're adjourned. Thank you.

24 (The hearing was recessed at 5:36 p.m.)

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C E R T I F I C A T E

STATE OF UTAH )  
 :ss  
COUNTY OF SALT LAKE )

THIS IS TO CERTIFY that the hearing in the matter of PSC Docket No. 17-035-23 was taken before us, Rose-Marie Robinson and Rashell Garcia, Certified Shorthand Reporters and Notaries Public in and for the State of Utah, residing in Salt Lake City.

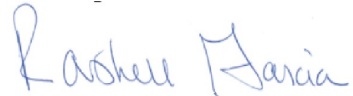
That the said witnesses were, before examination, duly sworn to testify the truth, the whole truth, and nothing but the truth in said cause.

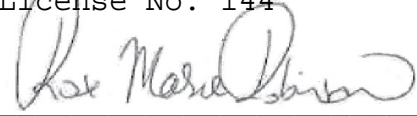
That the testimony of said witnesses was reported in Stenotype, and thereafter caused to be transcribed into typewriting, and that a full, true, and correct transcription of said testimony so taken and transcribed is set forth in the foregoing pages, numbered from 2 to 295, inclusive.

It is further certified that we are not of kin or otherwise associated with any of the parties to said cause of action, and that we are not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah, this 21st day of September, 2017.

My Commission Expires:  
01-23-2018

  
Rashell Garcia C.S.R.  
License No. 144

  
Rose-Marie Robinson, RPR  
Utah CCR 9884984-7801  
California CSR 14132



<b>\$</b>	<b>\$52</b> 207:19	<b>(a)</b> 88:11	<b>1.0</b> 215:10 216:8 273:2	<b>11th</b> 159:14 160:1
<b>\$10,000</b> 276:15	<b>\$55</b> 253:14	<b>(c)</b> 99:16	<b>10</b> 2:16 59:14 62:3 165:18 203:25 223:3 226:5	<b>12-035-102</b> 13:1
<b>\$150</b> 108:15	<b>\$56</b> 200:8	<b>(d)</b> 99:17		<b>12-35-102</b> 13:13
<b>\$20</b> 259:24	<b>\$56.39</b> 268:1, 3 269:18	<b>(e)</b> 99:18 100:1	<b>10-35-126</b> 13:22	<b>12/31/2016</b> 96:20 101:22
<b>\$3</b> 281:7	<b>\$57</b> 253:14 267:19 269:19	<b>(inaudible)...</b> <b>agrees</b> 254:5	<b>10-year</b> 60:7 62:1 164:17 195:20	<b>1200</b> 108:20 109:19 111:21 112:2, 5,9,25 113:4, 8 114:2
<b>\$30</b> 67:1 200:6,13 207:9,13 221:22 253:19 258:6, 9 260:25 261:15 262:8 269:23	<b>\$59</b> 253:12	-	<b>100</b> 53:22 94:22 96:19 100:19 101:7, 20 108:8,10 143:4 168:10, 19	<b>1200-</b> 108:17
<b>\$40</b> 259:24	<b>\$65</b> 221:19 267:20 269:20 270:4	--I 135:11  --that 207:17		<b>1270</b> 174:17
<b>\$5</b> 125:20 127:7	<b>\$700</b> 74:12 75:5 76:5 113:3	--the 100:7	<b>101</b> 124:18	<b>13</b> 61:23 62:3 65:17,20 169:1 243:10
<b>\$50</b> 86:7 207:12,19 259:7,18,21, 25 264:22 269:24	(	<b>0</b>	<b>10:00</b> 44:6	<b>133</b> 3:9
<b>\$51</b> 66:18 200:8 253:12	<b>(1)</b> 171:2 204:13	<b>022</b> 98:19	<b>11</b> 198:23 199:6 203:25	<b>135</b> 3:10
<b>\$51.30</b> 268:1 269:18	<b>(2)</b> 204:15	<b>1</b>	<b>1100</b> 110:19, 25 111:4 156:10	<b>136</b> 2:20
	<b>(3)</b> 208:11	<b>1</b> 5:4,14 48:2, 11 95:4,25 98:3,7,13,18 244:7 285:20	<b>111</b> 268:5	<b>13th</b> 15:10,11 239:3
	<b>(4)</b> 208:15	<b>1,100</b> 281:20	<b>11:15</b> 95:12, 13	<b>14</b> 143:9
	<b>(5)</b> 208:17			

<b>142</b> 215:19	<b>168</b> 226:8	<b>19</b> 1:8 6:1 243:16 244:7 263:1	<b>2-year</b> 186:25	<b>2014</b> 272:15
<b>145</b> 215:20	<b>17-035-23</b> 1:3 6:4		<b>2.1</b> 244:18	<b>2015</b> 63:18 66:22 264:23
<b>146</b> 200:1		<b>198</b> 3:17 71:18 165:18	<b>2.2</b> 244:18	
<b>14th</b> 20:23	<b>17-035-40</b> 217:3	<b>1980s</b> 273:20	<b>20</b> 121:15,23 159:18 203:3 256:10,23 257:22 261:2 263:15 292:16	<b>2016</b> 5:14 16:13 65:23 66:6,9,22 67:22 68:9,12 71:4 102:18 103:1 142:4, 11 143:1 144:3,21 220:9,12 222:25 246:12 264:14,21,24
<b>15</b> 111:1,3 261:2 263:14	<b>172</b> 3:16	<b>1987</b> 273:22		
	<b>173</b> 226:18	<b>1989</b> 159:19		
<b>150</b> 218:22		<b>199</b> 71:20	<b>20-25</b> 199:4	
<b>151</b> 229:5	<b>174</b> 111:2 156:7,12 220:24	<b>1991</b> 15:7	<b>20-year</b> 164:16 165:2 195:20 256:11	<b>2016-23</b> 5:14
<b>155</b> 224:22	<b>175</b> 220:24 226:18	<b>1:00</b> 134:10 135:1		<b>2016R</b> 54:21
<b>156</b> 218:22 224:22	<b>176</b> 228:5	<b>1F5</b> 234:21	<b>200</b> 176:22	
<b>15th</b> 225:1	<b>17th</b> 6:8	<b>1R</b> 268:10	<b>2000</b> 273:22	<b>2017</b> 1:8 6:1, 8,10 21:5,6 51:18 52:12, 22 53:14 54:12,13,18 60:22 61:4,11 64:7 65:10, 14,15 70:20 71:7 73:11,18 90:15 109:5 135:23 143:18 144:25 146:2 151:21 152:8 157:24 159:5 164:13 169:17 198:14,23
<b>160</b> 1:10 2:8, 12 214:18 238:23	<b>18</b> 164:13	<b>1st</b> 144:25 201:10	<b>2007</b> 15:7 274:17	
	<b>181</b> 230:14	<hr/> <b>2</b> <hr/>	<b>201</b> 2:4 176:21 251:20 258:20	
<b>1600</b> 156:6,8, 16	<b>182</b> 230:14		<b>2012</b> 14:2	
<b>164</b> 200:1	<b>185-188</b> 199:9	<b>2</b> 5:6 14:9,10, 13 48:4,11 98:19 151:4 169:21	<b>2013</b> 12:9	
<b>165</b> 3:15	<b>187</b> 230:22	<b>2-</b> 142:15	<b>2013-29</b> 99:2	
<b>1670</b> 110:17, 20 111:5	<b>188</b> 165:18 230:22			

199:6,14,17 200:4,7,11 203:25 225:1 239:20 246:12 247:6 267:24 268:4 269:8,16,17	4 277:2,5	220:8	17,22 257:22 263:15	<b>3</b>
<b>2017R</b> 5:12 50:5 51:23 52:8 53:14,18 56:12,24 57:3,14 60:16 61:3 64:9 71:9 136:2	<b>2021</b> 262:18 267:19 269:20 293:13	<b>225</b> 259:5	<b>252</b> 4:12	<b>3</b> 5:9 48:25 49:22 50:12 57:22,25 61:20,23 62:6 64:5 159:19 169:22 227:24
<b>2018</b> 33:11 58:2 89:5,7 91:1 92:15 94:4 129:10 146:4 189:16 279:22 280:4	<b>2022</b> 54:20 263:3 267:20	<b>226</b> 3:24	<b>25th</b> 61:11 289:1,3,7	<b>30</b> 116:9,15, 18,22 121:7 161:10 256:15,16,17, 22 257:22 263:15 269:4 271:3 273:14
<b>2019</b> 141:22, 24 146:4 200:9 264:12 267:25 269:17	<b>2027</b> 267:23 269:21	<b>229</b> 87:25	<b>260</b> 219:22	<b>30-year</b> 17:23 18:4 160:16 164:16,19,21, 24 165:1 195:19 196:18 256:10
<b>2020</b> 52:4 53:3 68:21 70:25 78:24 94:15,17,21 97:22 100:3 101:8 102:6, 12,21 103:7, 10,17 141:25 220:8 254:16 262:18 263:4 264:25 265:3,	<b>2028</b> 270:3 292:10	<b>230</b> 131:20 147:12 278:15	<b>261</b> 169:1	<b>300</b> 1:10 2:8, 12 142:15 214:18 238:23
	<b>203</b> 3:18	<b>231</b> 65:17,20	<b>262</b> 4:13	<b>30075</b> 242:25
	<b>2036</b> 270:3	<b>234</b> 65:17,20	<b>265</b> 169:1	<b>305</b> 242:25
	<b>204</b> 176:21,22	<b>235</b> 88:5	<b>267</b> 4:16	<b>31</b> 54:17
	<b>2050</b> 58:3	<b>238</b> 4:6	<b>26th</b> 60:21 289:10,15,16	<b>31st</b> 254:16
	<b>208</b> 3:19	<b>24</b> 212:8	<b>27</b> 199:14 273:16	
	<b>20th</b> 9:20	<b>24(a)</b> 12:10	<b>272</b> 4:19	
	<b>214</b> 3:22	<b>2400</b> 2:4	<b>27th</b> 61:4 90:15	
	<b>218</b> 3:23	<b>242</b> 4:9	<b>27th</b> 61:4 90:15	
	<b>22</b> 198:14 273:15	<b>25</b> 256:15,16,	<b>290</b> 3:11	
	<b>220</b> 219:21		<b>291</b> 3:12	
			<b>2nd</b> 54:12 151:22 152:4	

<b>35</b> 273:13	<b>47</b> 3:5	167:11	14:19	226:5
<b>38</b> 249:3	<b>48</b> 5:5,8	<b>54-17-3023C</b> 235:7	<b>65</b> 3:7	<b>80</b> 167:8 168:19 200:3
<b>3:00</b> 211:8,9	<b>4:24 p.m</b> 266:17	<b>540</b> 251:21	<b>67</b> 166:20,25 167:3	<b>80-81</b> 166:21
<b>4</b>	<b>4:30</b> 266:12	<b>57</b> 281:2	<b>68</b> 166:21,25 167:3	<b>801 220-4050</b> 2:5
<b>4</b> 5:11 48:25 50:4,13 60:17 65:5 150:24 166:20 167:1	<b>4:30-ish</b> 212:12	<b>570</b> 242:25	<b>69</b> 3:8	<b>801 363-5678</b> 2:21
<b>4,000</b> 137:18	<b>4:35</b> 266:12	<b>59</b> 174:3	<b>7</b>	<b>801 366-0353</b> 2:13
<b>4-year</b> 102:24	<b>4:37</b> 266:17	<b>5:36</b> 294:24	<b>7</b> 164:14 173:25 215:19 218:22 233:23 234:12	<b>801 366-0380</b> 2:9
<b>4.06(2)</b> 99:1	<b>4th</b> 1:10 142:11 144:3, 21	<b>6</b>	<b>6</b> 5:14 202:13	<b>801 839-4811</b> 2:17
<b>40</b> 63:22,25 64:7,20 67:1 107:3 108:1 111:18 112:8 152:23 154:3 217:8 221:21 237:6,24	<b>5</b>	<b>6,000</b> 54:23	<b>7464263</b> 22:18	<b>81</b> 167:8
<b>400</b> 2:16 156:10,12	<b>5</b> 97:1,7 101:19 143:10 168:9 202:13	<b>6.2</b> 268:5	<b>75</b> 70:13 159:18	<b>82</b> 267:17
<b>402</b> 234:19	<b>5.02(2)</b> 99:2	<b>60</b> 201:11	<b>77</b> 69:19 70:5, 6,7	<b>83</b> 267:17
<b>416305</b> 1:25	<b>50</b> 5:10,12 108:3,10,15 276:16 281:7	<b>600</b> 175:19	<b>774</b> 69:24,25 70:4	<b>84</b> 70:7
<b>42</b> 112:25	<b>500</b> 2:24	<b>61</b> 3:6 172:25 173:4,14	<b>8</b>	<b>84101</b> 2:16
	<b>54-17-203</b>	<b>63(g)(4)(207)</b> 11:6		<b>84105</b> 2:25
		<b>63(g)(4)207</b>	<b>8</b> 218:22	<b>84111</b> 1:10

2:5,9,13,21	27:15 40:22	<b>Absolutely</b>	<b>accommodate</b>	<b>accounts</b>
<b>85</b> 168:9,11	71:24 79:20	28:24 62:20	<b>d</b> 90:17	72:4
<b>88</b> 200:3	90:22 143:15	121:5	<b>accommodate</b>	<b>accurate</b>
274:3	146:22	<b>abuse</b> 28:11	<b>s</b> 91:22	23:11 104:23
<b>8:59</b> 6:1	151:16 169:5	<b>accept</b> 17:22	141:10	108:12 109:1
<hr/>	191:21	18:4 19:4	<b>accommodati</b>	135:14 221:7
<b>9</b>	210:12 247:5	39:10 176:4	<b>on</b> 208:13	226:15,21
<hr/>	256:1 258:17	178:3 179:13	209:4,14	227:4,12
<b>9</b> 165:18	259:20	190:21	<b>accompanied</b>	228:11
199:3 220:22	260:13 276:5,	206:10	57:20	229:21 234:4
223:2 226:5	25 278:10	209:13 231:1,	<b>achieve</b> 53:21	270:11 276:6
<b>90</b> 59:18	279:12	3 246:14	76:8 88:20	281:8
<b>94</b> 168:14	<b>able</b> 10:24	<b>accepted</b>	<b>accomplish</b>	<b>achieved</b>
<b>95</b> 274:3	27:21 28:2	39:14 159:24	182:14	66:14 104:19
<b>96</b> 168:14	33:5 38:12	192:11 196:8	<b>accomplished</b>	111:10
<b>98</b> 5:14	43:1,18 54:24	234:15	145:7 168:7	209:19
168:19	57:2 67:7,16	<b>accepting</b>	<b>accordance</b>	<b>acknowledge</b>
<hr/>	79:23 85:2	230:8	25:1 284:18	53:12 106:23
<b>A</b>	86:20 89:8	<b>accepts</b>	<b>account</b>	205:24 206:8
<hr/>	102:14 103:3,	205:25	133:3,5	<b>acknowledged</b>
<b>a.m.</b> 1:8 6:1	15,17 143:3	220:17	195:4,9,13	42:12
<b>aaproves</b>	180:13 187:6	<b>access</b> 39:25	196:2,6	122:25
244:19	189:20	44:18 73:21	202:21	193:21 227:8
<b>ability</b> 17:3	202:13 221:6,	254:12 283:9	<b>accountant</b>	234:14
	11 225:3	<b>accommodate</b>	196:10	<b>acknowledgement</b> 65:8,13
	231:13 233:4	60:24 103:12	<b>accounting</b>	
	240:3 245:13	104:17 139:8	55:25 126:6	
	254:3 256:14	141:20	140:23	
	275:6 278:21,	156:18	160:17,23	
	22 279:4	166:15	164:24 197:1	
	<b>above</b> 24:4			
	258:9			
	<b>absences</b>			
	277:11			
	<b>absolute</b> 11:6			
	26:10			

<p>136:1 151:5, 19 152:7</p> <p><b>acquire</b> 13:2 53:16 122:15 224:16,19 240:11 292:4</p> <p><b>acquired</b> 115:6 166:12 286:17 293:16</p> <p><b>acquiring</b> 141:5 245:18 276:12 280:14</p> <p><b>acquisition</b> 10:21 53:8 72:7 122:14 141:3,15 142:2 159:6 161:17 168:23 169:3 204:17 205:3, 5 245:5 274:20 281:10</p> <p><b>acquisitions</b> 155:1</p> <p><b>across</b> 58:2, 6,10 60:11 67:14 74:7 79:19 81:13 89:11 92:9 112:19</p>	<p>115:12 123:13 132:19 141:8, 23 148:14 149:7,23 153:14 213:15 257:18 260:9 264:15,17</p> <p><b>act</b> 6:14 11:3 12:5 13:7 26:14 28:8 40:22 42:5 154:20 181:22 204:14 208:9, 19 212:9 235:3 239:24 240:9,20 241:1 246:1</p> <p><b>Act's</b> 10:19</p> <p><b>action</b> 17:1 35:10,17 65:13 147:22 152:8 174:17 292:15</p> <p><b>actionable</b> 35:16</p> <p><b>active</b> 84:7</p> <p><b>actively</b> 17:4</p> <p><b>activities</b> 80:18 81:9,13</p>	<p><b>actual</b> 17:9 22:20 33:16 34:9,24 62:18 64:11,18 129:11 140:15 260:4 279:22 281:8 282:20</p> <p><b>actually</b> 32:24 33:12 66:14 67:10 79:5 80:17 115:2 116:2 154:1 155:12 176:22 178:25 190:19 197:21 207:18,19 224:16 249:22 262:18 273:18 274:4 279:4 282:8 287:24 291:7 292:25</p> <p><b>add</b> 28:23 74:6 82:23 108:17 132:2, 6 138:1 139:16 154:10 158:25 162:3 164:4 188:8 247:8 250:23 281:25</p> <p><b>added</b> 59:11 108:24 112:9</p>	<p>113:2 114:7 155:11,17 215:24 228:5</p> <p><b>adding</b> 113:1 114:2 155:18 175:13</p> <p><b>addition</b> 20:22 24:18 56:4 57:1 106:13 217:9 256:23 257:22</p> <p><b>additional</b> 31:24 44:24 52:9 55:9 56:17 57:1 64:22 71:14 72:8,9 73:19, 21,25 74:21 91:12 99:8 101:14 104:18 106:4 111:8 112:2 114:21 128:19 132:7 137:22 139:2, 10,20 144:4,5 148:7 149:3, 18,24 150:4 151:13 152:4 199:12 208:8 247:9,11 266:4 275:3,6 281:19 282:5, 6 283:1,23 289:20</p> <p><b>Additionally</b></p>	<p>17:7 18:5</p> <p><b>address</b> 30:1 32:4 34:22 36:5,16 50:2 55:9 87:12 90:18 104:5, 21 133:19 166:2 193:19 214:14 223:14 238:20,23 242:22,24 246:18 251:3, 18 254:15</p> <p><b>addressed</b> 35:1 125:9 158:22 176:2 177:21 193:16 287:12</p> <p><b>addresses</b> 40:22 101:19 153:20</p> <p><b>addressing</b> 100:1</p> <p><b>adequate</b> 16:4 42:14 162:17</p> <p><b>adequately</b> 15:3,14,19 16:8,22 18:10 41:15 245:9 256:4 270:20</p>
--	---	--	--	--

<b>adjourn</b> 288:23 289:21	<b>admonished</b> 92:24	<b>affect</b> 13:15 33:22 121:15 218:6	<b>again</b> 20:15 25:17 36:22 37:6 38:2,11, 16 41:11 47:21 56:22 57:23 60:5,12 74:18 83:4 94:1 101:16 108:9 112:1 114:12 131:9 142:6 162:21 166:19 177:5, 10 184:11 186:7 191:12 192:21 197:18 223:17 226:11,22 229:12,15,19 244:2,4 251:9 264:17,23 266:8 284:20	123:14 131:5
<b>adjourned</b> 294:23	<b>adopt</b> 256:11	<b>affected</b> 11:18 14:12 155:8	<b>ago</b> 170:17 229:5 265:19	
<b>adjudicate</b> 25:5	<b>adoption</b> 216:17	<b>affecting</b> 59:17	<b>agree</b> 23:16 37:8 55:17 63:24 65:9 93:16 96:14, 15 98:16 115:7,9 120:9 127:10 167:25 173:7 174:12 183:18 184:8, 9 227:17 229:23 231:19 246:13 252:23	
<b>adjudicative</b> 11:19 14:21	<b>advance</b> 93:24 99:6 155:23 208:18 235:2 265:8	<b>affects</b> 172:4 234:10		
<b>adjust</b> 250:25	<b>advantage</b> 36:11 39:7 40:1 53:22 76:8,25 162:17 187:6 199:13 219:15 234:2 271:2	<b>affiliates</b> 166:17		
<b>adjusted</b> 59:23	<b>advocacy</b> 16:2,3	<b>affirmative</b> 228:24		
<b>Administratio n</b> 272:15 273:14	<b>advocate</b> 12:2	<b>after</b> 6:8 15:23 20:11 41:10 43:5,17 46:2,4 64:10 87:4 109:10 140:23 153:2 155:21 183:9 186:1 188:13, 15 203:13 215:24 268:3 270:9 281:22 294:22	<b>agreeable</b> 20:6 216:22	
<b>administrativ e</b> 11:3,11 40:21 42:4 215:3	<b>advocating</b> 18:6 24:21 42:18 235:20	<b>afternoon</b> 138:22 198:12,13 204:3 239:19 245:1 272:24 290:8	<b>agreed</b> 8:9 48:15 89:10 160:12 164:14 220:1	
<b>admission</b> 51:3 98:7 216:7 239:10 273:1	<b>Aeolus</b> 52:15 130:23,25 150:12 177:2		<b>agreement</b> 45:5 67:8 84:12 109:5 128:22 256:19 258:6	
<b>admit</b> 268:10			<b>agreements</b> 55:23 56:9 67:12,18 92:2,4 118:15	
<b>admitted</b> 48:4 50:13 51:5 61:21 192:25			<b>agency</b> 35:10,17 231:19 232:13	
			<b>aggregate</b>	

122:13 129:4, 7,9 259:3,4	138:2 139:4 141:7,12 142:17 144:18 148:2 149:12 153:15 154:17 156:22 159:21 161:22 163:4 165:4 166:4 170:21,22 171:8 178:9, 21 179:4 184:12 185:17 192:8, 19,23,24 193:24 198:6 204:2,9,14 205:15 206:2 207:24 212:21 213:13 221:25 227:9 238:4 240:22 249:19 252:19 254:12 255:5, 18 258:13 261:7,19 265:7 266:18 270:25 280:25 281:5 282:20 284:2 287:22,23 288:17 289:8 293:22 294:8	261:21	<b>allow</b> 18:2 23:19 29:7 30:17,18 31:6 35:23 36:17 37:8,9 40:13 43:10 45:25 46:16 53:21 55:21 73:25 74:20 80:11 83:16 85:5,10 105:12 115:13 164:15,25 173:9 174:16 187:18 193:8 203:18 206:1 209:16 235:22 240:6, 22 252:22 254:8 256:10, 22 257:21 278:20 279:6	227:19 233:5 235:20 252:23 286:17
<b>agrees</b> 164:7		<b>all-renewable</b> 103:13 106:25 108:6 189:14 210:10		
<b>ahead</b> 10:13 51:12 98:23 282:4		<b>all-resource</b> 65:23	<b>allows</b> 24:18 36:24 94:12 115:22 184:24 217:9 256:16	
<b>alarmist</b> 41:19		<b>all-source</b> 13:24 161:20, 24 162:1,8,9 171:9,17 192:10 219:2	<b>alluded</b> 149:4 207:2	
<b>Alaska</b> 180:23		<b>all-system</b> 206:2	<b>almost</b> 221:17 280:20	
<b>align</b> 53:19 61:2		<b>allege</b> 12:14	<b>alone</b> 18:5 219:11 224:23	
<b>all</b> 12:4 17:7, 19 18:9 19:22 24:25 27:18 34:3 37:8,9 38:23 43:25 44:1 45:6 55:17 58:10 60:4 61:7 64:24 69:19 89:11 91:21 98:3 101:18 103:10 106:6 107:25 111:12 115:12 118:20 119:22 125:12,25 126:6 128:24 130:11 131:2 133:5 137:19		<b>alleged</b> 24:11,20 84:11 276:4	<b>allowed</b> 10:18 18:7 19:8 21:1 22:17 24:8 35:6,21 37:2 158:24 160:7 164:18, 22 177:4 195:18 232:15,25 240:20 286:13	
		<b>alleges</b> 10:15 12:1	<b>along</b> 15:11 88:3 188:24 216:18 255:16 278:14	
		<b>alleviate</b> 261:24	<b>already</b> 21:8 38:5,14 49:4 63:11,16 76:11 113:10 122:25 123:1 144:21 148:24 155:3 246:23 283:19 285:1, 2	
	<b>all-in</b> 110:13 262:9	<b>alleviating</b> 75:6		
	<b>all-inclusive</b>	<b>Alliance</b> 2:19 8:2		



<p><b>also</b> 7:22 9:14                  11:2,22 12:15                  13:7 14:3                  15:16 31:5                  41:4,21 42:19                  44:20 46:1                  50:23 52:4                  54:21 55:21                  56:5 57:21                  63:14 64:6                  68:2 71:23                  76:19 78:20                  83:2 84:21                  86:5 91:12,25                  92:5,14 98:5                  123:25 125:4                  127:25                  132:23                  135:11                  139:11,14                  149:13                  155:25 158:7,                  19 159:14,23                  160:1,14                  170:9 171:10                  174:7 175:16                  191:18,23                  194:3 195:21                  199:22 200:7,                  18 206:8,9                  209:9 213:16                  215:3 216:23,                  24 217:1                  220:9 221:12                  222:17 227:2                  228:21 229:9                  230:17,22                  231:15 233:6                  246:23                  249:16 253:7,                  9,13,23                  254:15,22</p>	<p>256:7 260:13                  263:9 265:16                  269:13                  274:15                  276:23                  282:25                  285:11 288:3                  291:8 294:19</p> <p><b>alternate</b>                  152:12 153:1</p> <p><b>alternative</b>                  59:8 94:23                  100:12                  110:15                  145:14                  152:24 153:6                  176:5 237:22                  278:3,25</p> <p><b>alternatives</b>                  73:8 94:25                  176:16</p> <p><b>although</b>                  49:12 52:3                  127:12                  210:21                  215:22</p> <p><b>always</b> 62:9                  63:3 80:21                  221:15</p> <p><b>ameliorated</b>                  29:13</p> <p><b>American</b></p>	<p>166:7</p> <p><b>among</b> 17:7                  184:4 219:11                  224:23</p> <p><b>amount</b> 54:16                  71:21 142:20                  143:5,6,21                  147:14,18                  246:24 260:2                  263:8 270:9                  278:20                  285:22                  292:18</p> <p><b>analogous</b>                  12:11</p> <p><b>analyses</b>                  130:7 217:4                  219:7 220:17                  221:4,13                  226:19</p> <p><b>analysis</b> 5:10                  10:18 49:23                  53:9 54:11                  64:5,9 69:2                  70:24 73:10,                  13,24 74:10,                  17,19 75:2,                  19,24 76:1                  78:21,24                  88:10,14                  91:11 105:4,8                  107:4,23,25                  108:8,19,25                  109:21                  111:18,21,24</p>	<p>112:1,11                  113:3 121:9,                  16,19 122:8,                  21 123:11                  130:24                  131:16,23                  132:8 140:14                  144:24 152:3                  154:16 155:5,                  7 182:2                  192:17 195:6                  199:17,20,22                  200:15 207:9                  219:19 220:2,                  5,10 222:17                  227:2 228:1                  231:15 240:5,                  15 276:9                  277:21,23                  281:17 294:4</p> <p><b>analyst</b>                  238:22                  273:21</p> <p><b>analytical</b>                  113:18</p> <p><b>analyze</b> 22:8                  113:7 114:2                  137:23                  200:10                  217:24                  292:23</p> <p><b>analyzed</b>                  70:13 150:8</p> <p><b>analyzing</b>                  113:16</p>	<p><b>and/or</b> 21:23                  22:10</p> <p><b>anemic</b>                  143:11</p> <p><b>another</b> 13:21                  16:20 19:6                  32:2 87:23                  96:25 100:11                  111:21 113:3,                  4 114:2                  163:11                  171:12                  175:18                  183:16                  185:10 189:5                  194:22                  202:10                  212:11 213:7                  228:6 237:16                  246:10                  253:15                  276:16 279:9                  280:14</p> <p><b>answering</b>                  134:16</p> <p><b>answers</b>                  43:20 216:5                  225:23                  226:18 239:8                  244:14 252:8                  268:8</p> <p><b>anticipate</b>                  6:18 44:15,                  17,21 71:8                  186:18 260:2</p>
---	---	---	---	--

294:21	<b>anyways</b> 162:9 202:2	281:18	<b>applies</b> 44:22 78:8 133:22	281:24 290:7
<b>anticipating</b> 46:4 263:2	<b>anywhere</b> 55:19 61:1 72:19 92:8 111:22 119:14 222:3 240:23 280:20	<b>appearance</b> 283:18	<b>apply</b> 44:16 62:23 127:17, 18 133:24 222:17 223:25 226:25 227:2 228:21 229:9, 18 230:17 231:15 286:1	<b>appropriately</b> 259:12
<b>anybody</b> 284:8	<b>apartment</b> 37:23	<b>appearances</b> 6:22	<b>applying</b> 29:10 30:13 184:6	<b>appropriateness</b> 29:17
<b>anyone</b> 8:1, 24 9:10,22 26:5,6 28:9 33:8 45:12 46:19 50:15 93:22 98:9 158:10 203:17 212:15 213:2, 4 239:12 244:20 252:12 259:13 268:12 273:3	<b>apologies</b> 8:8	<b>appears</b> 182:25 230:25	<b>appreciate</b> 51:25 85:16 133:8 210:20 250:9	<b>approval</b> 1:4 6:5,12 13:1,3, 5,23,25 25:4, 8 30:5 33:13, 16 34:9 52:8, 14 53:7 65:7, 9,10,13 90:2 94:11 122:2 135:22 151:4 171:21 185:10 186:3 188:10 190:9 209:22 210:11 216:16 224:19 225:21 245:2
<b>anything</b> 38:12 39:22 79:25 82:23 124:10 128:15 158:16,25 183:1 202:1 212:16 238:5, 6 250:12 266:6 286:19 288:21 291:13 293:17	<b>apologize</b> 34:23 75:11 78:18 93:24 115:18 129:13 154:18	<b>appellate</b> 32:2	<b>appreciated</b> 195:19	<b>approvals</b> 190:13
<b>anyway</b> 215:24 234:20	<b>apparent</b> 218:1	<b>Appendix</b> 194:7	<b>approaches</b> 268:19	<b>approve</b> 61:6 108:4,5 122:1 275:5
	<b>apparently</b> 169:24 170:11 215:17 217:20 218:3	<b>apple</b> 151:10	<b>approach</b> 48:23 93:20 183:5	<b>approved</b> 13:17 30:9 32:17 60:18 86:12 87:4 120:6 162:25 183:6,8 186:2
	<b>appeal</b> 34:24 37:4	<b>applicability</b> 29:17	<b>appropriate</b> 22:25 87:8 95:7 123:7 134:10 201:14 225:12 257:19	
	<b>appear</b> 205:9 278:15 280:23	<b>applicable</b> 21:9 167:22 204:14 235:13		
		<b>application</b> 1:3 6:4,7,16, 21 9:19 13:1, 22 21:5 29:14 51:1 54:14 94:12 186:14		
		<b>applied</b> 71:15 72:6		

191:10,11 209:25 249:3 279:24,25	261:17 288:10	79:6 103:5 122:3 126:7 127:5 137:13 155:10 156:12 182:11,12 190:2 254:15 255:11 258:20 291:5	161:16 163:23 164:24	7,11
<b>approves</b> 90:13	<b>arena</b> 137:16	<b>ARP</b> 137:21	<b>assessing</b> 131:5 175:5	<b>associated</b> 17:13,16 56:1 58:4 67:20 68:6 72:18 74:23 79:5 90:21 99:23 102:13 106:1 121:2 129:19 130:8 142:3 151:20 162:19 163:24 199:11 253:3 271:4 276:3 279:13 281:20 283:14
<b>approving</b> 5:11 50:5 60:16	<b>argue</b> 100:23 232:25 258:10	<b>arrangements</b> 56:10 128:24	<b>assessment</b> 102:22 145:15 177:24	
<b>approximatel y</b> 66:25 84:19 221:21 259:5 273:14,15 278:14	<b>argued</b> 120:2, 24 160:18	<b>array</b> 26:22	<b>assessments</b> 160:25	
<b>April</b> 129:10 140:25 141:1 144:8 151:21, 22 152:4,8 189:3	<b>arguing</b> 221:1	<b>arrived</b> 291:2	<b>asset</b> 274:20	
<b>arc</b> 258:1	<b>argument</b> 20:24 40:5,16 41:19 193:6	<b>article</b> 225:9, 11 244:18	<b>assets</b> 18:8 74:21 106:1 112:19 291:3	<b>Associates</b> 240:1 243:2
<b>area</b> 75:5 129:13 161:21 180:14,15,20 256:6 257:18 269:2,6 271:1 273:21 279:18 280:2 281:21 282:5 288:6	<b>argumentativ e</b> 80:4 83:3 115:17 117:18	<b>aside</b> 205:7 226:23	<b>assign</b> 132:20	<b>Association</b> 2:15 8:13
<b>areas</b> 93:5 179:17,18 180:18,19	<b>arguments</b> 20:5 119:25	<b>aspect</b> 23:13	<b>assigned</b> 43:15 117:12 131:4 205:1	<b>assume</b> 51:2 107:25 110:8 111:5 112:20, 24 113:9 134:15 137:19 156:5 192:2 203:3 205:17 230:17 293:13
	<b>arise</b> 22:8 32:10,17 235:24,25	<b>asserting</b> 42:2	<b>assigning</b> 72:21	
	<b>Arizona</b> 179:25 181:12,13	<b>assertion</b> 221:2	<b>assignment</b> 130:12	
	<b>around</b> 26:3 59:20 62:11 63:8 67:18,19	<b>assess</b> 73:8 87:22 144:15 145:16 155:23	<b>assist</b> 240:1 245:8	<b>assumed</b> 71:12 74:12 78:22 86:8
			<b>Assistant</b> 2:3,	

130:13 194:6 281:2	<b>attach</b> 50:7	<b>augmented</b> 149:2	212:23 217:20 218:9 234:3 235:6 241:6 245:18 248:1 253:1 263:7,8 271:6 286:13,22 293:22	<b>back</b> 44:6,11 64:2 66:13 74:14 75:4,12 78:15 95:16, 20 108:23 120:20 121:25 135:3 145:25 146:9 152:5,10,14 154:4 159:19 160:1 162:4, 11 171:10 176:15 177:5 184:10 197:22 198:2 255:14 266:11,14,19 274:12 281:4 290:4 293:9
<b>assumes</b> 69:5 83:4 100:7 122:9 267:18,24 269:17	<b>attached</b> 70:21,25 227:23	<b>augmenting</b> 148:20	<b>average</b> 211:4	
<b>assuming</b> 83:4 122:8 154:15 209:9	<b>attempt</b> 12:2 22:8	<b>August</b> 6:9 21:2,5 48:17 54:12 159:4, 14 160:1 164:13 169:17 198:14,23 199:6,14 203:25 225:1 239:19 245:3 246:13	<b>avoid</b> 278:22 279:12	
<b>assumption</b> 107:8 118:19 134:18 154:20 191:8 208:25 221:17,18 222:14 225:20	<b>attempted</b> 15:22	<b>authority</b> 41:5,22 280:2	<b>avoided</b> 59:3, 5,25	
<b>assumption</b> 107:8 118:19 134:18 154:20 191:8 208:25 221:17,18 222:14 225:20	<b>attendance</b> 21:20	<b>authorize</b> 48:16	<b>aware</b> 66:4,7, 23 81:22,23 83:20 84:3, 10,19 85:6, 20,22,23,25 86:2,4,5 87:7, 13,19 128:5 143:25 183:4, 11 190:1,19 195:14 217:16 222:3 225:10 249:21 250:1 275:13	<b>backing</b> 112:10
<b>assumptions</b> 58:8 60:13 68:22 71:1,6 78:16 177:12 200:4 221:5, 7,10,14 222:8,10,16, 18,22,23 226:20,21 227:4,10,20, 21 246:20,21 263:19 269:12 270:3, 10,18	<b>attendees</b> 21:20	<b>automatically</b> 73:6		<b>backwards</b> 259:16 265:1
<b>assumptions</b> 58:8 60:13 68:22 71:1,6 78:16 177:12 200:4 221:5, 7,10,14 222:8,10,16, 18,22,23 226:20,21 227:4,10,20, 21 246:20,21 263:19 269:12 270:3, 10,18	<b>attention</b> 65:16 165:17 168:9 169:20 218:21 220:21 223:2 268:18	<b>AV</b> 278:15		<b>backyard</b> 209:7,15
<b>assurances</b> 255:15,21 256:3 275:9	<b>attorney</b> 2:7, 11 7:5 26:8 39:18 227:5	<b>availability</b> 110:8 149:1	<b>away</b> 33:4 63:13	<b>bad</b> 227:14
<b>assurance</b> 255:15,21 256:3 275:9	<b>attorneys</b> 10:9 49:14	<b>available</b> 8:22 28:11 61:13 62:2 89:21 106:21 130:5 157:2 181:8 193:2 208:21	<b>B</b>	<b>balance</b> 143:12 205:12 279:5 292:13
	<b>attracted</b> 115:20			<b>balancing</b> 205:18 279:4 280:1 281:5
	<b>attributes</b> 136:20		<b>B-e-l-a</b> 238:21	

<p><b>band</b> 89:7</p> <p><b>bang</b> 280:19</p> <p><b>Barbanell</b> 2:23 3:9,17 4:12 8:20,21 10:6,12,14 20:1 23:15 29:21,23 30:11 31:3 32:12,19 33:10,19 34:10,14 36:3 39:2,17 42:16,25 133:12,13,15 134:3 138:16, 17 198:8,9,11 207:7 213:9 233:14,15 241:7,9 248:2,3 250:20 251:2, 6,17 263:24 264:1 266:6,7 271:8,10 286:24 287:1 294:11,12</p> <p><b>base</b> 102:14 115:22 116:17 124:4</p> <p><b>based</b> 10:18 12:21 63:6 70:19 83:3 90:19 97:19 136:19 144:24</p>	<p>159:11 163:18 164:21 170:23 177:7 178:11,14,17, 18 182:14 184:1,14 205:17 219:19 220:6, 16 221:4,13 232:18 234:1 246:16 249:2, 7 265:4 269:8 287:22 288:25 290:8 291:16 294:4, 6,9</p> <p><b>basic</b> 124:18 151:7</p> <p><b>basically</b> 27:5 33:20 34:21 80:12 121:22 125:19 142:9 160:6 161:8 166:8 174:23 175:4,10 182:15 192:3 197:2,12 201:20 226:17 237:14 242:11 279:23 284:7 289:18</p> <p><b>basis</b> 40:9 59:23 66:17 82:4,7 83:12 84:21 110:5</p>	<p>168:7 197:2 237:21 256:10 258:8 262:9 286:14</p> <p><b>bear</b> 131:15 191:15,19</p> <p><b>became</b> 71:21</p> <p><b>become</b> 249:22 255:22</p> <p><b>Bednar</b> 2:19</p> <p><b>before</b> 1:1 12:23 16:12 19:21 20:5 21:4 27:13,24 35:8,17 36:25 44:25 49:1 52:11 56:8 83:21 84:20 85:24 94:1,3 95:23 96:25 122:11 125:21 127:1 132:1,24 133:24 139:17 171:21 185:9 189:18 191:12 196:19 198:19 212:2 213:25 240:19 250:6 288:23 289:2,</p>	<p>6,21 290:1,13</p> <p><b>began</b> 214:25</p> <p><b>begin</b> 33:18 141:6,22,25 201:9</p> <p><b>beginning</b> 69:25 71:18, 20 87:25 97:17 162:3 178:19 228:5 234:6</p> <p><b>begins</b> 65:6 70:12 98:20 128:18 226:7 233:23</p> <p><b>begun</b> 96:20</p> <p><b>behalf</b> 8:13 143:3 214:20 240:5 243:6 255:6 267:12 272:17 288:25</p> <p><b>behind</b> 89:16 98:7 228:9 282:23 287:25 288:4</p> <p><b>being</b> 9:16 14:17 16:24 24:20 31:6 33:5 42:19,23</p>	<p>43:1,18 45:10 53:2 58:11,16 62:11 74:22 81:8 82:15,17 83:3 85:2 101:13 110:1 147:18 148:10 177:13 181:22 186:3 201:15 202:10,13 206:3 217:8 231:21 240:3 245:13 246:11 291:4</p> <p><b>Bela</b> 4:5 7:11 238:9,14,21</p> <p><b>belief</b> 234:1</p> <p><b>believe</b> 35:5, 7,20 43:11 49:10 51:1 59:25 62:24 63:9 72:2 75:10 77:25 82:24 83:7,23 84:4,11 86:18 99:11 104:23 116:13 123:1 141:16 166:13,19 181:7 193:16 202:19 209:18 221:3 226:19 233:7 245:20 253:4, 5,14 254:3,17 255:8 256:21</p>
--	---	--	--	--

<p>259:9 260:10 262:14 263:10,21 264:14 269:4 274:17 276:13,24 277:6 278:7 279:9 283:13 284:2,12,16, 25 285:19 288:2,8 289:22 290:14</p> <p><b>believes</b> 219:3 229:6 236:9 252:21</p> <p><b>below</b> 72:10 86:7 221:22 253:12,13,21 259:7,25 262:8 263:9</p> <p><b>bench</b> 49:1 294:20</p> <p><b>benchmark</b> 11:1 19:15 54:7 71:8 97:6 100:16 131:18,23 132:3 143:15 195:2 228:4 231:11 256:9 257:23 278:16 283:16</p> <p><b>benchmarks</b></p>	<p>102:19 130:14,17 131:19</p> <p><b>bending</b> 52:11</p> <p><b>beneficial</b> 108:14 210:2</p> <p><b>benefit</b> 53:18 57:18 58:4, 19,21,25 59:1 60:8 83:14 103:6 105:25 108:8,15 112:1 116:2 124:5,16,20 131:6 152:25 187:7 191:5 225:18 230:1, 4,11 232:1 236:11 237:7 268:21</p> <p><b>benefiting</b> 125:4</p> <p><b>benefits</b> 53:5, 11 55:20 56:20 57:3,17 58:15,20 60:5 61:23 62:7,8, 9,11,14,15 63:2,23 64:6, 12,14 65:25 69:3 89:15 92:17,19 105:17 106:3, 6 107:1,7,13,</p>	<p>14,15 108:2, 3,5 110:15 111:20 112:7 113:20,22 118:11,16,18, 22 120:14,24 121:3,10 122:22 123:16,19,21, 25 124:3 140:16 143:19 144:5 154:11 155:20 156:19 162:18 163:24 165:21 169:5 172:9 178:7 191:6 199:13 206:16 219:6, 12,14 223:10 224:24 231:21 232:16 253:2 269:1 270:6, 13 271:4 276:5 278:9 279:13</p> <p><b>best</b> 17:1 24:21 152:22 164:8 193:7 209:11 210:3 225:15 228:6 236:5,6,16 251:2 253:7</p> <p><b>better</b> 43:23 56:25 219:8 220:3,18</p>	<p>224:13 225:14 235:22 236:3, 19</p> <p><b>between</b> 22:19 31:22 33:15 42:2 66:11 67:4 103:9 130:12 145:12 152:16 160:24 167:19 223:14,15 249:2,7 260:3 262:11 263:5 268:1 269:18 270:3 274:23 290:17</p> <p><b>beyond</b> 36:18,20 39:20 57:6 60:6 82:9 83:5 91:20 101:8 102:24 112:17 117:19 120:4 124:7 174:24 178:6 221:25 222:11 223:18 228:14 229:9, 17 237:17 246:7 255:9 263:13 284:15</p> <p><b>bid</b> 11:24 12:2,3,4</p>	<p>16:10 17:4 18:4,7 19:6, 15 23:24 28:2 30:8,22 31:17,18 34:4 37:10 44:20 53:9 56:8 91:24 127:14 133:7 137:20 161:1 170:3 171:6 176:11 177:4 195:18 196:1,19 231:9 233:4,6 240:7,24 245:7,13,23 247:1 254:14 256:15,21 263:11,17 273:18 276:1, 16</p> <p><b>bidder</b> 10:23 14:2,9,10 22:20,24 23:4,7,19 24:8,17,19, 21,23 25:18 26:25 27:3,11 28:18 33:15 34:8,10,11 35:1,3,6,11, 23 37:10 39:14 126:2 131:15 164:23 197:11,12 231:9 256:25 276:15 286:6</p> <p><b>bidder's</b> 24:2</p>
---	---	---	--	---

128:14	27:12 28:6 33:5 36:11 43:1 131:10 162:13 258:5 259:18 265:3 273:17	<b>binding</b> 54:8 84:12	<b>both</b> 10:11,18 15:6 20:5 40:18 51:22 57:17 96:14 120:2 136:21 146:25 177:19 184:13 187:8 209:21 215:10 216:8 219:20 227:12 234:16 256:22 260:13 263:6 265:13,14 290:24	<b>Bridger</b> 52:15 130:23,25 177:2 278:24 279:1,2,6 280:6 281:23
<b>bidder/ developer</b> 230:15		<b>bit</b> 90:24 123:4 140:5 141:18 153:5 193:13 202:11,12 248:22 251:1 253:23 284:14		<b>brief</b> 44:5 95:7,8 208:4 216:15 266:11 274:24
<b>bidders</b> 12:25 14:16 18:6 21:10,13,18 22:2,10,14,15 23:12,17,18, 22 24:5,15 25:3,5,6,14, 16 26:22 27:19,20,24 34:1,22 37:7, 8,9,12 38:6, 10,12 39:5,6, 7 40:1 42:1, 14,15 53:21 55:21,24 56:7 88:17 125:10 129:23 130:3, 10 162:11 164:15,18,22 170:2,14 176:11,14 177:9 189:25 195:18,22 196:15,16,25 201:15 202:4, 5,14,16 256:25 257:21,24	<b>bids</b> 11:21 17:23 54:25 57:15 64:11 90:22 107:4 128:12 129:12,24 130:2,6 132:14,25 133:3 137:23 139:3,13,20, 22 140:15 155:3 189:14, 18 202:23,25 227:21 228:4 231:6,11,14, 16 240:4 249:9 253:4,5 254:1,7 258:12 275:9, 24 276:8,16, 19,20	<b>bite</b> 151:10		<b>briefly</b> 39:9 49:20 158:18 214:23 243:25 266:22
	<b>big</b> 149:16 185:19 187:7	<b>bites</b> 127:2	<b>black</b> 185:11 277:24	<b>bottom</b> 173:3 234:11
	<b>bigger</b> 31:13	<b>black</b> 185:11 277:24	<b>blah</b> 174:18, 19	<b>box</b> 101:12 277:24
	<b>bill-transfer</b> 55:23	<b>blanket</b> 227:17	<b>blue</b> 59:1	<b>BPA</b> 193:18 275:13
<b>bidders'</b> 54:5		<b>blue</b> 59:1	<b>Board</b> 119:21	<b>Bradshaw</b> 2:19
<b>bidding</b> 11:21,25 14:17 17:5	<b>billion</b> 124:1 259:23 277:13	<b>bold</b> 65:7	<b>brain</b> 215:17	<b>bright-line</b> 100:13,17 101:3 102:21 103:1 145:13
		<b>Bonneville</b> 272:15 273:14,20 274:12,16,19	<b>break</b> 95:8,23 134:7 210:21, 22,25 211:3, 4,7 266:11	<b>bright-lined</b> 146:7
		<b>books</b> 63:17	<b>breaks</b> 58:17	<b>bring</b> 92:17 107:16 240:18 282:15 284:19
				<b>bringing</b> 217:13 285:2
				<b>brings</b> 283:25
				<b>broad</b> 26:22

87:11 132:19 258:10 262:1, 2 286:17	261:15 278:13 286:15	238:19 242:24 258:25 289:3	73:19 157:15	262:12 264:8
<b>broaden</b> 88:12,16	<b>building</b> 37:22 180:23 214:18,19 258:9 260:6,8	<b>Butte</b> 148:23 150:16	<b>calls</b> 46:24 105:6 194:17 290:5	<b>capability</b> 75:4 278:17, 18
<b>broadening</b> 55:18 88:4,5 247:3	<b>built</b> 14:5 27:22 53:3 66:16 114:1 116:20 163:6, 7,15 180:21 185:6 187:6 207:17,18 258:7 279:16 280:7 283:23	<b>buys</b> 282:21	<b>came</b> 66:16 139:20 157:22 193:18 197:22 212:2	<b>capable</b> 73:2
<b>broader</b> 31:13 52:3 60:23 130:24 190:23 198:25 199:8 269:2,6 270:25 279:10	<b>bullet</b> 174:6 204:10 208:5	<b>bypassing</b> 169:25 170:12	<b>can't</b> 68:10 78:2 79:9,25 80:7,22 81:2, 7 82:14,16,20 119:25 141:6 148:9 155:9 163:9 183:2, 13,21 187:17 196:9 210:14 228:18 237:17 243:18 256:14 283:11 285:25	<b>capacity</b> 47:10,13 110:17,23,24 111:1,3,6 112:25 147:5 156:7,9,13,18 275:14,17 279:13 280:16,18 282:11,12,15, 19 288:15 292:2 293:3
<b>Broadway</b> 2:16	<b>bulletin</b> 5:14 96:2,6 98:2 100:7	<b>C</b>	<b>C</b> 4:1	<b>capital</b> 74:19 160:17 213:7
<b>brought</b> 136:22 232:22 236:13 237:20,23 264:13 277:25	<b>bunch</b> 121:9	<b>calculated</b> 280:5	<b>calculating</b> 120:14	<b>capitalize</b> 51:19 147:8 268:20
<b>buck</b> 280:19	<b>burden</b> 24:10 191:15	<b>California</b> 1:13 179:22 202:24 251:21	<b>Canadian</b> 159:19	<b>capture</b> 139:4 247:5 255:3 276:5
<b>build</b> 26:11 74:20 111:9 115:22 116:11 163:9 166:8,14 193:18	<b>burdens</b> 18:24	<b>call</b> 63:25 110:24 154:25 214:3 238:9 247:11 250:20 266:23 270:2 272:1 290:3	<b>cannot</b> 10:16 17:12 77:8 104:1 135:8 213:2 243:19 257:7 275:17 282:15 283:6, 7,20	<b>captured</b> 255:6
	<b>business</b> 126:6,10 157:19 214:14	<b>called</b> 47:1	<b>Canyon</b>	<b>care</b> 27:16 232:9
				<b>carefully</b> 25:2



38:8 42:10	<b>catching</b> 248:21	24 87:3 117:5 119:11 150:3 168:22 179:7 182:1 191:17 215:3 268:24 270:14	208:3 223:24 225:2 226:4 266:21 271:25 273:6	17:20 19:13 47:17 55:3 123:22 188:10 215:13 239:5 243:12,14 244:5 255:8 256:6
<b>case</b> 11:20 13:16,17 16:3,5 21:5 22:16,17 25:17 31:6,9 32:1,2 33:19 35:14 40:11, 18,19 41:1, 13,16 52:2 53:13 54:3,9 55:16 58:23 63:10 68:13 87:7 89:4 109:2 122:10 157:2 161:23 170:24 177:14,20 197:9 233:8,9 245:22 246:9 256:5 258:20, 22,23 262:15 273:22 274:17 290:20 291:14 292:24 293:2, 23,25	<b>cause</b> 18:17 128:19 187:4 215:9 247:10 272:16 283:7	<b>certainly</b> 17:3 95:10 137:16 161:4,18 163:3 188:5 193:12 221:17 232:17 233:12 285:7, 9 286:9	<b>Chairmen</b> 165:14	<b>changing</b> 160:23
<b>case-by-case</b> 100:22 145:15	<b>caused</b> 90:6 104:10 215:7	<b>certainty</b> 59:21 62:22 115:5	<b>challenge</b> 107:22 162:16 191:11 221:15	<b>characteristic s</b> 111:23 112:6,19
<b>case-by-case</b> 100:22 145:15	<b>causing</b> 81:16 128:3	<b>Certificate</b> 53:20 88:23 94:10	<b>challenges</b> 93:25 183:9	<b>characterizati on</b> 224:8
<b>cases</b> 40:11 58:10 136:21 144:13 170:23 279:6, 22,24	<b>cautious</b> 86:1	<b>CH2</b> 14:1	<b>change</b> 27:25 58:12 64:17 114:6 125:13, 19 152:2 186:2 243:16 244:7,10,11 256:24 284:17 285:3	<b>characterizin g</b> 151:8
<b>cash</b> 256:16	<b>caveat</b> 85:10 146:20 164:23	<b>cetera</b> 36:6 154:17	<b>change</b> 27:25 58:12 64:17 114:6 125:13, 19 152:2 186:2 243:16 244:7,10,11 256:24 284:17 285:3	<b>charged</b> 16:1 129:24 131:14 281:5
	<b>CCR</b> 1:13	<b>chair</b> 20:6 39:1 51:13	<b>changed</b> 79:2 109:10 114:6 126:19 181:25 192:16 256:7 287:22	<b>Charles</b> 3:21 7:6 214:3,8, 16
	<b>cell</b> 250:21	<b>Chairman</b> 6:24 8:12 26:7 69:16 78:18 80:9 83:17 92:23 95:18 203:11	<b>changes</b>	<b>chart</b> 58:9,17, 20,24 60:6
	<b>cement</b> 37:17,20			<b>chasing</b> 178:12 179:8
	<b>centers</b> 149:21			<b>cheaper</b> 190:25 206:3
	<b>central</b> 58:22			
	<b>cents</b> 281:3,7			
	<b>certain</b> 33:22 39:10 62:21,			

<b>cheapest</b> 207:18	<b>circumstance</b> s 97:20 102:4 178:12 184:7, 15 199:11 225:4	70:10 80:12, 14 83:14 133:18,23 164:12 195:20 229:16 288:24 290:22	149:9,11 150:10,14,18 201:6,7,17 202:12,17 203:3,7 233:18,21 236:21 237:4 241:20,21 248:12,13 264:2,4 271:22,23 288:18,19	<b>climate</b> 183:19
<b>check</b> 65:8 87:18 111:3 119:1 263:20, 22	<b>citation</b> 225:17 268:3, 4	<b>clarified</b> 247:8 270:17		<b>clock</b> 44:4
<b>checked</b> 93:25 126:18	<b>cite</b> 60:12			<b>close</b> 39:3 49:16 129:4 156:14 242:11 289:3 290:2
<b>checking</b> 78:16 183:14	<b>cited</b> 24:3 98:5 224:24 261:16	<b>clarify</b> 73:5 80:15 81:8 83:23 90:4 105:15 107:11 109:22 119:18 145:8 150:15 158:21 161:12 224:10 289:2 290:1,6,16,19 292:4,11	<b>class</b> 180:13	<b>closed</b> 153:12
<b>choke</b> 248:22	<b>Citizens</b> 119:21		<b>clause</b> 284:8 286:8,10	<b>closely</b> 210:4
<b>choose</b> 27:2 71:24 73:6 126:5 170:14 254:14	<b>City</b> 1:10 2:5, 9,13,16,21,25 238:24		<b>Clean</b> 9:18, 19,24 200:2 266:23 267:9, 12 268:18,23 269:11 270:18,23	<b>closer</b> 262:20 269:23 273:25
<b>choosing</b> 73:3 126:11	<b>claim</b> 253:24 282:25	<b>clarifying</b> 81:3 160:5 217:25	<b>clear</b> 24:1 70:24 71:21 127:11 133:21 187:11 213:15 245:3 263:20 270:16	<b>closes</b> 33:13
<b>chosen</b> 170:2 240:18	<b>claimed</b> 84:17 91:2	<b>Clark</b> 20:2,4, 10 38:25 39:1 42:7,17 43:22 44:1 51:14 138:19,21 139:23 140:4 141:14 142:1 145:2,20 146:9,15,22, 25 148:17		<b>closing</b> 19:7 56:9 129:10
<b>choses</b> 127:16	<b>claiming</b> 80:6 81:25 84:3		<b>clearly</b> 22:13 32:22 171:5 228:21 232:7 246:7 276:21	<b>clue</b> 79:16
<b>chunk</b> 110:20	<b>claims</b> 240:15 257:10 278:9 283:11		<b>client's</b> 36:4	<b>clued</b> 182:18
<b>chunks</b> 277:18	<b>clarification</b>			<b>CO2</b> 58:8,23 60:13 122:21 123:6,14
<b>circumstance</b> 193:1 291:5				<b>coal</b> 59:4 192:20
				<b>coal-fire</b>

147:15	<b>come</b> 27:1 37:9,18 67:7 74:21 94:15, 16 105:5 107:2 110:11 111:6 117:10 132:13,14 143:7 150:3 155:20 171:22 185:17 254:20 260:11 261:22 264:5, 9,11,12,20,23 265:3 266:11, 14	<b>comment</b> 49:9 119:21 135:5 153:22 282:1 285:18 290:15	26:16,20 27:13 28:7 30:5,9,15,17 32:2,18 35:9, 17,22 47:24 48:16 50:5,8, 11 52:6,8,11, 20 57:9,12 60:18,20,22 61:2,6,10 65:12 66:3 83:22,25 84:9 85:24 86:12 88:25 90:13 104:7 108:1 114:23 115:1 119:24 120:5 122:1 125:14, 17 126:16 127:1,15 140:10,11,22, 25 151:23 152:6 157:23 169:23 181:17 183:25 190:8, 16 197:5 204:15,23 205:12,25 206:1,9,12 208:14,20 209:5,20 212:6,21 215:1,2 218:10 234:24,25 235:4,13 237:7 239:24 240:19,25 245:3,20 247:12 252:16,19	254:21 259:13 266:9 269:9 270:24 275:4 289:10, 18
<b>code</b> 57:4 167:11,14,22 168:3,6		<b>comments</b> 6:8,9 21:14, 23 22:3 27:1, 7 51:1 55:4, 22 56:18 62:10 121:25 152:5 153:23 160:8 161:14 162:6 164:13, 21 170:17 192:23 209:8 217:11	11 52:6,8,11, 20 57:9,12 60:18,20,22 61:2,6,10 65:12 66:3 83:22,25 84:9 85:24 86:12 88:25 90:13 104:7 108:1 114:23 115:1 119:24 120:5 122:1 125:14, 17 126:16 127:1,15 140:10,11,22, 25 151:23 152:6 157:23 169:23 181:17 183:25 190:8, 16 197:5 204:15,23 205:12,25 206:1,9,12 208:14,20 209:5,20 212:6,21 215:1,2 218:10 234:24,25 235:4,13 237:7 239:24 240:19,25 245:3,20 247:12 252:16,19	<b>commission's</b> 12:17 14:12 26:16 29:6, 14,18 151:20 159:4 169:17 198:14 199:14 234:18 239:19 246:13 249:3 285:12
<b>cogeneration</b> 197:16				
<b>cognizable</b> 19:9				
<b>colleague</b> 7:22				
<b>collect</b> 210:13	<b>comes</b> 37:25 115:20,21 156:20 258:22	<b>commercial</b> 12:15 13:20 25:11 47:12 53:22 66:15 67:11,16 76:8 79:21,23 102:20 103:4 128:4 137:2,6 258:18 277:2	127:1,15 140:10,11,22, 25 151:23 152:6 157:23 169:23 181:17 183:25 190:8, 16 197:5 204:15,23 205:12,25 206:1,9,12 208:14,20 209:5,20 212:6,21 215:1,2 218:10 234:24,25 235:4,13 237:7 239:24 240:19,25 245:3,20 247:12 252:16,19	<b>commissione d</b> 279:21
<b>collected</b> 270:8				
<b>colluding</b> 35:13	<b>comfortable</b> 84:6 242:12	<b>commercially</b> 19:3 145:10		
<b>Colonial</b> 242:25	<b>coming</b> 27:24 37:21 83:21 143:12 155:6 189:25 207:19 236:19 293:4	<b>commission</b> 1:1,9 5:11 6:4 11:5 12:23,24 13:17 16:7,13 18:19,23 20:16 21:14, 21 22:12,16 24:6,18,24	179:23 209:8, 16 197:5 204:15,23 205:12,25 206:1,9,12 208:14,20 209:5,20 212:6,21 215:1,2 218:10 234:24,25 235:4,13 237:7 239:24 240:19,25 245:3,20 247:12 252:16,19	<b>Commissione r</b> 10:14 20:2, 8,10 33:7 38:25 45:19 51:13,14 150:21 201:1 233:18 237:3 241:18,20 248:12 249:21 264:2 266:2 271:20 287:10
<b>combination</b> 177:19 236:16				
<b>combined</b> 113:11,13 174:18 265:14	<b>commenced</b> 208:17,24 235:1			
<b>combined- cycle</b> 14:1	<b>commenceme nt</b> 101:21			<b>commissione r's</b> 6:25  <b>commissione rs</b> 26:24 129:14 245:1

<b>commissions</b> 127:5	125:11 126:1, 12,17 127:13 146:3 152:12, 20 164:14 189:15 192:11 193:11,18 194:5 195:5 196:2,7,22,24 201:9 210:8 215:7 216:22 217:13,16,25 218:1,2 219:9,11 220:19 221:6 222:18 224:23 226:20 227:9, 25 231:5,13 232:13,22 234:16 235:10,15,20, 23 236:10,13 237:19 240:1, 15,18,22 245:1,6,9,11, 15,17,19,23 247:7,13 249:4,8,15,16 268:25 270:20,24 287:14 290:1, 5 291:14,22, 24 293:5	105:16 137:12 176:5 177:11 216:16 219:7, 19,20 220:2, 5,10,17 221:1,13 222:25 226:8, 12 228:3,9 231:11 239:21 240:6, 24 245:4,21 246:12,15,17 268:19 285:7	<b>comparison</b> 109:1 132:10 228:3 257:23 280:12  <b>compensatio n</b> 285:23  <b>compete</b> 180:13 221:11 232:15 233:1 240:8 271:3 275:25 286:14  <b>competition</b> 231:22 237:23 253:2 276:10 278:5 286:18  <b>competitive</b> 11:21 39:7, 15,23 40:1 64:10 157:25 164:9 171:4 181:9 230:16, 18 231:1,2,6 232:12 233:7 253:6 269:1 275:19,24 276:21 277:19  <b>competitively</b> 23:1  <b>complain</b>	127:25 185:14  <b>complaint</b> 83:24 84:2,8, 15  <b>complaints</b> 85:9,13,14 127:5 133:24 136:5 257:15  <b>complete</b> 17:16 89:8 100:3 102:8 103:10 146:3 162:2,16 215:21,25 276:25  <b>completed</b> 97:21,22 102:11 116:9 117:2 129:3 155:5 184:20 185:16,25 186:1,11 217:3 255:16, 24,25 257:20  <b>completely</b> 128:15 133:1 136:19 153:2 228:1  <b>completes</b> 138:5  <b>completing</b>
<b>commit</b> 190:7		<b>company- build</b> 195:2		
<b>commitment</b> 122:15		<b>comparable</b> 136:17 264:19		
<b>communicate</b> 21:13 23:4 143:23		<b>comparatively</b> 133:6 189:7		
<b>communicati ons</b> 22:19,22 28:14 144:17		<b>compare</b> 19:5 116:5 189:20 191:13 281:13		
<b>companies</b> 179:16 224:18 225:16 232:18		<b>compared</b> 32:8 68:22 69:4 190:10		
<b>company</b> 21:4 26:10 33:17 35:13 36:16 37:17 38:2,4 46:24 52:6 54:4,14, 22 55:16 56:5,11,16 57:16 60:19 65:22,24 70:13 80:18 81:9 82:1 84:5,12 87:4, 14 88:10 97:5 102:18 103:2 117:14 118:7 123:25 124:5	<b>company's</b> 27:5 36:7 51:16,19 52:13 53:25 54:8 55:8 57:13 58:5 68:21 73:23	<b>comparing</b> 108:25 132:1 133:3 171:15 175:14,16		

102:5 145:3 191:20	52:4,25 62:17 100:21 148:5 149:6,22 156:20 175:13	183:25 185:19 198:18 218:5 227:22 247:3 254:2,15 255:10 268:23	150:18 218:8 236:21 241:2 247:17 258:1 266:1 271:5	<b>conditionally</b> 60:15
<b>completion</b> 97:13 99:6, 15,20 102:2 103:8 187:12 277:9	<b>comport</b> 220:9	<b>concerned</b> 151:7 171:24 227:25 245:14 270:19	<b>concluding</b> 138:24	<b>conditioned</b> 56:10 65:7,10 118:14 210:15
<b>complex</b> 15:15 196:11	<b>comprehensi ve</b> 161:19 170:18	<b>concerning</b> 29:15,16 246:20	<b>conclusion</b> 61:5 115:8 123:17 168:16 177:10 178:14 194:18 226:14 227:2 245:15 246:16 274:23 286:11	<b>conditions</b> 36:15 41:6 127:17 128:23 216:17,22,23 280:22
<b>compliance</b> 16:7 97:18 167:14,17,18, 21 168:1,5 208:19 235:3	<b>compressing</b> 90:21	<b>concerns</b> 17:17 21:14 27:8,23 29:5, 13 34:22,25 36:5,16,20 67:18,19 79:4,5 121:20 127:23 178:11,12,18 217:6 228:2 269:12 276:3 285:13	<b>conclusions</b> 43:9 159:11 174:1 234:10	<b>conduct</b> 11:11 14:21 19:11 20:20 25:9 36:21 38:20 73:14 247:11
<b>compliant</b> 130:22 240:25	<b>comprised</b> 198:18	<b>conclude</b> 270:12 290:1	<b>condition</b> 11:10 19:4 36:4 39:22 65:12 151:4 209:21 210:11 216:17	<b>conducted</b> 22:23 65:23 74:9,16 207:8 240:4 274:5
<b>complicate</b> 18:21	<b>conceivable</b> 236:17	<b>concluded</b> 6:10 119:13 178:8 181:2	<b>conditional</b> 11:7 88:23 94:11 135:22 136:1 140:21 141:2,3 216:16	<b>conducting</b> 223:20 262:4 287:17
<b>complicated</b> 162:10	<b>concept</b> 106:12 155:15 276:10 283:4	<b>concludes</b>		<b>conduction</b> 99:20
<b>complies</b> 54:1	<b>concepts</b> 154:19			<b>conference</b> 21:18 48:15 54:5
<b>comply</b> 204:13 208:9	<b>concern</b> 36:7 39:5 61:20 81:6 158:11 174:23 177:7			<b>confidence</b>
<b>complying</b> 194:6				
<b>component</b>				

63:6	289:23 290:1	31:12 32:15	<b>consistently</b>	99:3,5 100:24
<b>confident</b>	<b>congestion</b>	49:16 55:25	142:16	101:21
63:1 103:14	74:13 75:7,20	57:9 152:6,18	<b>constant</b>	102:17,24
104:9 137:17	99:23	155:15	261:1,5	103:7 116:15
<b>confidential</b>	<b>congress</b>	180:18	<b>constituents</b>	132:11 141:6,
19:3 39:19	63:4,10	206:12,24	25:13	22,25 145:3,
44:16,21	121:21	237:8 268:25	<b>constrained</b>	15 146:1,3
49:11,13 81:6	<b>conjunction</b>	<b>considerable</b>	72:2 261:17	150:6 174:18
215:11 216:9	164:1 207:3	147:14	281:21,22	191:22
<b>confidentiality</b>	<b>connect</b>	246:24	282:23	193:22
29:12,15,17	72:24 132:6	<b>consideration</b>	<b>constraint</b>	227:10
<b>confirm</b>	177:1 240:23	18:12 19:18	134:19	247:15
78:9,	278:21	53:14 57:6	<b>constraints</b>	258:14 263:2,
11 112:21	283:12	200:16	71:22 72:1,3,	3 264:15,16
184:18	<b>connecting</b>	204:16	11,14 128:17	265:12 274:7
275:18	132:16	205:12	149:19,24	<b>consultant</b>
<b>confirmation</b>	<b>connection</b>	206:13	261:23,24	214:17 243:1
176:10	130:9 187:24	207:10	266:13	272:14
<b>confirmed</b>	286:7	276:22	<b>considered</b>	<b>Consulting</b>
184:11	<b>cons</b>	<b>considered</b>	15:1,24 40:8,	2:24
278:12	155:22	18 42:23 99:4	145:18	<b>Consumer</b>
<b>conflict</b>	<b>consequential</b>	154:22,24	155:7,23	2:11 7:11
160:24	247:16	195:7,23	<b>considering</b>	15:25 32:25
<b>confused</b>	<b>Consequently</b>	<b>considering</b>	12:10 16:2,21	45:8 238:23
41:11 192:7	270:13	229:18	229:18	239:1 243:7
253:23	<b>consider</b>	<b>consistent</b>	<b>constructed</b>	<b>consumers</b>
<b>confusing</b>	6:16,21 10:5	54:2 97:2,11,	59:7	26:9 65:25
154:19	11:23 17:25	13,23 125:14	<b>constructing</b>	161:18 172:8
<b>confusion</b>		129:1 161:9	66:12 224:16	188:16
		170:20 183:7	<b>construction</b>	190:21 191:3,
		184:23 283:8	14:1 94:13	4,6,15,18
			96:20 97:17	<b>consumers'</b>
				193:7
				<b>contained</b>

235:7 244:13	85:11 212:9	31:18	277:10	7
<b>contemplate</b> 21:12	<b>continues</b> 56:11 84:21 217:2 283:10	<b>contractors</b> 30:8,22	<b>controls</b> 30:14,21	<b>corporate</b> 121:15,23
<b>contemplated</b> 238:2	<b>continuing</b> 191:22	<b>contracts</b> 56:2 66:24 67:3 81:20 83:9,13 86:6, 7,11 87:2,8,9, 22 92:1 139:15 153:10,21 160:6,11 161:1,3,4,5,7 164:19 189:4 201:23 202:3 221:20	<b>Convenience</b> 53:20 88:24 94:10	<b>correct</b> 8:6 51:3 61:24 64:22 65:11, 25 68:1,5,15 71:5,13 72:15 73:1 77:20,22 78:22 86:9 91:6 96:15,21 97:8,9 101:22,23 102:6 104:4 109:12 113:10 116:10,13 122:23 125:16 130:20 131:16,17 136:14,15 140:2 145:23 146:14 168:19 170:15 198:22 199:2 204:4 207:5 221:15 222:25 237:14 287:18
<b>content</b> 23:5	<b>continuous</b> 97:12,20 99:5,6,14 100:4,24 102:2 145:14 146:1 277:5		<b>convention</b> 161:4	
<b>contention</b> 223:4,8			<b>conventional</b> 171:16,18 192:15	
<b>contested</b> 10:3	<b>continuously</b> 104:9 185:1	<b>contractual</b> 143:13	<b>conversation</b> 34:17 135:6 146:18	
<b>context</b> 26:24 28:17 151:17 194:8 218:25 237:8,12	<b>contours</b> 39:11,21	<b>contrary</b> 82:10	<b>conveyed</b> 79:15	
<b>contingency</b> 100:9 101:11 104:15 145:18,19	<b>contract</b> 13:4, 5 31:19 67:5, 6 81:25 82:18 84:5,17 85:20 86:2,18 87:14 127:2 157:19 160:8,10,16 164:16,22,25 165:1,2 197:24 201:25	<b>contribute</b> 110:23 276:17	<b>convinced</b> 247:10	
<b>contingent</b> 24:19		<b>contribution</b> 111:2 156:7, 9,13	<b>coordinate</b> 132:22	
<b>continue</b> 6:16,20 49:1 60:3 144:14 183:2 223:21 244:1 259:15 262:5 285:16 287:19	<b>contracted</b> 256:15,16	<b>contributions</b> 288:15	<b>coordinating</b> 153:13	
<b>continued</b>	<b>contractor</b>	<b>control</b> 128:14,16	<b>copies</b> 169:19	<b>correction</b> 216:3 268:6
			<b>copy</b> 50:4 169:16 226:6,	<b>corrections</b> 215:13 252:4

<p>267:14 272:20</p> <p><b>correctly</b> 29:22 99:10 130:15 249:6 287:13</p> <p><b>cost</b> 10:22 12:6 51:22 53:6 54:25 57:8,15 58:4 59:3,5,25 60:2,10 63:22 66:12,15 70:15 71:1,14 72:4,12,14,22 74:23 76:4 85:3 105:5,21 106:2,3 107:9,11,15 110:13 111:23 112:6 113:20 115:1, 6,13,16 116:15,21 121:10,11 129:25 130:16 131:14 132:3 133:6 147:10 154:25 159:8 161:18 168:25 169:4, 25 170:8,12 178:8 181:15 188:21 191:16 193:2, 23 200:4,6 204:19 205:6 221:18</p>	<p>239:22 240:3, 8,11,16,17, 18,21 245:5, 10,18 246:11, 21 247:1 249:3 253:7, 9,18 254:24 259:8 260:3 261:17 264:19 265:5 269:7,12 270:20 275:10,18 276:1 277:15 278:3 279:12 280:16 281:8 282:6 286:13, 16 291:7,11, 12 292:1,20</p> <p><b>cost-effective</b> 53:17 89:20 142:21 154:8</p> <p><b>costs</b> 17:13 18:18 31:14 60:10 67:20 71:12 72:6, 16,17,20,23 78:25 79:1 112:18 129:22,23 130:7,13 131:22 132:2, 7,20,22 175:14 185:15 192:4 231:12 232:10 253:11,16 258:13,14</p>	<p>259:12,14 261:19,20,21 263:9 264:24, 25 265:12,15, 16,17,19 269:1,14 270:4,21 271:5 275:22 281:1,2,15, 18,19,20 293:1</p> <p><b>counsel</b> 2:3 7:7,11,18 157:10 284:18</p> <p><b>count</b> 256:14</p> <p><b>counter</b> 126:10</p> <p><b>counties</b> 40:12,15</p> <p><b>country</b> 179:20 246:5 260:1 264:15, 17</p> <p><b>county</b> 11:4 12:20 15:7,21 16:12,13 18:22 32:1 40:11,14,19 41:5</p> <p><b>couple</b> 33:9 39:2 42:8</p>	<p>104:16 153:18 187:21 191:19 201:21 202:2, 10 233:22 263:5 292:12</p> <p><b>course</b> 35:15 140:16 141:11 160:16 228:1 258:25</p> <p><b>court</b> 11:4 12:8,18,20 15:1,24 16:20 18:22 32:23 40:8,9 41:4 95:8 135:6 193:17 210:23 243:21</p> <p><b>Court's</b> 40:17</p> <p><b>courts</b> 41:13</p> <p><b>cover</b> 111:8 143:6 286:20</p> <p><b>covers</b> 140:13 143:10</p> <p><b>CPCN</b> 94:12 140:2,8,21 141:2</p>	<p><b>create</b> 88:5 247:4 258:17, 19 279:19</p> <p><b>created</b> 91:3 190:5 283:17</p> <p><b>creates</b> 24:4 28:8</p> <p><b>creating</b> 275:19 282:19</p> <p><b>credit</b> 62:25 63:8 115:21 116:15,18,23 117:12 180:12 219:16 240:14 254:16 263:19 267:25 269:18</p> <p><b>credits</b> 51:20 62:2,16,23 63:16 77:1 100:10,18 101:7 116:3 117:10 139:24 145:11 185:8 187:20 219:6, 18 234:3 240:12,13 255:6 268:21 277:4</p>
---	--	---	---	---



<p><b>criteria</b> 19:7 41:13 103:16 139:5 140:17 171:5 234:17 235:7,12 288:2,3</p> <p><b>critical</b> 51:19 139:5 140:8 163:2 278:23</p> <p><b>criticism</b> 279:15,16 281:12</p> <p><b>cross</b> 58:14 83:18 248:1 250:8 286:23 291:16</p> <p><b>cross-examination</b> 5:14 46:2,4,9 61:14 93:21 95:4,25 98:2, 13,18 218:10 241:6 271:7</p> <p><b>cross-examine</b> 83:11</p> <p><b>cross-x</b> 98:7</p> <p><b>crossed</b> 83:10 149:17</p> <p><b>crossing</b></p>	<p>136:13</p> <p><b>CSR</b> 1:13</p> <p><b>CUB</b> 119:20</p> <p><b>cue</b> 231:5 248:19</p> <p><b>current</b> 24:12 30:2 154:22 253:16,18 263:9 269:23 270:24 272:13 287:13 288:4</p> <p><b>currently</b> 11:24 32:5 33:12,20 67:17 126:25 131:20 133:21 143:7 144:23 162:15 215:20 246:15 267:17 272:14</p> <p><b>curtailment</b> 278:22 279:7 281:23 282:6</p> <p><b>Curtis</b> 2:19</p> <p><b>customer</b> 57:17 64:12</p>	<p>119:8,15,18 120:10,13 125:2 194:10 245:25</p> <p><b>customers</b> 10:22 15:22 26:13 38:6 51:23 53:6,11 55:20 56:21 60:5 63:2 64:13 89:15 92:17 105:19, 25 106:7 107:2 108:2, 4,5,14,21 111:20 116:3, 25 118:11,18, 23,25 119:8 120:8,9 121:4 122:17,19 123:16 124:16 127:13 131:6 143:3 154:11 159:8 168:25 169:4,5 173:11 174:20 175:3 176:8 177:13 185:15 193:17 195:4 199:12 204:19 232:9 245:6 276:5 281:5,6 291:8</p> <p><b>customers'</b> 16:1 37:14 53:17</p>	<p><b>cut</b> 72:10 202:11,12</p> <p><b>cutoff</b> 254:16</p> <p><b>cutting</b> 149:23</p> <p><b>cycle</b> 291:2,6</p> <p><b>cycles</b> 293:3</p> <hr/> <p style="text-align: center;"><b>D</b></p> <hr/> <p><b>D2</b> 75:16 129:19 131:21 132:7 133:4</p> <p><b>Dakota</b> 179:10,11 180:3</p> <p><b>damages</b> 127:6 285:22, 24</p> <p><b>data</b> 66:8 160:19 227:14 254:12</p> <p><b>date</b> 20:25 21:24 41:9 66:15 71:4 96:25 102:20 135:23 189:2</p>	<p>237:15 260:9 263:4</p> <p><b>dated</b> 21:2</p> <p><b>dates</b> 67:12, 16 79:21,24 128:4 263:7,8</p> <p><b>day</b> 9:20,22 117:1 188:12 212:4,5 213:23 254:17 268:18 280:3 289:12</p> <p><b>days</b> 21:3 36:25 126:21 201:11</p> <p><b>deadline</b> 254:22 262:16</p> <p><b>deal</b> 113:15 128:18,21 129:25</p> <p><b>dealing</b> 162:22 163:10 262:14 276:8</p> <p><b>dealt</b> 44:22 130:2 182:7</p> <p><b>death</b> 62:22</p>
--	--	---	--	---

<b>debate</b> 229:13	17:25 66:6 259:12 269:22	<b>degree</b> 59:21	<b>deliberation</b> 16:2 44:5	196:13 197:22
<b>debt</b> 256:17		<b>delay</b> 88:6,11, 12,16 90:5,9 91:3 102:13 104:8,10 136:1 139:24 145:22,25 186:25 191:19 247:4 253:24 276:23 277:8, 9	<b>deliver</b> 51:21 55:19 56:20 57:17 60:4 61:1 63:2 64:14 65:25 67:23 85:3 90:20 102:14 106:6 118:10, 13,16 129:18 130:17 132:10 154:10 177:3 179:17 259:20 260:14 291:10	<b>demand</b> 81:20 171:19
<b>December</b> 65:10,15 135:23 254:16	<b>defer</b> 110:11 114:8 115:23 211:1			<b>demonstrate</b> 69:3 88:10 100:14,22 103:3 118:18 145:21 148:11 154:12 176:7 177:3 191:21 240:21 279:20
<b>decide</b> 41:14	<b>deferrable</b> 112:10			
<b>decided</b> 188:7 283:1 285:24	<b>deferring</b> 114:9 156:15	<b>delayed</b> 81:17 103:11 162:14 163:7 184:22 186:24 187:18 188:6 206:15,20		
<b>decides</b> 196:24	<b>deficient</b> 24:16			
	<b>define</b> 168:1		<b>deliverability</b> 136:9	<b>demonstrated</b> 24:12 53:25 54:3 240:2 245:9 246:7
<b>decision</b> 13:2,24 30:17,18 31:5,20 32:7 44:7,14 52:14 74:4 76:12,20 149:14 152:23 169:23 170:1, 10,13 198:20 205:13 237:24 288:25	<b>defined</b> 171:5	<b>delaying</b> 104:16	<b>delivered</b> 54:25 76:6, 15,24 105:21 175:1 177:13	<b>demonstrates</b> 53:10 58:9 66:8
	<b>defining</b> 61:22	<b>delays</b> 17:15 99:16,17,19 100:25 101:7 102:23 128:1, 19,20 145:24 187:12 193:24 206:18 247:15 255:13,17,19 276:3 277:11		
	<b>definite</b> 118:18		<b>delivering</b> 92:14 132:18 133:4 177:9 184:21 291:7	<b>demonstratin g</b> 97:20 234:15
	<b>definitely</b> 35:15 190:18 206:11			<b>Department</b> 32:25
<b>decisions</b> 30:14 41:23 42:21 219:10	<b>definition</b> 284:10	<b>delegated</b> 215:3,4	<b>delivery</b> 10:21 159:7 168:24 169:3 179:5,9 204:18 205:5	<b>dependency</b> 107:19
<b>declined</b>	<b>definitive</b> 128:22 129:4, 7		<b>Deloitte</b>	<b>dependent</b> 129:11

<b>depending</b> 32:10 116:20 147:17 153:16 157:3 259:24	254:11	174:17 177:12 209:5 239:21 245:8 286:16	<b>developers</b> 17:9 67:14 79:4 80:20 81:19,20 82:14 127:24, 25 232:20,25 233:1,4,6,10 252:1 255:21 256:13,20 257:12,15 263:11,16,17 275:25	<b>difference</b> 42:2 46:14 66:11 130:12 152:16 249:7, 9 263:5 291:1
<b>depends</b> 141:17 202:16 228:23	<b>designed</b> 25:4 34:20 53:19 87:5 110:2 204:13, 17 208:15 246:15 270:19	<b>determined</b> 57:11 66:19, 20 204:23 208:13 234:24 285:25		<b>differences</b> 30:2,25 31:1 68:12
<b>deposits</b> 258:22 259:19	<b>desire</b> 10:9 63:15	<b>determining</b> 18:13 132:1 200:11 205:1 240:1 286:6	<b>developing</b> 17:11 143:24 162:24 201:23 275:13	<b>different</b> 31:7,21 43:14,18 54:17 58:6 60:12 72:17 73:8,16,18 75:21 77:15 79:19 101:9 112:15,17,18 113:9,13 116:18 117:11 123:12 136:19 145:12 150:6 151:2 152:5 159:20 161:22 170:3, 14 173:18 175:13 180:21 182:5 183:17 184:6 189:9 193:15 195:14 196:4 205:10 217:22 223:12 225:21 249:13 262:24 281:14
<b>deprive</b> 253:2 254:23	<b>despite</b> 178:5			
<b>describe</b> 21:19 32:16 49:21 157:18 194:24 214:23 267:10	<b>detail</b> 98:7 109:17 148:21 221:25 283:17	<b>detriment</b> 256:21	<b>development</b> 17:14 18:8 51:23 87:3,15 94:14 128:20 166:12 231:21 232:3, 6 253:8,11 254:6,19 258:5,14,24 260:13 273:23 274:16 277:1, 6	
<b>described</b> 32:9 54:5,11 76:2,22 89:1	<b>details</b> 40:2 96:6 225:11	<b>developed</b> 54:18 63:21 86:13 142:24 143:14 144:25 232:18		
<b>describing</b> 285:13	<b>determination</b> 11:16 14:13, 18 173:10		<b>devise</b> 18:23	
<b>description</b> 5:3 208:6	<b>determine</b> 14:23 26:20 27:15 28:16 33:12 52:17 74:10 114:24 115:1 121:9 146:8 159:5	<b>developer</b> 14:5 116:21 131:10 256:1 257:2 259:17 273:17 274:11 277:10	<b>devised</b> 144:22	
<b>design</b> 33:15, 20,21 35:1 169:11 240:2			<b>dialog</b> 155:25	

<b>differential</b> 280:5 288:14	<b>directed</b> 210:8	27:2	225:16 256:6	133:1 280:18 282:15
<b>differentiating</b> 67:4	<b>direction</b> 183:3 288:1, 16	<b>disasters</b> 99:16	<b>discussed</b> 44:15 54:7,21 91:15 93:11 98:8 159:10, 23 222:4,5,7 265:25 284:2, 23 293:22	<b>displaced</b> 59:10
<b>differently</b> 173:23	<b>directionally</b> 155:10	<b>disclosed</b> 106:25 107:3		<b>displacing</b> 108:22 279:1, 6 282:9
<b>difficult</b> 155:23 196:12 251:1 262:20 277:22	<b>directly</b> 22:15 87:12 264:11, 18 278:15	<b>discounted</b> 220:11 222:24	<b>discusses</b> 152:12 247:2	<b>dispute</b> 38:12 101:24 264:10
<b>difficulty</b> 263:12	<b>director</b> 267:9	<b>discovered</b> 227:15	<b>discussing</b> 84:6	<b>disputes</b> 22:8,11 25:5
<b>diligence</b> 196:20	<b>disagree</b> 43:8,11 125:18 183:23 196:13 259:13	<b>discovery</b> 18:18 19:2,5	<b>discussion</b> 85:11 95:19 152:11 192:5 204:2 207:11 208:25 212:14 283:13 284:22 290:8	<b>disqualificatio n</b> 125:10
<b>direct</b> 5:4,7 6:17 14:7 17:10 47:13, 15,25 48:2 49:24 50:7 53:24 54:10 57:21 65:16 69:21 130:12 142:13 165:17 166:20 168:9 169:20 203:17 218:21 220:21 223:2 244:9,10 258:3	<b>disagreed</b> 226:14	<b>discrete</b> 75:15,18 123:6		<b>disqualificatio ns</b> 127:20
	<b>disagreement</b> 42:20	<b>discretion</b> 38:4 41:25 165:3 284:1, 2,11 285:7	<b>discussions</b> 184:17	<b>disqualified</b> 126:22 197:6
	<b>disagrees</b> 228:1	<b>discriminate</b> 233:10,12	<b>dispatch</b> 278:10	<b>disqualify</b> 125:22 126:2
	<b>disallow</b> 11:24 192:3	<b>discriminatio n</b> 194:8 283:18 286:6	<b>dispatched</b> 278:21,22	<b>disruptions</b> 98:21 99:3,9
	<b>disappointed</b>	<b>discuss</b> 55:8 81:11 83:8 212:10	<b>dispatching</b> 280:6,8,11,15	<b>dissimilarities</b> 223:15
			<b>displace</b>	<b>distinct</b> 42:18,19

151:2 153:2	228:6 237:5 294:4,5	<b>documented</b> 146:2	136:4,21 137:7 138:14, 15 145:6 172:21,22,24 182:10,16 183:4,10 194:20 195:1, 9,16 198:6 206:23 208:3, 23 212:2,18 226:1,3 228:15 241:10,11 248:4,5 250:14,15,18 260:17,19 262:11 266:21 267:6 271:6,25 272:11 273:6, 7 285:4 286:22 288:21,22 294:13,14	<b>dollars</b> 30:21 58:3,4 59:1 124:1 165:25 253:19 258:10 259:18,21,24 260:1 262:9 267:19,20 269:19,20 270:4 276:15, 17 277:13 278:14 281:7
<b>distinction</b> 33:14	<b>docket</b> 1:3 6:4,7 13:1,5, 8,13,14,21 17:8 30:10 33:12,16 34:9 36:9 63:22,25 64:7,20 93:2 107:3 108:1 111:18,19 112:8 134:16 140:9 152:23 154:3 157:20 193:10 194:5 199:15 214:20 215:8 217:3,5,7,8 218:7 237:6, 24 239:2 243:10 252:2 267:11 272:18 288:25	<b>documents</b> 23:6 26:19	<b>Dodge</b> 2:15 3:8,16,19,24 4:16,19 8:9, 11,12,13,17 26:4,6,7 28:22 29:13 33:24 37:8 69:14,16,18 70:3,5,7,12 75:11,18 76:21 77:2, 13,16,24 78:9,13,18,20 80:5,15 81:1, 18 82:3,6,10, 13,25 83:17, 20 84:22,25 85:5,16,19 86:24 87:1,13 92:23 93:13, 18,24 94:2 95:3,5,10,17, 18,21,22,23 98:1,15 100:11 102:18 105:9 106:18 114:12,15,22, 23 115:18,19 117:22,25 118:24 123:23 124:12,15,21 125:1,7 133:10,11	<b>domain</b> 141:12,19
<b>distinguish</b> 42:17 249:2			<b>Dodge's</b> 133:17 182:13 205:23	<b>done</b> 15:10 34:3 38:14 56:21 68:19 75:6,16 76:12 78:20 88:10, 14 89:25 90:25 91:11 93:1,11 94:20 102:19 108:1 113:15 115:4 128:14 153:15 157:25 163:25 178:23 179:22 180:20 185:23 188:21 190:5 192:17 196:23 212:19 230:8 232:15 250:6 275:19 277:16 291:3
<b>distribution</b> 13:19			<b>dollar</b> 75:15 221:19,22 253:12,14 258:6 259:7, 19,20,23 261:1,15 264:22 269:23,24 285:21,22 286:2	
<b>diverge</b> 16:23,25				
<b>diversity</b> 155:17				
<b>division</b> 2:7 7:3,5 15:25 28:25 29:3 174:13 211:5 213:18 214:2, 17,21 215:5 216:1,7,15,24 217:1,6,12,24 218:5 219:3 220:8,17 225:6 228:17 229:4,5 231:24 232:4, 17,23 235:9, 11,18 236:4, 9,14,19 237:7 238:2 291:18 294:1,2	<b>dockets</b> 14:16 52:11 217:23 218:2, 7 234:14			
<b>division's</b> 7:6 173:7 217:22 219:1 223:4,8	<b>document</b> 84:9,11 91:21 94:3 120:23 151:22 152:2 168:17 192:15			
	<b>documentatio n</b> 130:4			

<b>door</b> 83:8 107:4	<b>drafted</b> 11:24 25:2	192:21 193:10	92:11 108:25 135:10 261:3 275:25	<b>eastern</b> 67:23 149:8 181:4
<b>double</b> 156:9	<b>dramatically</b> 192:21 193:4, 10 249:13	<b>due</b> 104:15 165:21 196:20 202:10 219:12 223:9 224:24 255:23 260:13 289:8	<b>earlier</b> 14:6 33:24 76:3 79:2 91:2 106:9 127:22 137:5 149:25 150:11 152:11 153:18 155:25 164:8 184:16 187:10 205:23 207:16 208:24 227:7 262:17 263:4 284:23	<b>easy</b> 31:21
<b>doubt</b> 103:9 246:8,9 278:1	<b>drastically</b> 265:24	<b>duly</b> 47:2 157:16 214:9 238:15 242:18 251:14 267:3 272:8	<b>earliest</b> 65:15	<b>economic</b> 54:11 64:5 69:3 108:24 111:17 112:11 121:16 123:10 154:10 172:8 173:11 174:19 175:2, 22 176:7 178:6 217:15 218:4 231:20 232:3,5,16,24 235:10,16,18 236:6 237:10, 13,20 245:24 246:8,19 253:2,7 270:13 289:23 290:18,23 291:10 292:25 294:6, 7
<b>doubts</b> 278:1	<b>draw</b> 23:20 25:19 37:7	<b>duplicate</b> 18:18	<b>early</b> 90:25 134:20 141:21 144:7 254:19 270:8	
<b>down</b> 42:3 58:17 74:3 90:2 91:7 98:20 106:14 108:24 112:10 113:22 117:9 120:15,17 141:12 142:18 149:7 173:7 181:25 185:7 190:3 191:24 192:12 193:4, 8 202:7,11 204:9 230:22 234:20 259:19	<b>drawn</b> 23:21	<b>during</b> 6:19 48:14 49:18 56:23 158:25 172:1 206:23 258:3 280:21	<b>easier</b> 193:13 201:24	
<b>DPU</b> 198:15 215:10 216:8	<b>drive</b> 156:3 186:4 242:25	<b>duty</b> 42:13	<b>easily</b> 255:22	<b>economical</b> 106:20,22 108:12 175:11 186:21,23 232:5
<b>draft</b> 21:15,21 22:4 55:4 66:3 153:19 159:13 168:17,21 197:2	<b>driven</b> 59:15 62:12,16 104:8 154:8	<b>dynamics</b> 180:19	<b>east</b> 1:10 2:8, 12,20,24 74:14 75:4 214:18 238:23	<b>economically</b> 236:11
	<b>driver</b> 265:10	<b>E</b>		
	<b>drivers</b> 58:21, 25 59:14 103:6	<b>each</b> 46:5 49:21 56:2		
	<b>driving</b> 58:19 62:12 228:8			
	<b>drop</b> 121:14			
	<b>drop-off</b> 260:3			
	<b>dropped</b> 66:9			

<p><b>economics</b> 112:5 113:8 114:2,5 120:22 124:18 247:12,14</p> <p><b>Ed</b> 7:23 9:2</p> <p><b>edits</b> 139:12</p> <p><b>Edward</b> 9:8</p> <p><b>effect</b> 12:3</p> <p><b>effective</b> 147:10 240:11 247:1 269:7 291:12</p> <p><b>effectively</b> 147:23 257:2, 9</p> <p><b>efficiencies</b> 152:19 265:11</p> <p><b>efficiency</b> 265:8,11</p> <p><b>efficient</b> 36:8 256:17 265:20 276:22</p> <p><b>effort</b> 268:19</p>	<p><b>efforts</b> 74:4 76:12 92:20 99:6 100:24</p> <p><b>eight</b> 255:18 273:16</p> <p><b>either</b> 34:13 47:18 72:23 81:16 102:3 149:3 154:5 164:15 165:1 200:20 211:6 241:22 271:24</p> <p><b>elaborate</b> 39:11</p> <p><b>elapsed</b> 274:23</p> <p><b>electric</b> 159:8 166:7 239:22</p> <p><b>electricity</b> 10:21,25 148:14 159:7 168:24 169:3 204:18 205:5</p> <p><b>element</b> 141:24</p> <p><b>elements</b> 58:19 91:18 148:16</p> <p><b>eligibility</b></p>	<p>56:13 173:5 174:10 200:12</p> <p><b>eligible</b> 100:18 117:3 177:8</p> <p><b>eliminate</b> 18:23 56:14 173:8 196:25 197:11,15,23 240:7 254:7</p> <p><b>eliminated</b> 127:12 197:19 246:4</p> <p><b>eliminating</b> 125:10</p> <p><b>elsewhere</b> 280:8 292:6</p> <p><b>EMA</b> 119:23</p> <p><b>eminent</b> 141:12,19</p> <p><b>emissions</b> 30:21 59:13, 17</p> <p><b>emissions-control</b> 30:6</p> <p><b>emphasis</b></p>	<p>52:20</p> <p><b>emphasize</b> 92:17</p> <p><b>employed</b> 47:9,11 238:22 242:23</p> <p><b>employer</b> 214:14</p> <p><b>employment</b> 265:18</p> <p><b>enable</b> 73:20 149:2 255:3</p> <p><b>enabled</b> 110:16</p> <p><b>enables</b> 76:14</p> <p><b>encountering</b> 290:25</p> <p><b>encourage</b> 55:6</p> <p><b>end</b> 9:22 53:3 64:12 92:19 94:15,16,21 101:8 102:6, 18,21,25 103:9,17</p>	<p>135:13 139:17 142:19 144:21 147:12 149:16 154:6 162:4 171:22 173:6 176:8 188:12 204:10 213:23 228:5 231:12 258:13 264:14,21,23 265:18 276:20 289:6, 12 291:9</p> <p><b>ended</b> 197:24</p> <p><b>ending</b> 187:3 292:20</p> <p><b>endless</b> 236:5</p> <p><b>endlessly</b> 236:7,15</p> <p><b>ends</b> 9:21 37:1 206:3 215:20</p> <p><b>energy</b> 2:16, 19 6:13 8:1, 14 9:18,19,24 10:19 12:5 13:6,23 52:4 68:21 70:25</p>
---	---	---	---	---

73:16,20 74:19 76:2, 10,19 78:23 81:19 148:5, 16 149:5,6,21 150:7 166:13, 16 174:7 200:3 219:21 220:8 239:23 240:9,11,20 241:1 245:25 263:19 266:23 267:9, 12 268:18 269:11 270:18 273:13 277:1	<b>enlightened</b> 142:8  <b>enough</b> 39:4 143:2 174:21 176:6 213:3 229:25 276:14  <b>ensure</b> 11:20 21:10 24:24 43:3 53:4 86:13 89:3 128:24 132:22 163:13 245:4 252:20 255:5  <b>ensuring</b> 10:20  <b>enter</b> 13:3  <b>entered</b> 48:4, 11 50:13,19 87:14 98:13  <b>entering</b> 158:9  <b>entire</b> 74:25 81:13 106:18 131:4 140:17 141:8 164:6 279:24 283:21,22  <b>entirely</b>	249:14 293:2  <b>entitled</b> 85:1 220:8  <b>entity</b> 28:5 33:22 43:4  <b>environment</b> 275:20  <b>Environmenta</b> l 2:23  <b>equate</b> 230:6  <b>equates</b> 111:2  <b>equipment</b> 67:21 100:13, 15 142:2 145:13 146:7 265:15  <b>equitable</b> 252:21 286:14  <b>equivalent</b> 15:17  <b>ER</b> 102:10 103:25  <b>error</b> 167:16	<b>escalation</b> 261:5  <b>especially</b> 38:6 101:12 216:25 227:22 228:3 234:20 265:7  <b>essentially</b> 18:19 56:15, 24 91:9 100:7,12 110:7 126:5 130:23 140:13 143:9, 10,22 144:10 146:21 147:4, 5,15 149:6 151:9 278:8 280:9 288:5 291:1  <b>establish</b> 11:7 132:20 153:8  <b>established</b> 59:22 68:11 256:8  <b>establishing</b> 152:7  <b>estimate</b> 141:14 186:24 201:12	<b>estimates</b> 275:22  <b>etcetera</b> 290:18  <b>evaluate</b> 73:7 110:3 127:19 143:19 150:5 151:17 161:21 210:12 237:12,24 253:25 254:3, 13 256:9 276:18 277:22 279:12 288:13,14  <b>evaluated</b> 209:6 233:8 235:18 288:10  <b>evaluating</b> 15:22 236:14 237:20 265:4 288:5  <b>evaluation</b> 14:12 53:9 91:24 130:15 138:2 139:3,6 161:10 190:5 193:8 194:10, 23 195:2 196:2 202:11 208:12,20 209:22 235:4
<b>Energy's</b> 268:23 270:23				
<b>enforce</b> 85:21				
<b>enforceable</b> 84:4				
<b>engage</b> 199:16				
<b>engineer</b> 283:4				
<b>enhance</b> 55:6 91:23				
<b>enlighten</b> 140:5				



<p>247:11 253:25 276:8 288:3,11</p> <p><b>evaluator</b> 7:19 42:12,24 44:19 52:1 55:5 68:15,17 127:19 132:23 157:21,23 158:3 159:12, 16,18 167:12 215:1,4 256:8</p> <p><b>evaluator'</b> 54:2</p> <p><b>evaluator's</b> 42:20 198:23 216:18</p> <p><b>evaluators</b> 68:20</p> <p><b>even</b> 17:4 27:16,18 28:16 46:9 103:10 104:22 124:23 137:20 139:17 156:10,14 171:13 178:9 184:12 186:1, 22 190:5 197:8 216:24 227:9 232:12 236:12</p>	<p>237:12 245:24 254:19 275:23 276:2 284:8 285:14</p> <p><b>evening</b> 212:7</p> <p><b>event</b> 116:21 127:15</p> <p><b>events</b> 289:18</p> <p><b>eventually</b> 274:7</p> <p><b>Everpower</b> 81:24 83:21 84:17 85:21 136:5,9,22</p> <p><b>every</b> 26:25 27:11 28:5,18 144:2 182:4 202:25 236:17 259:16 276:15 280:1 293:20</p> <p><b>everybody</b> 26:23 134:13 203:19 205:7 212:13</p> <p><b>everyone</b></p>	<p>46:2 190:19 212:20</p> <p><b>everyone's</b> 268:17</p> <p><b>everything</b> 94:5 98:4 134:23 161:8</p> <p><b>evidence</b> 35:18 48:5 50:14 51:5 83:4 99:13 143:2 146:1 158:10 192:15 193:9 202:18 221:19 245:16 252:11</p> <p><b>evolved</b> 279:17</p> <p><b>evolving</b> 196:12</p> <p><b>exact</b> 87:22 92:10,20 111:22 114:4 119:25 137:17 190:12 224:21 283:11</p> <p><b>exactly</b> 82:13 100:1 111:24</p>	<p>132:15 173:22</p> <p><b>examination</b> 3:5,6,7,8,9, 10,11,12,15, 16,17,18,19, 22,23,24 4:6, 9,12,13,16,19 47:4 49:2 61:18 65:3 69:17 133:14 135:19 165:15 172:23 198:10 203:17,22 214:11 218:19 226:2 233:20 237:1 238:17 242:1, 20 248:16 251:16 261:12 264:3 267:5 272:10 290:11 291:20</p> <p><b>examined</b> 47:3 148:20 157:17 214:9 238:15 242:18 251:14 267:3 272:8</p> <p><b>example</b> 13:21 20:25 21:16 32:5 35:13 37:16 57:8 74:11</p>	<p>81:24 92:4 93:5 110:25 139:1 151:14 152:24 175:19 188:1 246:19 275:21 281:24 284:3</p> <p><b>examples</b> 91:20</p> <p><b>exceed</b> 106:3 107:15 123:20 178:8</p> <p><b>except</b> 23:8</p> <p><b>excess</b> 127:7</p> <p><b>exchange</b> 115:5</p> <p><b>exclude</b> 34:3 35:14 40:10 245:12</p> <p><b>excluded</b> 39:23 255:22</p> <p><b>excluding</b> 10:22 67:24</p> <p><b>exclusion</b> 257:24</p> <p><b>exclusionary</b></p>
--	--	--	--	---

33:21	118:15 122:13 142:3	104:2 145:4 146:11,13 147:14 283:18 292:16	193:6 216:19 275:14,17 283:15	186:17 201:8 273:13,20 276:7,14
<b>exclusive</b> 277:8	<b>execution</b> 67:6 136:25	<b>exists</b> 32:5	<b>expect</b> 164:20 181:6 248:24 249:4	<b>expert</b> 146:18,19 194:3 197:10
<b>excusable</b> 98:20 99:9 184:24	<b>executive</b> 267:8 292:12	<b>expand</b> 57:13 64:17 89:10 90:13 91:18 93:2 174:24 186:9 198:24 199:7 227:1 229:9 249:1 256:12 268:19 270:24 287:23 290:16 292:5	<b>expected</b> 206:17 260:11	<b>experts</b> 196:3
<b>excuse</b> 21:5 38:3 86:16 99:8 104:24 125:8 173:3 180:11 182:8 194:12 205:4 229:4 237:22 243:20 267:18 272:17 284:13	<b>exhibit</b> 5:3,4, 6,9,11,14 47:15 48:2,3, 4,25 49:22,24 50:1,4,12,13 57:22,25 58:1,2 60:17 61:20,23 62:6 64:5 65:5 93:21 95:2,4, 25 98:13,18 100:7 150:24 169:18 184:17 215:10 227:24 268:10 273:1	<b>expanded</b> 90:8,18 91:13 181:10 186:4, 20 188:19 228:20 287:14	<b>expecting</b> 55:1 115:12	<b>expiration</b> 237:15
<b>excused</b> 187:13 277:10,11	<b>excuses</b> 277:8	<b>expanding</b> 90:6 115:11 176:10 228:19 229:10 235:25 269:4 288:9	<b>expedite</b> 256:1	<b>expire</b> 60:7 277:4,5
<b>execute</b> 128:23 129:9 137:5 154:9 260:14	<b>executive</b> 267:8 292:12	<b>expands</b> 234:19	<b>expedited</b> 228:16 254:9	<b>expiring</b> 268:21 269:3 271:3
<b>executed</b> 56:9 67:5,17 87:23	<b>exist</b> 32:17 72:11 105:11 131:20	<b>expansion</b>	<b>expense</b> 15:5 30:19 31:7 238:1	<b>explain</b> 55:11 57:25 117:14 142:6 145:7 224:12 247:13 272:12
<b>executing</b>	<b>existing</b> 30:6, 21 32:9 59:4		<b>expenses</b> 18:15	<b>explains</b> 280:17
			<b>expensive</b> 189:7	<b>explained</b> 280:17
			<b>experience</b> 17:10 25:11 27:18 67:9 108:14 136:25 159:17 162:21	<b>explains</b> 240:5
				<b>explanation</b> 104:6 236:9

237:3	222:11 263:1	<b>facilitating</b> 160:10	275:21 292:11	195:10 201:11 208:25 222:20 225:10 229:25 230:3 232:14 252:20 275:20 278:5 286:14,18
<b>explanations</b> 217:25	<b>extending</b> 138:25 187:3 229:17 256:14	<b>facilities</b> 96:15 116:1 129:20 137:15 145:5 146:13 173:10 177:2 185:16 259:1, 5	<b>factor</b> 113:1 149:17 176:13 194:9 205:8,19 206:11	
<b>explicit</b> 66:8				
<b>explicitly</b> 150:8	<b>extension</b> 160:15,16 164:17 165:2 256:23		<b>factors</b> 15:1 57:6,9,11 126:7 152:18 204:22 205:10,18,21 234:23,24 235:1 265:14	<b>fairly</b> 21:11 26:23 181:23 278:21 280:2 288:10
<b>exploration</b> 83:16	<b>extent</b> 15:4 18:13 19:1 23:3 43:9 105:13 182:25 208:16 218:6 222:8 223:17 225:3 229:22 235:19,20	<b>facility</b> 67:5 80:18 81:13 96:18 99:7 117:13 180:13		
<b>explore</b> 64:21 80:8 101:16 118:13 185:24 200:25		<b>fact</b> 15:24 16:18 19:13 37:13 38:15 40:10 41:8 43:8 53:8 59:6 62:12 66:13 67:8,12 79:2 88:18 89:20 98:23 100:23 104:8 115:9 118:12 121:8 123:13 153:2 159:24 160:15 171:11 178:22 182:15 184:13 191:9 197:19 198:20 205:6, 7 207:2 225:5,17 261:14	<b>facts</b> 16:11 29:10 83:4 97:19 102:4 176:10	<b>fairness</b> 16:7
<b>explores</b> 101:14	<b>extra</b> 91:8,10			
<b>exploring</b> 118:14 229:8	<b>extreme</b> 35:12 263:12		<b>factual</b> 227:13	<b>fall</b> 62:19 66:6,9 127:3 142:4 143:1 293:9
<b>express</b> 24:1	<b>eyes</b> 93:25		<b>failed</b> 20:18 21:3 99:4	<b>fallen</b> 259:14 265:17,24
<b>expressed</b> 27:23 39:5,9 183:25 234:7, 11 247:3	<hr/> <b>F</b> <hr/>		<b>fails</b> 21:7	<b>falling</b> 259:15 260:14
<b>extend</b> 56:12 63:12 222:9, 14,22 293:2	<b>face</b> 100:2 193:18 231:11		<b>failure</b> 260:12	<b>false</b> 82:20
<b>extended</b>	<b>facilitate</b> 208:19 235:3		<b>fair</b> 24:25 26:21 32:15 42:13 43:3 115:24 123:4 129:14 132:9 178:16	<b>familiar</b> 34:23 67:3 84:14,16 94:19,23 96:7 137:14 160:20 179:12 180:1 181:20 182:2

<b>far</b> 171:24 222:13 279:11 285:24	<b>few</b> 21:3 36:25 44:5 60:8 61:17 91:20 103:11 109:14 126:18,21 148:25 158:21 160:4 161:12 165:13,14 170:17 174:11 186:24 193:5 211:2 218:18 260:12 261:11 265:19 266:11 274:25 281:4 291:18	151:22 158:7 162:7 215:6, 7,9 246:17 272:16 273:8 281:4	<b>financial</b> 204:21 265:22 273:21	<b>finished</b> 129:3 134:22
<b>fashion</b> 292:17		<b>filing</b> 21:24 35:16 64:7 140:23 144:16 151:21,24 152:4	<b>financially</b> 25:12	<b>firm</b> 102:14 239:25
<b>fast</b> 128:9			<b>financing</b> 17:21 256:17 265:20	<b>first</b> 10:7 11:15 26:18, 19 39:17 47:2 51:15 52:22 59:15 60:1 69:19 96:12 97:17 101:18, 19 108:17 109:21 110:7 113:9 125:12 143:18 157:13,16 166:4 168:20 169:21 178:21 184:10 185:4 202:8 213:25 214:9 217:16 219:13 226:18 238:15 241:7, 25 242:18 248:2 251:5, 14 252:19 267:3 272:8 282:7 292:12, 21 293:8,14, 24 294:3
<b>faster</b> 215:18			<b>find</b> 26:9 27:19 65:24 169:23 170:18 184:2, 13 188:23 194:22 275:6	
<b>favor</b> 16:16 119:9 232:20 233:4,11		<b>filings</b> 142:8		
<b>favorably</b> 101:1		<b>fill</b> 109:8 110:4 208:21 235:6	<b>finding</b> 23:18 57:5 143:24 144:14,19 160:23 162:10 173:13	
<b>favoring</b> 16:18	<b>field</b> 161:9	<b>final</b> 18:12 36:2 50:21 56:10 61:8 92:14 129:11, 13 131:2 140:16 142:19 154:1 155:4		
<b>federal</b> 51:20 53:23 76:25 99:18	<b>fifties</b> 221:19		<b>findings</b> 142:14 144:11 198:20	
<b>fee</b> 276:16	<b>figure</b> 58:1 213:4 261:1	<b>finalize</b> 144:15 171:21	<b>fine</b> 19:22 78:6 118:16 157:7 246:4 250:19	
<b>feedback</b> 81:15 162:11	<b>file</b> 35:9,24 41:10 47:13 239:2 243:9 252:2	<b>finally</b> 17:19 18:25 53:7 55:3 59:12 127:22 148:17 231:18 247:2 281:17 286:5		<b>fit</b> 171:23
<b>feel</b> 158:16 231:20 256:7	<b>filed</b> 6:7 15:11 21:4 41:9,11 49:25 50:2,24 54:13,14 70:20 85:8 126:21		<b>finish</b> 93:6 285:18	<b>five</b> 87:17 203:4 213:3, 5,6,8 266:16
<b>felt</b> 16:3 35:11 197:11				

274:10 286:2	94:9 150:1 174:12,14 205:19	<b>footprint</b> 288:7	<b>format</b> 45:21	212:11 247:9
<b>fixed</b> 59:5 113:25	<b>focuses</b> 58:22	<b>forbidden</b> 16:18	<b>forms</b> 215:11	<b>fourth</b> 98:19 256:24
<b>flavor</b> 236:19	<b>focusing</b> 74:2 76:25 205:8	<b>force</b> 114:20 228:8 279:7	<b>forum</b> 25:5 27:13	<b>frame</b> 17:23 76:6 87:4 129:6 141:1 144:8 150:3 162:24 186:15 190:20 206:17
<b>fleet</b> 268:20	<b>folks</b> 213:9 290:20	<b>forced</b> 85:7, 12 257:2	<b>forums</b> 126:13	
<b>flexible</b> 208:11	<b>follow</b> 77:24 219:24 233:2	<b>forecast</b> 59:24 227:11 281:10	<b>forward</b> 10:12 30:18 44:19, 20 45:16 46:22 53:9 69:6 92:18 107:17 121:7 134:23 151:12 152:21 154:14,23 161:11 188:19 206:2 212:14,19 213:1,22 218:6 235:23 236:13 237:23 259:17 260:15 262:9 265:2 282:11, 18	<b>frames</b> 201:14 202:21
<b>floodgates</b> 24:22 25:20 40:6,17,25 41:2,20	<b>follow-up</b> 157:3 171:12 208:2,4 249:20	<b>forecasting</b> 274:3		<b>framework</b> 151:2 152:17
<b>Floor</b> 1:10 2:8,12	<b>followed</b> 59:2 81:21 210:4	<b>forecasts</b> 52:24 227:12 273:23		<b>Francisco</b> 251:21
<b>flow</b> 148:13 175:21	<b>following</b> 68:18 138:23 210:7 215:25 258:3	<b>foreclose</b> 33:2 236:10		<b>frankly</b> 90:17 182:16 254:13 257:17 289:7
<b>flowing</b> 175:25	<b>follows</b> 47:3 157:17 214:10 238:16 242:19 251:15 267:4 272:9	<b>forgot</b> 250:7		<b>free</b> 158:16
<b>flows</b> 256:16	<b>footnote</b> 98:6	<b>form</b> 37:10 116:14 145:5 215:21 216:9 255:15	<b>FOTS</b> 156:4	<b>Friday</b> 50:10
<b>fluent</b> 292:8		<b>forma</b> 55:22 92:1 139:15 153:10,20	<b>found</b> 35:24 179:4	<b>front</b> 27:10 56:16 58:18 60:7 74:14 77:3 80:13 87:21 106:16
<b>foam</b> 37:19		<b>formal</b> 11:18	<b>four</b> 58:11,15 73:18 158:3	
<b>focus</b> 161:15 162:7 233:23				
<b>focused</b> 76:5				

111:13 126:15,17 139:10,17 140:11 146:20 162:3 202:4 217:19 234:9 276:20 282:9,10,16, 18,19,20,24 291:6 292:18 293:1,5,13, 18,23	<b>fully</b> 53:4 156:15 196:21 227:8 234:15 260:8 269:10	260:16 269:11 270:16 288:21 291:13,16 292:15 294:10	143:20 148:5, 16,19,21 149:5,6,22 150:7,11 278:13 283:22	<b>generated</b> 169:14 206:17 230:1, 4,10,11 292:21
<b>front-market</b> 108:23	<b>functions</b> 22:6,7 215:3, 5	<b>future</b> 24:23 32:10 59:17 69:5 122:10 217:21 293:15	<b>gave</b> 93:4 197:17	<b>generating</b> 54:16 274:8 283:6 292:14, 22
<b>front-office</b> 109:11 110:9, 18 111:7	<b>fund</b> 260:5	<b>fundamentall</b> <b>y</b> 88:25 111:12 118:22 121:8 126:9 143:2 147:11 154:8 286:12 290:21	<b>gdodge@</b> <b>hjdllaw.com</b> 2:17	<b>generation</b> 59:4 117:13 147:14,16,18 148:7 159:21 161:4 163:6 166:9 174:18 178:20 185:16,18 206:19 268:19
<b>fuel</b> 59:3,25 60:9	<b>funded</b> 259:11 261:20	<b>gain</b> 25:12	<b>general</b> 2:3,7, 11 67:13 79:12 126:4 221:12 248:20 281:13	<b>generator</b> 163:9 283:5
<b>fulfill</b> 291:4	<b>further</b> 3:10, 11,12,19 9:13 17:15 18:20 56:5 120:17 133:10 134:3 135:19 137:24 156:25 162:14 172:15 173:7 206:15 208:1 210:18 225:24 233:13 238:6, 7 250:12	<b>gained</b> 234:7	<b>general's</b> 7:5	<b>geographic</b> 216:19 269:2, 6 271:1 279:11
<b>fulfilling</b> 236:12	<b>gateway</b> 73:17,20,22 74:19,25 75:12,14,16 76:2,10,19 77:7,10 129:19	<b>gas</b> 13:2,4,11, 15,18 14:1,4 15:7 58:7,23 59:4 60:13 122:20 123:6 192:20 274:10	<b>generalization</b> 79:18	<b>geographical</b> 221:2 288:6
<b>fulfillment</b> 218:2	<b>full</b> 53:22 143:6 147:5 162:17 214:13 247:5 254:13 255:3 263:6 281:15 293:14	<b>G</b>	<b>generally</b> 85:20,22 86:4 96:7 97:15,25 123:4,8 127:23 128:5 142:14 144:7 156:9 179:16 186:17 213:22	<b>Georgia</b> 242:25
			<b>generate</b> 53:5 171:3 279:6	<b>geothermal</b> 192:20

<p><b>get all</b> 102:13 210:4</p> <p><b>getting</b> 27:10 28:7 36:10 67:13,19 115:4 152:22 162:25 182:11 192:12 213:23 224:19 255:14 258:7 263:12 280:16</p> <p><b>gigawatt</b> 270:2</p> <p><b>give</b> 27:1 29:25 40:13 80:13 82:17 95:7 113:24 119:5 148:21 152:20 153:23 176:9 203:19 212:11 214:13 217:10 226:17 271:2 278:14</p> <p><b>given</b> 37:3 91:16 113:20 126:8 133:17 147:19 156:6 160:2 162:19 170:6 199:10 202:21</p>	<p>229:13 231:7 236:9 253:13, 16,21 255:17 265:7 270:5 280:16</p> <p><b>gives</b> 39:25 236:18</p> <p><b>giving</b> 49:5 80:6 92:24 226:13 228:17 289:16</p> <p><b>glad</b> 35:4</p> <p><b>Glen</b> 262:11 264:8</p> <p><b>Global</b> 224:25</p> <p><b>goal</b> 10:19 28:10</p> <p><b>goals</b> 24:14 276:11 286:9</p> <p><b>goes</b> 27:22 60:8 117:9 120:15 124:24 149:7 151:23 154:23 181:25 188:18 215:19 223:18 225:5</p>	<p><b>gone</b> 139:14 182:11 283:19</p> <p><b>good</b> 6:3,24 20:14 23:19 51:13 59:24 110:20 134:7 135:7 138:22 198:13 203:5 213:3,8,21 216:24 239:19 245:1 264:7</p> <p><b>goods</b> 208:16</p> <p><b>gotten</b> 156:14 191:14</p> <p><b>government</b> 99:18</p> <p><b>grab</b> 237:25</p> <p><b>grant</b> 11:13 44:12</p> <p><b>granted</b> 10:2 11:5 12:12 14:15 29:12 48:9 50:18 98:12 117:1 158:13 216:12 239:14 244:22 252:14 268:14 273:5</p>	<p><b>granting</b> 18:16</p> <p><b>great</b> 8:7 120:11</p> <p><b>greater</b> 282:21</p> <p><b>greatly</b> 265:17</p> <p><b>green</b> 19:24 243:22</p> <p><b>grid</b> 99:22 184:21 279:17</p> <p><b>ground</b> 28:17 292:20</p> <p><b>group</b> 14:4 27:6 119:8 137:23 274:5, 13,14 288:5</p> <p><b>groups</b> 120:11 274:2</p> <p><b>guarantee</b> 53:8 101:1 196:3 257:19 260:7</p> <p><b>guaranteeing</b> 62:8</p>	<p><b>guess</b> 32:14 34:13,21 36:8,12,13,14 40:7 41:21 50:23 113:23 118:3 119:12 125:1 152:11, 12 154:18,21, 25 158:12 160:4 175:18 176:23 180:4 183:20 185:12 189:21 209:17 219:24 227:5 228:15 230:21 231:18 248:19 285:1 287:21,22</p> <p><b>guessing</b> 27:18,19</p> <p><b>guidance</b> 104:12</p> <p><b>guide</b> 24:13</p> <p><b>guy</b> 37:24</p> <p><b>guys</b> 109:9</p> <hr/> <p style="text-align: center;"><b>H</b></p> <hr/> <p><b>half</b> 64:2 67:23 124:1</p>
--	--	---	---	---

<p>137:20 138:1 139:2,7,8,21 149:8 276:17</p> <p><b>hand</b> 93:20 151:14 169:16 187:2</p> <p><b>handed</b> 95:24 98:2</p> <p><b>handful</b> 260:10</p> <p><b>handicap</b> 269:25</p> <p><b>handled</b> 195:5</p> <p><b>handling</b> 36:9</p> <p><b>hands</b> 256:2</p> <p><b>Hans</b> 4:11 8:22 9:8 20:18 25:23 45:9 250:21, 22 251:13,20</p> <p><b>happen</b> 30:19 34:1 40:23 45:23 99:13 189:17 191:20 257:4 294:22</p> <p><b>happened</b></p>	<p>144:6 153:11</p> <p><b>happening</b> 190:19</p> <p><b>happens</b> 115:15 163:6 185:5 191:15 212:2</p> <p><b>happy</b> 211:5 289:6 290:19 292:11</p> <p><b>harbor</b> 97:1, 7,22 100:12 101:19 102:12,17,25 103:8 143:16 145:13 146:7</p> <p><b>hard</b> 40:3 190:11 210:22 242:8 250:24 267:21</p> <p><b>harder</b> 90:25</p> <p><b>harkening</b> 152:10</p> <p><b>hat</b> 266:23</p> <p><b>Hatch</b> 2:15</p> <p><b>hats</b> 266:22</p>	<p><b>having</b> 17:16 37:20 39:24 45:7 47:2 60:9 64:10 108:23 123:4, 8 155:13 157:16 173:12 195:24,25 208:25 213:10 214:9 233:4 238:15 242:18 251:14 254:23 262:20 267:3 272:8,15 275:12</p> <p><b>Hawaii</b> 179:25</p> <p><b>Hayes</b> 8:8</p> <p><b>Hayet</b> 4:8 7:12 9:4,7 45:8 240:4 242:3,14,17, 24 243:20 244:1 247:21 248:1,18 250:9</p> <p><b>Hayet's</b> 244:18</p> <p><b>head</b> 23:22 119:11</p> <p><b>head-to-head</b></p>	<p>189:7,20 190:10</p> <p><b>hear</b> 10:8 20:4,12 27:8 34:21 213:13 242:3,4,8 243:18,19 250:24 251:1</p> <p><b>heard</b> 127:23, 25 139:25 148:18 166:6 172:12 175:8 185:4 189:2 207:6 213:14 219:17 233:25 249:11 257:15 275:21 282:7 287:13 294:3</p> <p><b>hearing</b> 1:4 6:19 9:13,14 19:22 20:24 21:4 36:25 44:14,25 45:21 49:16, 19 60:21 83:13 109:19, 20 140:24 158:25 212:3, 4,5,9 213:10 237:15 242:5 253:13 262:21 284:24 289:1 291:9 294:2, 23,24</p>	<p><b>hearsay</b> 80:7</p> <p><b>heart</b> 69:2</p> <p><b>heavy</b> 279:22, 23 280:3,22</p> <p><b>Heber</b> 214:18</p> <p><b>heels</b> 155:6</p> <p><b>held</b> 12:8,18, 20,25 18:22 32:23 41:4 54:4</p> <p><b>help</b> 8:9 10:24 28:9,20 37:10 38:1 86:23 111:9 146:15 147:9 152:13,14 156:2 183:22 237:24 243:8</p> <p><b>helpful</b> 90:3 237:4 275:16</p> <p><b>helping</b> 28:7 267:21</p> <p><b>here</b> 6:3 7:2, 15 8:1,3,18 16:17 25:17 26:8 27:3 28:20 29:11 32:13 33:3 37:1 44:6</p>
--	---	--	---	--



<p>47:21 52:16 58:25 63:22 68:7 71:20 88:15 89:6,17 90:12 103:15 104:7 110:6 112:14 115:10 120:8, 10,25 122:1 127:18 129:15 142:9 147:11 151:23 152:14 153:13,23 154:19 157:20 161:6 163:2 165:19 167:9 171:14 175:19 182:9 184:16 187:21 188:13,15 193:21 203:2, 10 205:10 207:15,20 214:18 216:21 227:6 228:15 232:8 248:22 262:10 266:22 272:23 277:4 282:1 285:5,8</p> <p><b>Here's</b> 144:14 198:3</p> <p><b>hierarchy</b> 151:5</p>	<p><b>high</b> 24:10 59:21 63:6 128:7 137:25 221:18 254:5, 9 283:2</p> <p><b>higher</b> 74:23 122:9 188:20 191:16 205:1 264:25 269:14</p> <p><b>highest</b> 279:18,19</p> <p><b>highlight</b> 66:10 126:14 132:21 156:17 235:5</p> <p><b>highlighted</b> 58:24 109:5 292:18</p> <p><b>highlighting</b> 54:18 66:2</p> <p><b>highly</b> 62:24</p> <p><b>hinges</b> 222:5</p> <p><b>hinging</b> 106:19</p> <p><b>hired</b> 197:21</p> <p><b>historical</b></p>	<p>265:6</p> <p><b>history</b> 63:7</p> <p><b>hit</b> 67:11,16 79:21,23 223:22 265:21</p> <p><b>Hogle</b> 2:2 3:5, 10,11,18 4:13 6:24 7:1 10:8, 12 20:13,14 25:24 28:4,12 33:25 34:19 35:4 36:19 45:17,19 46:6,13,18,23 47:5,24 48:10,13,23 49:6,20 50:11,21 51:7,8 61:13 70:3,6,8 75:9 77:11 80:3,24 82:2,7,21,22, 24 84:20 86:16 105:6 114:10,14 115:17 117:18 122:24 124:7 134:5,6 135:17,18,20 138:5,7 157:7 165:7,9 182:8,17 194:12,16 203:11,13,21, 23 207:24 208:7 213:20</p>	<p>218:11,13 241:16,17 248:10,11 261:10,11,13 271:17,18 284:13,25 287:8,9 289:21,22 290:5,10,12 291:13,14</p> <p><b>Hogle's</b> 40:5</p> <p><b>hold</b> 190:8</p> <p><b>holds</b> 289:18</p> <p><b>home</b> 37:23 156:3</p> <p><b>honest</b> 112:14</p> <p><b>honor</b> 50:22 82:1 84:13</p> <p><b>honored</b> 81:21 257:14</p> <p><b>Honors</b> 48:23</p> <p><b>hope</b> 129:7 202:20 226:4, 6 236:18</p> <p><b>hopefully</b> 44:7 176:21</p>	<p><b>hoping</b> 114:15 191:4</p> <p><b>horizon</b> 76:15,24 94:8</p> <p><b>hour</b> 66:18 67:2 200:7,8 207:13,20 212:11,15 221:19,22 253:13,14,19 258:6 259:7, 18,24 261:1, 16 264:22 267:19,20 268:1,3 269:18,19,20, 21,24 270:4 281:3,7</p> <p><b>hours</b> 91:10 117:10 184:21 278:23,24 280:17</p> <p><b>hours'</b> 212:8</p> <p><b>however</b> 16:8 56:16 63:5 68:17 110:21 161:23 165:21 168:21 170:21 220:16 228:6 237:24 240:16 254:18</p>
--	--	--	--	---

255:12 258:20 268:23 278:23	<b>ideal</b> 161:19 170:18 185:21 193:1 209:25 210:16	<b>IE'S</b> 24:14 43:3,8 55:17 56:3 61:7	11:12 14:22 19:12 20:21 38:21	<b>imported</b> 258:17
<b>hundred</b> 260:9 264:14, 16 265:22 278:14	<b>ideally</b> 163:25 169:11	<b>IES</b> 197:3 198:1	<b>implement</b> 92:11 171:20	<b>imposed</b> 39:13
<b>hundreds</b> 165:25 202:24,25	<b>identical</b> 64:4,6 111:17,21 112:6,7,20 280:7,20 288:5	<b>ill</b> 8:8	<b>implementati on</b> 274:15	<b>imposition</b> 72:13 258:16
<b>hydro</b> 163:12	<b>identically</b> 113:5 114:3	<b>illustrative</b> 277:7	<b>implemented</b> 68:18	<b>impossible</b> 270:12
<b>hypothetical</b> 29:25 30:3 31:5 107:24 108:13 112:24 113:21 230:6	<b>identified</b> 9:1, 9 54:17 74:22 110:4 201:15 215:10 216:8 218:3 235:15 236:1 270:14 291:25 293:7	<b>imagine</b> 34:7 91:14 187:17	<b>implications</b> 56:1 116:17 117:17 139:23 160:21 164:24 195:22,25 196:17,21	<b>impression</b> 217:4
<b>I</b>	<b>identifies</b> 72:16 123:11 159:15 292:13	<b>immaterially</b> 38:21	<b>import</b> 232:7	<b>improper</b> 257:16
<b>ICNU</b> 119:20, 23	<b>identify</b> 9:10 130:7,11 148:4 202:14 227:24 231:13 270:19 293:5	<b>immediate</b> 14:7	<b>importance</b> 205:15	<b>improve</b> 155:13
<b>Idaho</b> 67:24 104:25 230:23,25 280:10	<b>identifies</b> 72:16 123:11 159:15 292:13	<b>immediately</b> 116:10 210:7 293:3	<b>important</b> 39:21 135:7, 15 141:1,9 160:9 177:12 205:11 213:16 257:14 274:25	<b>improved</b> 177:23
<b>idea</b> 23:19 40:24 41:1,8, 25 120:12 151:7 196:16	<b>identify</b> 9:10 130:7,11 148:4 202:14 227:24 231:13 270:19 293:5	<b>impact</b> 56:5 128:2 130:6 138:25 148:2 216:23 247:13 265:24	<b>impacts</b> 57:10 204:21, 22	<b>improvement</b> 265:11
		<b>impaired</b>	<b>importantly</b> 142:15	<b>improvement s</b> 265:12
				<b>in-depth</b> 276:8
				<b>inability</b> 255:23
				<b>inappropriate</b>

<p>11:1 82:25 124:10</p> <p><b>inaudible</b> 28:1 72:14 74:1 101:17 113:7 122:4 125:22 130:19 133:20 142:12 147:23 162:8 166:19 178:15 179:3 184:4 185:14 199:21 200:19 206:21 223:5 274:8 278:11 283:25 291:9</p> <p><b>incident</b> 256:8</p> <p><b>include</b> 50:25 55:24 60:25 68:24 72:22 73:19 74:19 78:25 87:2 88:13,17 89:11 90:8,9 91:19 99:16 115:12 121:11 130:16 139:1 173:1 186:4 198:25 199:7 209:6,15 216:17,19 228:25 229:2 233:1 254:23</p>	<p>258:13 261:19 270:17,25 292:5</p> <p><b>included</b> 14:17 49:23 54:11,19,22 71:6,22 74:24 75:1 92:2 131:22 144:22 172:10 199:20 281:9 293:21</p> <p><b>includes</b> 22:18 52:4 59:9 69:4 76:10 142:13 228:24 280:25 291:3 292:17</p> <p><b>including</b> 16:1 21:22 23:12 24:14 25:13 35:9 42:15 55:17 57:9 68:13 81:12 120:24 127:18 159:21 171:18 182:1 231:11 253:5 260:1 261:21 269:3 271:1</p> <p><b>inclusion</b> 255:9</p>	<p><b>inconclusive</b> 277:20</p> <p><b>inconsistent</b> 26:12</p> <p><b>incorporated</b> 130:24 131:1</p> <p><b>incorrect</b> 221:12,16,17 222:7,16</p> <p><b>increase</b> 15:5 18:14 143:20 278:17</p> <p><b>increased</b> 59:16 124:4 142:25 265:18</p> <p><b>increases</b> 261:3</p> <p><b>incredibly</b> 257:11 275:16</p> <p><b>incremental</b> 281:19</p> <p><b>independent</b> 7:19 42:12, 20,24 44:19 52:1 54:2 55:5 68:15, 17,20 127:19</p>	<p>132:23 157:20,23 158:2 159:12, 15,17 167:12 198:22 215:1, 4 216:18 272:14</p> <p><b>indicate</b> 6:15 8:17 26:2 45:13 46:20 48:7 50:16 71:18 98:1,10 158:11 165:22 216:11 223:10 239:13 244:21 252:13 268:13 273:4</p> <p><b>indicated</b> 10:4 36:3 45:2,4 56:18 79:20 90:12 129:16 137:4 160:12 195:17 208:8 290:13</p> <p><b>indicating</b> 99:4 142:18</p> <p><b>indication</b> 9:25 71:14 79:1,3</p> <p><b>indications</b> 63:14 67:13</p>	<p><b>indicative</b> 72:5 258:11</p> <p><b>indicator</b> 248:23</p> <p><b>indifferent</b> 118:9</p> <p><b>individual</b> 12:2 138:2</p> <p><b>individual-specific</b> 81:7</p> <p><b>indulge</b> 203:14 289:25</p> <p><b>indulgence</b> 133:9</p> <p><b>industry</b> 259:23 273:13 274:11</p> <p><b>ineffective</b> 257:11</p> <p><b>inefficient</b> 256:13</p> <p><b>ineligible</b> 256:25</p> <p><b>inferred</b></p>
---	---	---	--	--

215:23	<b>informative</b> 275:16	200:10 265:22 269:13	<b>integrated</b> 52:12,22 255:5 268:4 274:4	<b>interact</b> 34:2
<b>inflation</b> 59:24 267:20 269:20	<b>informed</b> 79:20 190:16	<b>inquire</b> 225:3	<b>integrating</b> 255:2 281:9, 15	<b>interacts</b> 80:19
<b>influence</b> 23:23	<b>informing</b> 189:25	<b>inserting</b> 104:19	<b>integration</b> 130:9 281:1	<b>interchange</b> 148:18
<b>inform</b> 151:15 190:18 210:16	<b>inherent</b> 167:23	<b>insertion</b> 267:24	<b>integrity</b> 25:7	<b>interconnect</b> 104:2 131:3 148:12,15 278:16
<b>informally</b> 93:11	<b>inherently</b> 73:6 155:19	<b>instability</b> 147:20	<b>Intelligence</b> 224:25	<b>interconnecte</b> <b>d</b> 103:23 206:4 283:1,5
<b>information</b> 19:3 23:2,13 30:12 39:16, 19,20,25 44:16,21 50:1 57:25 63:21 64:1,3,4,6,22 66:2 79:15 80:6,7 81:7 87:21 122:11 140:12,18,20 151:13 152:21,22,25 159:21 164:3 237:3 269:6 275:3,7 282:5,6 289:9	<b>inherit</b> 126:9	<b>instance</b> 13:25 30:15 34:4 47:1 126:9 155:7 157:15 288:12,13	<b>intend</b> 9:23 84:25 260:5, 8,15 261:15	<b>interconnecti</b> <b>ng</b> 132:16 145:4
<b>informational</b> 5:9 49:23 54:12 57:20 70:20 78:24	<b>initial</b> 114:25 116:18 142:12 164:2 219:20 220:7 221:1 276:19	<b>instead</b> 160:7	<b>intended</b> 34:1 133:19 217:7 261:4	<b>interconnecti</b> <b>on</b> 56:8 99:24 102:10 103:25 128:2, 7,25 130:10 131:13 137:12,13 146:12 147:25 148:3 187:12,13 255:10,14,23 256:4 257:20 277:9 283:19, 21
	<b>initially</b> 28:14 255:22	<b>instructive</b> 249:10,12	<b>intent</b> 125:12 133:5 144:17 145:9 154:5 164:20 232:8	
	<b>initiate</b> 56:7	<b>insufficient</b> 198:19 239:21 246:14 275:5 288:16	<b>intention</b> 45:3	
	<b>innovative</b> 281:2	<b>intact</b> 268:2	<b>intentionally</b> 150:1	
	<b>input</b> 21:22 22:3 27:17 144:8 270:11	<b>integrate</b> 72:24 279:5	<b>inter-</b> 278:20 283:11	<b>interconnecti</b> <b>on-related</b> 99:19 145:22
	<b>inputs</b> 113:20 199:17			

<b>interconnecti ons</b> 254:6 283:10	20 15:3,13, 18,19 16:1,9, 15,19,23,25 17:2,6 18:10 19:10,17 20:19 22:14 24:16 26:13 29:5 37:12,14 38:5,6 43:5, 13,17 188:14, 16	262:6	17 11:2,13 12:1,10,12,21 13:17 14:6, 14,15,23 15:2,5,9,10, 11 18:14,16, 21 20:21,25 24:2,19 26:2 29:10,12 32:3 33:15 36:5, 17,25 38:22 41:6,14 44:8, 12,17,23 294:21	200:16 202:21 204:16 207:10 210:24 212:7 213:11 221:24 230:24 232:3 236:5 247:12 251:3 252:11 255:2 258:18 260:4 269:5, 13 273:18 279:5 281:4, 15 283:16
<b>interest</b> 11:8, 17,19 12:12, 13,15,16,19, 21,22 14:8, 17,24 16:9,24 19:4,9 24:20 25:8,12 26:1 27:12 28:5,6, 9,19 29:8,9 30:23 32:5,8, 13,16,23,24 33:1,3,4,23 34:5 36:21 37:11,13 38:19 42:18, 21,22,25 52:18 55:12 57:4,6 114:24 118:10 122:3, 20 125:3 169:6 172:2 193:7 204:15 205:2 206:13 208:14 209:6 228:18	<b>interfere</b> 41:8,17	<b>interruption</b> 194:14	<b>Interwest</b> 2:18 8:1,4	<b>introduce</b> 244:16 252:10
<b>interested</b> 27:1 52:9 117:15	<b>interject</b> 182:9	<b>intervene</b> 9:19 10:8 11:5,7,8 12:25 13:9,11 15:23 19:8,13 20:17 21:3 22:17 24:8,23 25:22 30:10 37:2 38:17 40:23 42:4	<b>into</b> 13:3 23:25 27:12 28:6 37:10 48:4,11 50:13,19 57:6,22 67:23 71:8 74:14 75:4 86:18 87:14 93:5 94:3 98:13 101:8 102:10 108:18 109:17 117:2 129:18 130:24 131:1 132:2,14 133:3,5,7 137:20 141:21 149:8 158:9 171:23 179:9 181:10 185:17 195:3, 9,13 196:2,5	<b>introduced</b> 150:24
<b>interesting</b> 32:19	<b>Intermountain</b> 27:6	<b>intervener</b> 16:21 24:7	<b>interven</b> 16:21 24:7	<b>introducing</b> 103:5
<b>interests</b> 11:10 13:12, 18,19 14:11,	<b>Internal</b> 5:13 96:1	<b>intervener's</b> 15:3 16:23 66:23	<b>intervener's</b> 15:3 16:23 66:23	<b>invariably</b> 227:13
	<b>internally</b> 93:11 132:23	<b>interveners</b> 12:11 16:15, 16 37:3 40:10 64:20 221:20	<b>interveners</b> 12:11 16:15, 16 37:3 40:10 64:20 221:20	<b>inverters</b> 265:16
	<b>interpret</b> 127:7 234:25	<b>intervening</b> 30:23	<b>intervening</b> 30:23	<b>invested</b> 277:18
	<b>interpretation</b> 86:19 127:2 194:18 294:5	<b>intervention</b> 9:18,21,24 10:1,4,10,16,	<b>intervention</b> 9:18,21,24 10:1,4,10,16,	<b>investigate</b> 227:16
	<b>interrupt</b> 213:12			<b>investigated</b>
	<b>interrupted</b>			

229:22	24:25 40:13	199:17 200:4,	<b>Isern</b> 4:11	187:22
<b>investigating</b>	68:19 141:13	8,11 207:10,	8:22 9:8	189:23
238:3	160:22	13 219:10,20	20:18 25:23	195:16 196:8,
<b>investigation</b>	161:25	220:7,13	45:9 200:1,24	14 197:6
230:9 236:5	181:12	221:4,14	207:13	201:21
<b>investigations</b>	185:13 196:8	222:8 223:25	213:23	206:22 207:3
217:4	200:18 215:6	226:19 227:9,	250:16,21	211:1 229:1,3
<b>investment</b>	252:20 264:8	14,16,18,20,	251:7,13,20	234:13
72:9 74:12	<b>Iowa</b> 179:11	21 234:14	252:15 258:2	235:20,24
116:14 121:6	180:3	240:15	260:16,18	245:22 255:1
131:1 148:16	<b>IPC</b> 263:6	246:12,17	261:14 264:5	277:17
180:12	<b>IPCS</b> 229:20,	249:13,16,24	266:5	280:23 284:1,
219:16	23	267:18 269:8,	<b>Isern's</b> 200:5	23 285:12
240:13 253:3	<b>IPP</b> 273:17	10,12,16,17	252:10	287:12 289:7
254:8 277:14	274:11	270:1,2,3,14,	<b>issuance</b>	290:21
281:22	<b>IPPS</b> 274:21	16 275:15,21	21:17 94:4	294:22
<b>investments</b>	<b>IRP</b> 53:15	277:22 281:3	136:1 169:8	<b>issued</b> 6:9
148:12	54:13,18 56:6	282:10,17	210:7,9	39:8 41:23
259:20	65:7,11,14	291:2,4,25	<b>issue</b> 9:17	44:20 48:17
278:17	71:1,7,19	292:8,9,12,23	10:10 13:5	50:9 54:22
<b>investors</b>	72:25 73:2,7,	293:3,4,7,8,	19:1 22:1	61:3,7 89:22
258:21	11,18 74:10	17,21	26:2 37:16	92:8 158:5
<b>invited</b> 215:2	76:22 77:2,3	<b>IRP-ESQUE</b>	43:12 44:13	166:18
<b>invites</b> 29:3	110:7,10,22	154:16	61:10 80:14	192:14
<b>involve</b>	142:7,12,19	<b>IRPS</b> 275:13	90:14 93:12	198:23 199:6
136:23	143:1 144:12,	<b>Irrespective</b>	118:19	<b>issues</b> 13:14
215:16	15 148:19	23:15	120:23	21:8 29:16
<b>involved</b>	150:1,9	<b>IRS</b> 59:23	124:13 125:9	36:10,18
	151:11,15,21,	98:2 100:7,	128:18	42:21 79:6
	22 152:9	14,21,23	139:18,19	83:8 99:23
	156:1 177:15,	101:1 103:2,	147:11 148:6,	127:5 147:20
	16,21,22,24	15 104:11	8 161:6,23	148:7 153:21
	192:17	145:16 146:5	162:24	158:21
		184:23 185:9	163:11,13	160:17
		187:11,17	164:13	161:13 176:1
		191:21 277:7	172:13	177:21
			175:18	185:17 198:3
			185:10,21	217:2,6 238:2
				283:2,7

<p><b>issuing</b> 37:17 101:13 163:19 189:16,17 219:5 294:20</p> <p><b>ITC</b> 116:8,22 117:1 228:10 240:14 254:22 255:3 263:1,5 267:25 269:4, 18 270:6 271:3</p> <p><b>ITC-BASED</b> 181:8</p> <p><b>ITCS</b> 116:5, 12,14 230:3, 4,7,9,10 237:16 238:1 262:16,17,22</p> <p><b>item</b> 163:2 256:24</p> <p><b>items</b> 65:14 152:8 265:24, 25</p> <hr/> <p style="text-align: center;"><b>J</b></p> <hr/> <p><b>James</b> 2:15</p> <p><b>January</b> 89:5 90:25 91:1</p>	<p>92:14 94:4 140:19 155:4 189:2</p> <p><b>jeopardize</b> 56:15,22 247:4</p> <p><b>jeopardizing</b> 106:15 111:13</p> <p><b>Jim</b> 278:24 279:1,2,6 280:6</p> <p><b>job</b> 1:25 26:16 182:17 188:13,15,21</p> <p><b>join</b> 250:21</p> <p><b>judgment</b> 210:14</p> <p><b>judgments</b> 146:6</p> <p><b>July</b> 190:6</p> <p><b>June</b> 5:14 6:8 21:6</p> <p><b>jurisdiction</b> 84:7</p> <p><b>jurisdictions</b></p>	<p>119:13</p> <p><b>justice</b> 11:10 14:20,24 19:10,17 20:19 25:9 36:21 38:19</p> <p><b>justify</b> 6:11 249:24</p> <hr/> <p style="text-align: center;"><b>K</b></p> <hr/> <p><b>KB</b> 131:20</p> <p><b>keep</b> 17:5 39:3 114:15 119:7 120:12 182:17 190:16 213:2, 22 284:7</p> <p><b>keeping</b> 12:16</p> <p><b>keeps</b> 93:6</p> <p><b>Kennedy</b> 239:25 243:2</p> <p><b>kept</b> 254:18</p> <p><b>key</b> 52:19 57:18 58:25 59:13 103:5 162:24 289:7</p>	<p><b>kick</b> 28:13 264:16</p> <p><b>kicked</b> 28:16</p> <p><b>kilowatt</b> 117:10 184:21</p> <p><b>kind</b> 90:9 110:3 124:24 132:14 178:5 227:16 236:18 259:23 288:9</p> <p><b>kinds</b> 31:11 39:12 148:25</p> <p><b>knowing</b> 115:5 122:20 231:10</p> <p><b>knowledge</b> 17:10,12 76:13 105:13 118:6 135:25 183:1 219:18 225:3,15,20 228:7</p> <p><b>known</b> 126:11 169:7</p> <p><b>knows</b> 17:15 224:3</p> <p><b>Knudsen</b></p>	<p>4:18 8:18 266:15 272:1, 3,5,7,12 273:7,12 286:22 288:21</p> <p><b>Knudsen's</b> 98:6 285:13</p> <p><b>kv</b> 147:12</p> <hr/> <p style="text-align: center;"><b>L</b></p> <hr/> <p><b>labor</b> 146:25</p> <p><b>lack</b> 166:2 172:6 198:17</p> <p><b>laid</b> 88:18 89:2 90:2 92:10 152:8 186:15</p> <p><b>Lake</b> 1:10 2:5, 9,13,16,21,25 14:9,10,13 238:24</p> <p><b>land</b> 60:19 174:24</p> <p><b>language</b> 24:4 40:21 41:24 91:22 98:21 170:4 267:24,25</p>
---	---	--	--	--

<p>284:1 285:6, 12,14</p> <p><b>large</b> 62:17 156:4,19 163:13 260:6 273:18 277:18 278:20</p> <p><b>largely</b> 147:16 277:24</p> <p><b>larger</b> 113:12</p> <p><b>largest</b> 253:10</p> <p><b>last</b> 42:8 50:10 54:22 87:17 93:16 123:5 126:18, 21 169:20 173:14,25 174:15 192:17 195:16 204:10 208:5 209:18 237:16 259:14 264:5, 13 274:18 277:25 293:9</p> <p><b>late</b> 21:2 36:23 37:1 144:7 186:5 212:3,6</p>	<p>213:19 264:12</p> <p><b>later</b> 21:23 33:11,23 61:10 62:6 93:14 137:7 200:25</p> <p><b>latter</b> 32:12</p> <p><b>law</b> 2:23 12:17 115:2</p> <p><b>laws</b> 25:1</p> <p><b>lawsuit</b> 83:21, 24 262:11,14</p> <p><b>lawsuit's</b> 126:21</p> <p><b>lawsuits</b> 81:22</p> <p><b>lawyer</b> 86:21 194:19</p> <p><b>lay</b> 292:13</p> <p><b>laying</b> 40:3</p> <p><b>LE</b> 1:5</p> <p><b>lead</b> 162:19 163:2 168:23</p>	<p>169:12 181:15 184:3 188:3,4 194:1 201:14 204:17 205:3, 4 245:17 246:10</p> <p><b>lead-time</b> 171:22</p> <p><b>leading</b> 91:15 252:1</p> <p><b>leads</b> 206:18 256:18</p> <p><b>lease</b> 160:17</p> <p><b>leasing</b> 221:20</p> <p><b>least</b> 63:15 72:9 76:13 81:19 91:23 126:14 129:18 138:1 142:4 160:18 161:3 164:2 177:21,23 184:2 189:13 190:24 196:15,18,20 197:25 202:14,18 217:13 226:6 227:24 231:22 234:1 235:13,19</p>	<p>236:7 237:11, 16 253:6 273:18 276:7 277:2 283:17 287:15 291:11 292:1 294:5</p> <p><b>least-cost</b> 52:25 73:3 109:7 110:5 142:21</p> <p><b>least-risk</b> 52:25 109:7 110:5 142:22</p> <p><b>leave</b> 127:16 134:20 213:6, 7</p> <p><b>led</b> 142:25</p> <p><b>left</b> 58:1,21 60:6 266:15</p> <p><b>legal</b> 10:18 11:8,17 12:16 14:11 19:9 28:9 32:4,8, 22,24 33:1,3, 23 86:19,24 194:18,21</p> <p><b>legally</b> 28:18</p> <p><b>legislation</b> 63:11,12,18</p>	<p><b>legitimate</b> 14:16 28:6,18 40:20 41:3 122:19</p> <p><b>lengthy</b> 17:15</p> <p><b>less</b> 24:12 59:14 103:1 107:1 175:10, 24 189:6 259:18</p> <p><b>let</b> 26:4 31:24 34:19 38:1 49:15 64:2 83:18 88:13 93:3,22 107:18 108:10 111:15 134:13 144:13 150:25 152:14 183:22 197:4 212:16 213:12 219:25 248:22 266:13 285:16</p> <p><b>letter</b> 145:23</p> <p><b>Levar</b> 6:3 7:3, 8,14,17,24 8:5,10,15,19, 24 9:5 19:20 20:2,7,13</p>
---	--	---	---	---



25:24 28:22, 24 29:20,24 30:16 31:24 32:14 33:6 38:25 39:1 43:25 44:2,11 45:24 46:12, 15,19 48:6 49:3,8 50:15 51:4,13 61:15 64:25 69:9,14 75:22 77:14, 18,23 78:7,11 80:10 81:3 82:4,11,22 83:7 85:4 86:22 87:6 93:8,16,22 95:5,11,16,20 98:9 105:12 114:13,17 117:20,23 118:4 123:3 124:12,19,24 125:5 133:11 134:4,9,21 135:3 138:7, 10,12,14,16, 18 150:21 156:24 157:8, 18 158:5,24 165:5,7,10,12 172:17,21 182:23 194:15,24 195:7,10 198:7 201:1,5 203:8,12,16 208:1 210:19 211:7 212:1, 20,25 213:2, 16,21 214:5	216:10 218:11,14,17 222:2,13,20 223:23 224:10 225:8 226:1 228:23 233:14,16,18 236:23 238:5, 8,11 239:12 241:7,10,12, 14,16,18,20, 22 242:5,10, 16 243:8,22 244:1,20 248:2,4,6,8, 10,12,14 249:20 250:3, 6,9,12,14,16 251:5,7,10,12 252:12 260:17,20,22, 24 261:7,10 263:24 264:2 266:2,4,10, 18,24 268:12 271:8,11,13, 15,17,20,22, 24 272:3,6 273:3 282:4 284:22 285:10 286:24 287:2, 4,6,8,10 288:18,20,23 289:11,14,20 290:3,7 291:13,16 294:8,11,13, 15,17	82:20 85:18 91:8 92:10 97:1 116:19 137:25 148:8 156:10,16 221:24 254:5, 9 256:3 257:19 258:10 277:16 285:23 293:1	<b>like</b> 20:7,10 24:7,19 29:25 33:24 35:10, 23 37:20 40:7 42:3 45:13 46:10 48:24 51:10 59:20 62:16 75:15, 22 76:11 83:2 84:21 89:23 97:16 108:19 110:19 117:8 123:11 124:10 130:11 134:15 151:6 157:1 158:15, 17,19,25 161:12 171:8 172:12 177:20 180:15 182:8 185:4 186:16 188:2,9,23 189:12 193:25 194:22 196:17 201:17,20 202:1 204:6 208:3,4 214:2 216:7 226:17 230:11 231:20 232:17 237:4, 9 241:24 243:14 244:16 250:16 253:9 254:5,15 256:6 258:3, 13 262:18	263:21 266:22 272:1 273:1,9 280:15 283:3 284:15 287:14 290:3, 22 293:11 294:1
		<b>leveling</b> 221:21		<b>likelihood</b> 142:18
		<b>levelized</b> 58:13 66:17 86:8 200:6 259:8 261:2 264:19		<b>likely</b> 57:7,14 60:3,9 63:19, 21,24 67:15 123:20 159:6 161:16 169:2, 12 184:3 205:3,4 245:4 275:24
		<b>levels</b> 72:6 82:18 85:3 131:8		<b>Likewise</b> 22:5,18
		<b>licenses</b> 99:17		<b>limine</b> 288:2
		<b>lied</b> 27:15		<b>limit</b> 169:23 170:10 228:16
		<b>life</b> 121:7		<b>limitation</b> 44:23
		<b>lifted</b> 245:11		<b>limitations</b> 39:10,12 44:15 173:8
	<b>level</b> 35:2 59:22 63:6,16	<b>light</b> 10:19 19:24 100:25 161:13 243:23		<b>limited</b> 67:22

68:2 71:22 200:12 209:12 221:3 229:17 237:13 270:14	249:23 254:20 257:20 260:11 261:22 263:4 264:6,9,11, 12,13,20,23 265:3 293:14	105:12 106:18 111:15 114:20 115:19 122:24 124:8 125:7 134:23 135:17,21 138:20,22 157:2 160:2, 11 166:9 175:9 183:21 184:17,18 207:16 217:18 258:4 282:7,11 283:3,11 284:4,16 288:24 289:5, 12,24 290:4, 5,9,13 291:22 294:9	202:14,19 276:22  <b>listed</b> 167:5 168:4 276:9  <b>listen</b> 9:15 191:8  <b>listened</b> 9:15 42:10  <b>listening</b> 9:12  <b>lists</b> 22:5 148:1 234:25 277:8  <b>literally</b> 209:20  <b>litigate</b> 286:3  <b>litigating</b> 195:25  <b>litigation</b> 84:1 85:24 125:11 126:1,8,12, 16,25 127:4, 6,20 133:18 194:4,17 195:4,8 257:1,7,24,25 283:14 284:5, 6,9,10,17,23 285:21 286:7	<b>litigious</b> 126:11  <b>little</b> 18:25 30:11 41:11, 18 77:15 80:11,13 83:14,16 85:14 90:24 141:18 148:21 153:4 192:7 202:11, 12 203:18 213:4 242:8 246:18 250:25 253:23 273:25 284:14  <b>live</b> 48:17,21 51:9,17 55:7 90:11 115:10 217:10  <b>lived</b> 292:15  <b>LLC</b> 2:24  <b>load</b> 149:21 245:25 273:23 274:3 280:22 282:12 292:13  <b>loaded</b> 277:15
<b>limiting</b> 252:25 268:24 275:7 276:10 279:9	<b>lines</b> 65:17,20 73:19,25 74:14 75:24 88:3 104:3 165:18 166:20,22 176:21,22 199:4,5,9 200:1,3 218:22 220:24 224:22 226:18 230:14,22 255:16 257:21 267:17 278:15	<b>Link's</b> 47:25 48:2 83:6 186:24 244:8 278:12 282:22,25 285:10  <b>linked</b> 163:12,14  <b>list</b> 94:5 99:3, 7 129:12 130:19 131:2, 25 132:2 135:12 140:16 154:1 155:4 189:3 190:6 201:15		
<b>limits</b> 41:5,7	<b>link</b> 3:4 5:4,6, 9 7:2 45:17 46:8,24,25 47:8 48:13 49:2,20 51:8 61:13 65:5 79:7 81:18 82:8 83:7,12, 20 84:8 85:5, 6,12 86:19 87:6,24 94:2 95:23 98:16 99:25 101:16			
<b>line</b> 7:22 23:20,21 25:19 28:4,5 37:7 52:15 69:19,25 70:3,5,6,7,13 71:18,20 83:9,18 87:25 88:5,8 99:21 100:3 102:10 103:18,21,22 104:11 114:4 124:10 130:18,23 131:3,20 132:7,11 133:2 136:5 148:4,14 160:8 163:5,9 167:3,8 169:1 183:2 186:5, 10,21 193:22, 23 194:13 215:19,20,24 226:8 228:5 229:5 233:3 243:16 244:7				

<p><b>loads</b> 147:17 278:19 279:23 280:3</p> <p><b>locales</b> 233:10</p> <p><b>localities</b> 232:21</p> <p><b>locality</b> 232:6</p> <p><b>located</b> 159:9 177:9 179:16 204:20 214:18 231:22 269:2 280:20 288:6</p> <p><b>locating</b> 279:18</p> <p><b>location</b> 1:9 230:16 236:17 245:12 246:3 259:25 279:11 283:11</p> <p><b>locations</b> 74:7 221:6 280:12 287:23</p> <p><b>lock</b> 132:24</p> <p><b>locked</b></p>	<p>230:24</p> <p><b>lockers</b> 279:14</p> <p><b>lodge</b> 83:2 182:9,14</p> <p><b>logic</b> 170:9</p> <p><b>long</b> 36:24 89:14 107:15 115:15 134:8 156:19 163:1 171:20,22 188:1,3,4 189:17 194:1 223:21 253:24 262:4 268:18 287:17</p> <p><b>long-term</b> 51:22 57:10, 18 62:15 204:20 274:19</p> <p><b>longer</b> 60:2 148:9 161:7, 25 162:15 186:18 210:25 211:4</p> <p><b>longer-term</b> 56:1</p> <p><b>Longson</b> 2:18</p>	<p>8:3 69:10,13 138:12,13 172:18,20 218:14,16 241:12,13 248:6,7 260:22,23 271:13,14 287:6,7 294:15,16</p> <p><b>looked</b> 32:24 58:7 73:17 77:6,9 123:13 179:19 197:18 277:17 280:5</p> <p><b>looking</b> 43:2, 16,17 66:13 127:4 129:9 147:24 154:2, 7 171:1,2 176:9,17 184:17 186:8 187:8 231:15 232:2 234:20 236:11 237:9, 10,14,19 259:16,17 262:9 263:4 265:2,6 279:23 280:9</p> <p><b>loose</b> 163:5</p> <p><b>lose</b> 172:8 190:25</p> <p><b>losing</b> 94:6</p>	<p>117:4</p> <p><b>loss</b> 182:16 187:7 280:11</p> <p><b>losses</b> 279:19 280:6 288:13</p> <p><b>lost</b> 26:14,15, 17 187:10</p> <p><b>lot</b> 44:3 67:10 135:15 160:21 164:4 180:21 190:13,14 201:24 204:2 231:7 260:12 287:11</p> <p><b>lots</b> 91:4</p> <p><b>low</b> 67:1 122:21 200:23 221:22 240:16,17 254:24 283:2 286:13</p> <p><b>lower</b> 12:6 67:1 105:5,21 106:6 108:21, 22 110:15 116:22 126:2 127:14 240:8 249:15,23 256:18 260:3 263:11,17</p>	<p>265:15,19 270:19 276:2 292:20,25 293:24</p> <p><b>lower-cost</b> 10:25</p> <p><b>lowest</b> 10:22 57:7,15 66:15 70:14 107:9 114:25 115:6, 13,16 159:7 161:17 168:24 169:4, 24 170:8,11 181:15 193:2 204:19 205:6 239:22 240:3, 18,21 245:5, 10,18 246:10 275:10,18 278:3 286:16</p> <p><b>lunch</b> 134:7 135:2</p> <hr/> <p style="text-align: center;"><b>M</b></p> <hr/> <p><b>made</b> 6:11 11:14 18:9 31:6 33:14 41:12 55:3,10 56:2 64:7 88:2 97:20 102:25 114:18 121:6 133:19 142:9 143:6 148:12</p>
--	--	--	--	---

151:21 152:5 156:5 160:3, 18 165:20 167:3 184:10 187:11 207:8 221:4,10,14 222:10,18 223:5,6,9 224:1,17,21 225:8,19 226:19 227:20 230:14 245:3 277:5 281:22 288:24	26:4 28:2 30:1 41:23 47:18 49:9 71:3 77:24 98:24 108:3 133:20,24 135:9 137:9 139:11,14 146:6 147:9 152:23 153:12 161:11 169:18 171:7 175:21 183:21 189:21 196:20 198:15,19 210:14 213:7 215:22 217:24 223:3 227:5 233:3 243:14 244:11 252:4 253:16 256:19 265:1 289:7 290:22	91:21 118:21 120:13 176:3 205:13 219:11,13 224:23 225:4, 6 259:19 284:16	259:10,11 265:25 275:1 278:23 279:5 293:2	227:20 228:2 248:23 253:17 258:11 259:22 260:14 262:2, 8 292:19 293:15
<b>magnitude</b> 156:3 282:21		<b>malfeasance</b> 35:19 42:2	<b>map</b> 179:20, 21	
<b>main</b> 2:4 245:22 294:22		<b>manage</b> 147:22	<b>marbles</b> 193:23	<b>marketed</b> 189:24
<b>maintain</b> 63:15 92:15 99:5 145:21		<b>manageable</b> 123:18	<b>March</b> 141:1 144:7	<b>markets</b> 110:13
<b>maintained</b> 100:24	<b>makes</b> 41:12 46:13 49:18 152:19 193:13 212:10 227:10,11 255:4	<b>managed</b> 101:2	<b>marked</b> 48:1, 3,24 95:3,24	<b>Massachusetts</b> 163:11 180:25
<b>major</b> 265:15 279:3,4		<b>manager</b> 273:22	<b>market</b> 54:23 55:6 56:17 59:12,16,20 61:4,8 64:10, 11 89:22 90:14,15 106:5,11 107:10 110:9, 16 111:10 118:13 119:1 140:14 156:5, 15 161:20 163:23 164:11 170:2, 13,19,23 175:16 176:9, 13 177:11,14, 18 178:6 190:23,24 192:12,23 193:1 202:4 209:11 224:25	<b>match</b> 155:18
<b>majority</b> 87:19 276:7	<b>makeup</b> 61:22	<b>manner</b> 276:19 291:12		<b>material</b> 49:11,13
<b>make</b> 11:16 12:13 14:19 18:13 19:14	<b>making</b> 30:15 31:20 79:18	<b>Manning</b> 2:19		<b>materially</b> 14:22 19:12, 16 20:21 79:2
		<b>many</b> 23:16 40:12 41:24 63:8 73:12,23 137:3,11 179:22 195:24 202:16,23 203:2 210:8 252:23		<b>math</b> 61:21
				<b>matter</b> 13:13 19:9,10 37:13 38:15 44:25 50:21 106:12 170:8 253:15 261:14 293:9
				<b>matters</b> 19:23

289:20	249:11 253:6 256:5 261:23 270:7	<b>means</b> 153:8 177:22 192:6 255:12	289:17	264:15,17 281:20
<b>maximum</b> 292:18 293:1	<b>maybe</b> 66:21 98:19 137:20 153:13 156:12 162:4 173:18 180:12 192:17 202:11 212:13,14 213:3 262:20 266:11 290:14	<b>meant</b> 84:1 290:16	<b>meetings</b> 81:10,15 212:9	<b>Melissa</b> 2:23 8:21
<b>may</b> 10:23 11:18 12:19 13:15 17:4 21:15 23:4 25:15 28:23 37:11,12 40:23 48:23 59:20 63:4 65:16 74:5 79:23 93:20 99:23 104:17 110:19 127:12 137:4 141:9 149:22 150:4 162:15 165:17 166:20 168:9 169:20 172:8 177:8 178:22, 23 183:16 184:5 185:8, 10 189:8 194:5 208:4 213:24 214:3 218:6 221:7, 11,12,15 222:16 223:2, 11 226:20 227:4,11,15, 25 230:15,18, 25 231:1,11, 16 235:13 236:4 244:5 246:4,7 247:12 248:24	<b>mean</b> 33:20 34:11 40:20 67:6 90:4 105:7 119:18 124:3 152:13, 16 169:10 170:19 175:5 180:21 188:1 189:12,22 190:15 192:1 202:24 206:23 209:17 228:16 237:7, 9,22 284:5 289:2	<b>measure</b> 175:7	<b>meets</b> 19:7 288:2	<b>members</b> 266:8
	<b>meaning</b> 174:15 215:22 291:4	<b>Media</b> 12:9,18	<b>mega</b> 111:21	<b>memoranda</b> 215:8
	<b>meaningful</b> 275:6	<b>mediate</b> 22:8	<b>megawatt</b> 66:18 67:2 113:4 156:10 200:7,8 207:9,20 221:19,22 253:12,14,19 258:6 259:7, 18,24 261:1, 16 264:22 267:19,20 268:1,3 269:18,19,21, 23,24 270:4 281:3,7	<b>memorandum</b> 227:23
		<b>medium</b> 58:23	<b>megawatts</b> 54:23 108:18, 20 109:14,19 110:17,19,20 111:1,2,6 112:5,9,25 113:8 114:3 137:11,18 142:16 156:6, 11,12,16 174:17 175:19 224:20 259:5	<b>memorializing</b> 44:13 294:20
		<b>meet</b> 24:10 38:18 41:13 52:25 70:14 97:1 99:14 102:4,12 103:15 105:1 110:1 113:5 148:9 169:6 184:25 234:17 245:10 282:12,13 286:9 291:7, 24 292:2 294:3		<b>memory</b> 77:5, 8
		<b>meeting</b> 60:21 128:3 144:8 213:7 223:21,22 262:4,5 287:17,20		<b>mention</b> 19:21 50:23 156:4 210:22
				<b>mentioned</b> 76:11 100:11 102:12 106:9 109:4 149:25 153:18 156:1 163:18 165:23 170:16 171:25 172:4 206:14,22 207:14 209:8 223:11,15,16 236:7 262:14,

16 263:7,9 266:13 294:18	<b>mics</b> 213:11	75:5 76:5 108:15 113:3 125:20 127:7 259:19,20 276:17 278:14 286:1, 2	<b>missed</b> 109:24	76:9 154:17 178:7
<b>merely</b> 225:17 232:5	<b>mid- september</b> 89:6		<b>missing</b> 151:8 254:16	<b>models</b> 73:5 275:14
<b>merits</b> 45:1 84:6	<b>middle</b> 204:7	<b>millions</b> 58:3 165:25	<b>Mission</b> 251:20	<b>modifications</b> 5:12 50:6 252:22
<b>Merrimack</b> 9:2,8 174:7	<b>might</b> 30:8, 22,23 32:9, 10,17 57:2 72:6 75:19 91:14 112:17 120:17 126:2, 5,8 141:13 170:2,14 180:13 181:9 183:15 189:10 196:21 202:19,20 209:6,13,19 221:6 231:2 237:24 249:4, 8 254:23 255:1,22 257:10 264:18 276:4 290:20 292:14,22	<b>mind</b> 234:22 247:8 254:18	<b>mistake</b> 167:3 168:13	<b>modified</b> 61:6
<b>met</b> 24:11 29:11 97:5 101:2,24 129:1 146:8 172:3		<b>minds</b> 255:3	<b>misunderstood</b> 290:15	<b>modify</b> 91:23 255:11
<b>Mexico</b> 105:3, 20		<b>mine</b> 174:3 209:19	<b>Mitch</b> 2:18 8:3	<b>moment</b> 66:10 271:18
<b>mic</b> 213:13,14 274:1		<b>Minnesota</b> 179:10 180:2	<b>mlongson@ mc2b.com</b> 2:22	<b>Mona</b> 149:9, 10 150:12
<b>Michigan</b> 179:10 180:2		<b>minute</b> 197:15 229:5 277:25	<b>Mm-hmm</b> 42:16	<b>monetary</b> 127:6
<b>microphone</b> 19:23 39:4 242:6,12 243:22,23 250:25 251:3 262:20	<b>mightily</b> 118:24	<b>minutes</b> 44:6 95:11 170:17 210:24 211:2 266:12,16	<b>model</b> 71:24 72:3,7,11,16, 20 74:11 75:7 230:24 265:22 269:13 270:5 275:15	<b>money</b> 30:5 231:9 253:11 280:18
<b>microphones</b> 95:19 227:6	<b>Miller</b> 11:4 12:20 15:7,21 18:22 32:1 40:11,19 41:5	<b>mischaracteri zed</b> 224:11 290:14	<b>modeled</b> 249:24	<b>monitor</b> 16:6 269:13
	<b>million</b> 74:12	<b>misinterprete d</b> 164:19	<b>modeling</b>	<b>monopoly</b> 257:6
				<b>month</b> 15:23 138:1 139:7, 8,16,20 162:3

<p><b>monthly</b> 190:17</p> <p><b>months</b> 41:10 103:11 104:17 138:1 139:2,8,21 153:18 162:4 186:25 189:23 193:5 201:22 202:2, 9,10,13 203:5 208:24 247:9 254:1 255:18 281:4</p> <p><b>months'</b> 21:6 191:19</p> <p><b>Moore</b> 2:11 3:7,15,23 4:6, 9 7:10 65:1,2, 4 69:8,9 138:10,11 165:12,13,16 172:15 212:23 213:1 218:17,18,20 222:3,7,15 223:7,24 224:14 225:2 226:19,23 227:7 238:8, 9,18 241:23, 24 242:2,16, 21 243:9,20 250:4,5,8,12, 13 260:20,21 271:11,12 287:2,3 294:8,10</p>	<p><b>Moore's</b> 135:21</p> <p><b>morally</b> 36:21</p> <p><b>more</b> 15:15 27:2 30:11 34:5,17 36:9 37:20 59:19 60:3,9 63:20, 21 67:9,10 74:13 80:11, 13 83:14,16 100:13,21 102:21 107:1, 7 112:9 113:1 117:14 123:19,20 128:14 129:14 146:2 148:21 155:16 162:7 164:9 172:17 175:10 185:7 186:10,21 200:25 205:10 209:12 219:9 225:10 232:9 233:10 245:24 246:18 252:24 254:9 263:23 265:20 270:5 276:16 280:16,19 283:12 288:9 289:22</p> <p><b>morning</b> 6:3,</p>	<p>24 10:5 20:14 51:13 89:10 90:12 115:10 120:21 134:20 139:25 140:1 149:4 150:25 160:12 202:18 204:3 217:13,16 234:7 262:10, 11 272:24 285:11 294:2</p> <p><b>most</b> 57:7 88:25 106:20 138:23 152:20 159:24 161:16 169:2 184:3 186:23 260:1 264:19 269:7 278:22, 23</p> <p><b>mostly</b> 61:20 159:5</p> <p><b>mother-in-law</b> 37:22</p> <p><b>motion</b> 45:25 46:15 48:7,9 49:18 50:16, 18 98:12 158:12 216:10,12 239:13,14 244:20,22 252:12,14</p>	<p>268:12,14 273:3,5</p> <p><b>motivation</b> 234:2</p> <p><b>Mountain</b> 1:3 2:2,3 6:5,7, 10,21 7:1 13:22 16:11 20:23 24:9 46:14 47:2 50:24 57:24 85:9 157:16 198:21 207:2 213:20 262:12 264:10 270:9 281:17 283:14 288:25 294:18</p> <p><b>mouth</b> 151:6 237:6 242:11</p> <p><b>move</b> 6:22 9:17 10:12 19:21 44:25 45:16,23 46:22 51:3,17 53:9 69:5 98:5,6 100:8 104:14 114:22 115:18 149:19 160:4 161:11 193:15 206:2 212:14 216:7,</p>	<p>24 218:1 239:10 244:16 252:10 260:15 268:10 273:1, 25 278:18 285:18</p> <p><b>moved</b> 101:7 273:22</p> <p><b>moves</b> 44:18, 20</p> <p><b>moving</b> 60:14 149:23 190:14 288:1, 15</p> <p><b>much</b> 24:12 31:13 33:25 43:24 62:13 72:9 92:13 108:11 122:9 137:13,22 150:20 153:9 159:2 176:22 190:18 194:2 203:7 215:22 217:5 232:9 249:15 252:24 256:2 265:19 285:21</p> <p><b>multi</b> 254:1 259:19,20,23</p> <p><b>multi-million</b></p>
---	--	--	---	--

75:14	8:5 47:6,8 79:9 80:22 81:2,7 214:14 238:19,21 242:22,24 251:3,18,20	57:18 61:22, 23,25 62:14	25 110:1,2,4, 6 111:7 131:8 133:1 135:9 141:10,19 145:8,21 148:4 149:1 156:1 157:3 178:6 185:20 202:5 208:18, 22 213:4 217:17,18 218:2 223:21 234:9 235:6, 14,21 236:1, 12,15 237:13 244:11 256:7 263:20,22 281:14 282:8, 9 284:19 287:19 289:24 290:15 291:4, 7,12,22,24 292:2,9 293:3,5,7 294:4,7	<b>needs</b> 9:10 19:24 28:20 97:12 177:23 254:12,17 255:8 256:22, 24 278:9 280:18 293:16
<b>multi-part</b> 36:13	267:7,8 272:16 273:12	<b>nearly</b> 59:18		
<b>multi-step</b> 26:18	<b>name-plate</b> 110:23	<b>necessarily</b> 34:23 37:14 66:7 91:7 112:12,13,15 113:8 114:6 129:3 137:3 149:22 177:1 206:20 221:4 236:10,12		<b>negative</b> 59:1
<b>multiple</b> 119:12 187:18 188:6 205:20 254:3 278:5	<b>narrow</b> 52:7 89:7 92:25	<b>necessary</b> 23:3 53:15 96:5 99:21,22 103:12 141:5 269:6 276:11, 18 288:16		<b>negotiated</b> 143:13 274:6
<b>multiples</b> 264:25	<b>narrower</b> 62:13 75:13	<b>necessitate</b> 253:24		<b>negotiation</b> 276:9
<b>multiplying</b> 111:3	<b>natural</b> 13:2, 4,18 14:4 58:7,23 60:13 99:16 210:21 274:10	<b>Necessity</b> 53:21 88:24 94:11		<b>neighborhood</b> 75:5
<b>mumbling</b> 9:5	<b>nature</b> 12:19 31:19 83:15 96:25 219:18	<b>need</b> 12:11 18:21 30:11 37:19,21,25 44:5 49:15 51:2 52:23 53:1,3 74:5 91:23,25 92:6 94:8 107:16 108:11 109:3, 6,8,9,11,19,		<b>neither</b> 19:10 188:22 198:15 269:9
<b>must</b> 12:13 24:6 25:6,10 169:23 173:23 204:13 208:9 286:13	<b>navy</b> 59:1		<b>need-based</b> 234:8	<b>net</b> 53:11 54:25 55:20 56:20 57:17 58:4 60:4,10 64:12,14 65:25 105:17 106:6 110:14 111:19 112:1 113:4,22 116:21 123:16 131:6 291:7
<b>Mycell</b> 179:5	<b>near</b> 62:6 173:6 240:10 264:22 270:6		<b>needed</b> 141:10 147:6 150:5 177:18 178:9 224:19 235:3 278:25 284:20 290:23	
<b>myriad</b> 265:21,23	<b>near-</b> 51:22		<b>needing</b> 254:1	
<b>N</b>	<b>near-term</b>			<b>network</b> 130:12,21
<b>name</b> 7:23				



131:12 262:1, 15 283:20	230:14 231:5, 8 237:6 250:14,17,18 292:16	258:24	88:22,23 99:2,7 196:18 198:1 212:8,9 266:12	200:8 249:13 254:7
<b>neutral</b> 17:2		<b>normally</b> 235:14 258:24		<b>Numeral</b> 235:1
<b>never</b> 63:10 93:6 137:5 181:24 191:11	<b>nine</b> 58:6 60:12 62:10 123:13,15	<b>north</b> 149:21, 24 179:10 180:3	<b>noticed</b> 212:4	<b>numerous</b> 227:10
<b>new</b> 51:21 52:5 54:16,24 56:23 57:16 59:7,10,11 69:4 89:18 95:6 99:20 105:2,20 108:18 110:14 114:4 123:6 130:16, 18 131:21 133:1 146:12 147:6 150:5 151:11 155:1 156:11 206:4 234:7 247:14 253:18 281:5 292:14,20	<b>nobody</b> 126:22	<b>northeastern</b> 181:5	<b>noting</b> 135:23	<hr/> <b>O</b> <hr/>
	<b>nominal</b> 58:4, 12,14	<b>northern</b> 181:3,4 280:10	<b>notion</b> 106:19 118:25 122:17 178:5	<b>oasis</b> 148:1
	<b>non-discriminator y</b> 21:12	<b>not's</b> 109:25	<b>notwithstandi ng</b> 104:11	<b>oath</b> 251:5 272:24 290:9
	<b>non-exclusive</b> 99:2,8	<b>note</b> 39:18 199:5,9 249:16 294:1	<b>nuanced</b> 151:2	<b>object</b> 13:16 48:6 84:21 93:13 194:12 221:23 223:17 228:13 284:14
	<b>non-wind</b> 54:20 91:13	<b>noted</b> 54:24 65:14 79:2 89:17 90:18 102:18 221:3	<b>nuances</b> 126:7	<b>objected</b> 54:9
	<b>non-wind- only</b> 120:3	<b>notes</b> 246:23	<b>number</b> 15:1 30:20 63:7 79:19 81:11 91:17 108:3 126:12 137:17 159:20 166:17 168:6 200:13 207:9 217:2 222:23 231:6 277:16	<b>objecting</b> 86:17 284:22
<b>next</b> 6:22 9:17 10:3 25:25 35:2 42:7 45:20 60:22 69:10, 15 85:1 90:15 108:20 112:5 113:16 134:14 157:9 190:7 225:12 229:25	<b>non-wyoming</b> 231:6	<b>nothing</b> 27:23 124:9 134:3 148:13 238:7 260:16 266:7 277:21 294:10,17	<b>numbers</b> 58:13 189:1	<b>objection</b> 27:4 45:7,12 50:17 75:9 77:11 80:3,24 82:2,5,7 83:3 84:20 85:4 86:16,17,23 95:12 105:6
	<b>none</b> 17:8,9 18:8 54:19,24 156:14 180:2 233:17 250:13	<b>notice</b> 22:2		
	<b>normal</b>			

114:10 115:17 117:18,21,24 118:3 122:24 124:7 125:5 158:8,10 182:10,14,20 222:2,5 224:8 227:6 229:11 244:21 246:3, 4 268:13	26:10  <b>obtain</b> 19:2 39:7  <b>obtained</b> 172:9  <b>obtaining</b> 29:16 53:20 99:17  <b>obviously</b> 31:4 33:22 43:2 161:15  <b>occasionally</b> 227:13  <b>occupation</b> 272:13  <b>occur</b> 65:15 155:24 247:15  <b>occurred</b> 195:15 289:19  <b>occurring</b> 35:19 247:16  <b>occurs</b> 145:25 151:25 224:4  <b>OCS</b> 244:18	<b>OCSR</b> 244:17  <b>October</b> 201:10  <b>off</b> 28:17 90:19 119:11 135:13 136:19 157:13 219:8 220:3,18 235:22 236:3 243:25 264:16 267:23  <b>off-the-record</b> 95:19  <b>offer</b> 164:15, 18 241:3 247:20 253:4 263:14 273:9 283:10 287:23  <b>offered</b> 60:17 163:17 171:11 172:13 207:3 245:17,25 255:11  <b>offering</b> 71:8 119:3  <b>offers</b> 181:24  <b>offhand</b>	183:13  <b>office</b> 2:11 7:5,9,10 45:8 120:10 213:25 217:19 234:9 238:9,22 239:1,25 240:5,10,24 243:6 245:8 282:9,10,16, 18,19,20,24 292:18 293:2, 6,13,18,23  <b>office's</b> 220:6  <b>officer</b> 1:5 11:12,16 14:19 18:13  <b>offramps</b> 188:24,25 189:2  <b>offset</b> 111:9 217:19,20 234:9  <b>offsetting</b> 110:12 156:8, 15  <b>often</b> 67:9 200:20  <b>Oklahoma</b>	166:11  <b>old</b> 281:5  <b>Oliver</b> 3:14 7:15,16,17,21 27:18 134:14, 19 157:9,13, 14 158:14 165:5,6,8,17 172:19,25 182:23 194:16 198:12 201:2, 7 203:9,15, 18,24 208:2,5 210:19 229:15  <b>omitted</b> 215:16 267:16  <b>on-the-ground</b> 17:12  <b>once</b> 24:18 28:11 34:2 41:23 86:11 102:14 112:8 135:9 139:19 140:18 145:25 264:17,23 266:8  <b>one</b> 8:9 14:5 15:14,15 17:17 19:5
---	---	--	---	--

22:7 27:3 29:21 31:24 32:16 33:10 36:2 40:4,14 43:13 44:24 48:3,15 49:9, 10 50:21 52:11 56:25 58:22,24 65:21 66:1 74:13 77:9, 16,19,21,25 79:22 80:19, 22 81:5 87:23 88:1,25 89:19 96:4,12,14, 18,24 97:19 101:25 103:5 108:17 113:9, 15,18 115:2 119:8,10 122:5 129:13 131:19 133:16 139:2 143:11 144:2 145:24 151:12 152:16 153:7 155:15 161:21 164:12 166:6 167:11 176:13 181:22 183:15 190:15 192:10 193:20 194:22 196:3, 4 197:9 205:8,10,19 206:11	207:18 209:22 210:11,15,16 212:4 216:15 220:1 221:17 223:22,23 226:18 227:3, 9 229:24 243:16 244:7 248:18 249:20 251:25 253:10 257:4 260:25 262:5, 16 267:16 271:18 273:19 274:5, 6 281:23 282:5 283:4 285:6,18 287:11,20 288:23 289:22 293:8  <b>ones</b> 9:9 190:21 232:13 264:20 275:23  <b>ongoing</b> 119:12  <b>online</b> 66:16 67:7 94:15,16 103:17 110:11 145:10 150:3 155:21 179:4  <b>only</b> 11:9	22:23 27:20 42:14 43:4,11 50:1 53:9 56:7 62:21 64:13 86:17 90:20 92:18 102:13 105:16 108:10 109:11 110:22 117:10 118:15 119:4 128:11 129:3 133:19 142:7 153:13 154:9 163:20 184:20 193:5, 12 200:17 201:24 212:4 224:1,2,15,21 225:6,7 231:17 232:3 233:24 240:6 244:11 250:3 252:25 256:2 260:10 263:13 266:14 270:14 275:19 283:24 286:11 287:12 288:2, 5  <b>open</b> 24:22 25:19 29:3 33:12 49:17 56:17 73:15 93:14 119:16 120:2,3	129:17 140:9 170:1,13 184:12 189:16 212:8 227:3,20 230:20 236:4 245:19 275:20 283:9 286:17  <b>opened</b> 83:8 178:9 231:22 246:25 257:18 278:4 289:5  <b>opening</b> 40:6, 17,24 41:2,19 91:2 121:25 129:17 226:12,24 231:24,25 279:10  <b>operate</b> 67:7  <b>operating</b> 66:17 121:7 207:19 260:10 265:17 279:22,24  <b>operation</b> 53:22 66:15 67:11,16 76:8 79:21,23 102:20 103:4 128:4 137:2,6 259:2,7,11	277:2  <b>operational</b> 249:23  <b>operations</b> 258:18  <b>opinion</b> 38:9 118:6 123:24 167:13,20 170:6 216:2 221:8 228:17 236:4  <b>opinions</b> 85:12  <b>opportunities</b> 21:22 52:10 56:18,19 89:13,21 92:22 101:14 106:5,13 118:13 172:8 183:18 192:3 217:15 236:11 254:24 257:5  <b>opportunity</b> 33:2 35:9 53:16 56:14, 15,23 83:11 88:4 89:18 90:7 92:16 94:6 106:16 111:13 118:22
---	--	---	---	--

<p>122:13 140:19 151:9 163:22 164:9 170:1,13 190:25 191:13 203:19 217:10 218:4 232:24 235:10,17,19 237:10,12,13 240:7,11 269:10 271:3 289:23 290:18,20,24 291:6,8,10 292:25 294:7</p> <p><b>oppose</b> 9:21, 24 14:14 56:11</p> <p><b>opposed</b> 108:15 193:5 207:13 246:2</p> <p><b>opposition</b> 10:1 20:23</p> <p><b>optimist</b> 201:16</p> <p><b>optimistic</b> 201:18</p> <p><b>optimizer</b> 270:5</p> <p><b>optimizing</b></p>	<p>275:15</p> <p><b>opting</b> 97:7</p> <p><b>option</b> 17:24 106:21 143:2 160:15 163:18 164:17,22 165:1 175:6 195:20 211:6 212:8 253:7 256:12,19 279:7 293:18</p> <p><b>options</b> 54:7 106:22 208:21 235:5</p> <p><b>oral</b> 159:3</p> <p><b>orally</b> 88:2</p> <p><b>order</b> 5:11 6:9,15,17 15:9 19:2 21:2 35:14 36:24 41:9 44:13 48:17 50:5,7,9 60:15 61:10 88:12 94:21 140:24 151:20 152:7 159:4 169:17, 21,22 198:14 199:15 205:14 217:9 239:20 245:3</p>	<p>246:14 257:4 275:4 278:8 281:6 294:19, 20,22</p> <p><b>ordered</b> 125:14</p> <p><b>orderly</b> 11:10 14:20,25 19:11 20:19 25:9 38:19</p> <p><b>orders</b> 119:22 282:21</p> <p><b>Oregon</b> 5:11 50:4 55:13 60:14,16,18, 20 61:2 65:11,12 105:2,21 119:15 120:5 125:14,17,21 126:15 127:18 151:19,23 244:19 280:11 285:11,19 289:9,14,18</p> <p><b>Oregon's</b> 135:22,25 151:1 152:16</p> <p><b>original</b> 146:10</p>	<p><b>originally</b> 208:7 246:2 292:3</p> <p><b>others</b> 23:20 25:18 178:23 276:25</p> <p><b>otherwise</b> 49:18 100:4 155:21 157:6 197:8 285:24</p> <p><b>ourselves</b> 64:13 212:11</p> <p><b>out-</b> 256:4</p> <p><b>out-of-the-money</b> 231:14,16</p> <p><b>outcome</b> 32:7,11</p> <p><b>outcomes</b> 122:4</p> <p><b>outdated</b> 200:4 275:22</p> <p><b>outline</b> 201:12</p> <p><b>output</b> 55:19 61:1 132:18 259:2</p>	<p><b>outside</b> 62:19 73:22 74:7 76:1 85:14 175:20 184:25 216:19 226:13 230:16,17 232:25 270:21</p> <p><b>outsider</b> 37:21</p> <p><b>outweigh</b> 123:19</p> <p><b>over</b> 16:16,19 23:23 39:7 40:1 54:23 57:17 58:4,15 60:2 72:7 109:10 118:8, 20 123:22 127:1 135:10 137:17 158:4 159:18 180:20 184:1 194:15 195:4, 24,25 197:6 218:25 244:2, 4 259:14 260:9 270:2,4 274:2</p> <p><b>overall</b> 105:24 132:8 159:15 164:4 168:16</p>
--	---	---	---	--

<b>overlap</b> 226:22	10:15 12:1,14 13:3,16,25 14:14 17:16, 22,24,25	254:2 255:13, 17,19 256:2, 11 274:7 277:21	<b>Paramount</b> 88:21	<b>participant</b> 24:5 29:9
<b>overruns</b> 121:12 193:24	18:2,3 19:1 31:12 47:11 81:18 128:6, 15,19 129:24	278:19 279:16 280:24 284:10 286:14 288:7	<b>paraphrase</b> 65:21 125:18 174:21 178:16	<b>participants</b> 21:9 142:7
<b>oversee</b> 42:13	130:1 133:20 157:24 158:3 159:24 160:7, 12 163:17	<b>pages</b> 173:18 218:22 223:2 226:5 292:12	<b>paraphrasing</b> 63:20 165:19 167:9 176:24	<b>participate</b> 33:5 43:1,18 45:3,10 215:2 257:3,4
<b>overseeing</b> 215:4	164:6,7,14 171:11 172:12	<b>paired</b> 283:16	<b>Pardon</b> 117:22 220:13	<b>participated</b> 214:20
<b>overstated</b> 276:6	174:16 244:8, 19 247:2 249:1 253:15, 22 254:4,8,12 255:1,3,11,25	<b>pan</b> 191:17	<b>Park</b> 242:25	<b>participating</b> 7:22 34:11 39:14 144:1
<b>own</b> 17:6 122:21 151:24 196:20 209:7, 15 253:17 265:18 283:16	256:3,9,12, 14,22 257:1, 2,6,8,21,25 258:4 263:12, 21 265:4 268:4 275:16 278:9 279:3, 25 280:8,17, 21 281:2 283:8 284:3,9 286:3 292:15	<b>panel</b> 45:21 127:24	<b>part</b> 22:6 24:15 25:2 34:16 45:20 51:2,4,6 53:14 54:12, 18 67:18 76:19 90:23 92:2 93:14 109:7 128:5 131:14,24 141:21 142:21 147:6, 13,17 150:14 155:2 158:6 167:23 168:13 198:18 199:15 200:11 234:13 235:8 254:1	<b>participation</b> 19:16 29:4 55:6 149:2 203:10 214:24,25 267:10
<b>owner</b> 97:12		<b>panels</b> 67:19 258:17 265:11,12,16		<b>particular</b> 44:17 52:7 85:3 121:19 135:23 136:8 225:20 232:20,21 235:12 275:12 281:1 291:5
<b>owners</b> 252:1 253:10		<b>papers</b> 42:11		
<hr/> <b>P</b> <hr/>	<b>Pacificorp's</b> 18:7 41:25 55:19 67:23 128:1 148:1 159:12 164:13,20,21 165:3 199:17, 19 200:3,12 246:9,20,24 253:17,23	<b>PAR</b> 154:16		
<b>P.C.</b> 2:15		<b>paragraph</b> 65:6 71:19 98:19,20 99:12 173:6		
<b>p.m.</b> 266:17 294:24		<b>parallel</b> 53:13,15 153:19 154:7 207:4		<b>particularly</b> 46:8 66:5 216:25 217:18
<b>Pacificorp</b>				

<p>293:24</p> <p><b>parties</b> 6:25 9:23 15:4,14, 17,18,20 16:16,19,24 17:1,4,8,9,19 18:8,11,17 19:15 20:12 21:9 25:11,25 29:4,7,8 38:5 45:2,4,5,6 48:6,15,25 49:4 50:3 52:1 55:5,16 56:12 60:25 79:9,19 85:8, 13 86:6 90:19 91:17 107:19 126:10 134:17 140:19 143:25 145:1 151:16 152:6, 20 153:8,13, 21 161:14 192:8 195:21 197:5 203:14 212:7,10,22 217:5 227:15 246:2 252:20 266:19 275:1 290:14</p> <p><b>parties'</b> 152:2</p> <p><b>parts</b> 153:14 190:14 246:5</p> <p><b>party</b> 9:21</p>	<p>54:9 86:12 126:16 143:14 216:10</p> <p><b>pass</b> 31:14 49:6 169:19</p> <p><b>passed</b> 63:10,12,17 116:3 270:7</p> <p><b>past</b> 25:15 68:19 189:15 213:3,5</p> <p><b>path</b> 74:3 106:14 139:5 141:8,12 149:13 153:6, 19 163:2</p> <p><b>Patricia</b> 2:7 7:4</p> <p><b>pay</b> 32:7 147:9 185:15 191:5 258:22 261:22 273:23 276:15</p> <p><b>payer</b> 99:4</p> <p><b>payers</b> 230:4 236:12 268:22</p> <p><b>PB</b> 154:16</p>	<p>201:25</p> <p><b>peak</b> 278:24 280:15,17</p> <p><b>pecuniary</b> 12:19</p> <p><b>penetration</b> 265:18</p> <p><b>people</b> 44:3 46:10 82:17 85:2 125:2 132:10 135:9 192:18 213:10,17</p> <p><b>perceive</b> 115:3</p> <p><b>perceived</b> 194:20</p> <p><b>percent</b> 53:23 59:14,18 67:1 94:22 96:19 97:1,7 100:19 101:7,19,20 111:1,3 112:25 116:9, 15,19,22 121:15,23 143:5,10 221:21 260:12 269:4 271:3 280:11, 16,19</p>	<p><b>percentage</b> 110:23</p> <p><b>perfectly</b> 118:16</p> <p><b>perform</b> 76:21,22 161:19</p> <p><b>performance</b> 87:5 112:18 160:19 285:23</p> <p><b>performed</b> 74:22 121:18 144:24</p> <p><b>performing</b> 73:11</p> <p><b>perhaps</b> 62:3 66:10 90:3 112:16 164:19 194:17 215:16,22 217:20,24 227:13 235:25 236:15 238:1 292:10</p> <p><b>period</b> 58:18 141:25 142:11 223:21 262:4 274:3 287:17</p>	<p>293:25</p> <p><b>perishable</b> 223:9</p> <p><b>permissible</b> 281:25</p> <p><b>permission</b> 30:13</p> <p><b>permit</b> 74:4,5 76:20 208:11 235:3</p> <p><b>permits</b> 99:17</p> <p><b>permitting</b> 76:12 149:14 150:4</p> <p><b>person</b> 80:16</p> <p><b>personal</b> 212:18</p> <p><b>personally</b> 264:8</p> <p><b>perspective</b> 28:19 113:18 120:12 123:15</p> <p><b>pertinent</b> 198:20</p>
---	--	---	---	---

<b>Peterson</b> 3:21 7:6 49:12 63:19 213:25 214:3, 5,7,8,13,16 216:13 218:9, 12,21 222:3, 5,7,21 224:12 225:13,24 226:4 229:13 233:19,22 238:6	45:7  <b>Philip</b> 4:8 7:12 240:4 242:17,24 244:18  <b>phone</b> 7:12, 25 8:23 9:6,7, 11 213:10,17 250:21,22,23	113:10 122:12 251:5 257:13 260:7  <b>placed</b> 58:11, 16 62:4 245:6 281:4  <b>places</b> 58:24 88:1 91:3  <b>placing</b> 102:5 245:23 281:20	279:25 280:1  <b>planning</b> 23:24 24:3 37:16,24 52:23 91:7 110:24 141:14,16 181:17,19 194:7 245:12 273:24 274:4 275:14,15,17, 22 277:17 283:4 293:25  <b>plans</b> 264:12  <b>plant</b> 14:1  <b>plants</b> 30:7, 22 147:15  <b>play</b> 126:8 185:17  <b>playing</b> 161:8  <b>pleadings</b> 50:24  <b>plenty</b> 28:11  <b>PLLC</b> 2:19  <b>plus</b> 108:17 165:2 256:11 265:22 278:8	281:20  <b>point</b> 9:14 20:3 34:17 41:21 46:6 72:8 83:25 100:8 103:7 113:12 114:18 117:3 119:14 122:7, 16 124:12,15 126:17 134:12 135:16 141:4 142:23 145:1 147:19,24 151:16 165:4 175:4 176:3 177:22 178:17 181:1 182:12,13 184:10 186:19 204:10 219:5, 8,19 220:2,5, 10 230:14 232:11 233:2, 5 235:5,11,19 237:11 238:3 255:12 284:16 285:17 287:15 290:6  <b>pointed</b> 181:3  <b>points</b> 52:19 160:5 208:5  <b>policy</b> 10:18
<b>Peterson's</b> 210:24 221:24 224:9	<b>phonetic</b> 119:20,23			
<b>petition</b> 14:7 18:16 20:24 21:7 24:11 25:22 38:17	<b>phrase</b> 225:14 267:16 268:2	<b>plain</b> 72:10		
<b>petitioned</b> 13:9 14:6	<b>physical</b> 96:24 292:9	<b>plains</b> 181:4		
<b>petitioner's</b> 11:17	<b>pick</b> 75:7	<b>plan</b> 38:1 44:6 51:19 52:12,22,25 99:24 100:9 101:11 104:15 109:5, 8 113:25 134:22 142:4, 22 144:22 174:17 247:23 258:9 268:4 292:2 293:11		
<b>phase</b> 254:19	<b>picked</b> 74:11			
<b>phased</b> 53:2	<b>picking</b> 9:6 19:23 73:2			
<b>phaseout</b> 262:17,22	<b>piece</b> 139:7 150:12	<b>planned</b> 72:7 162:15 259:11		
<b>phenomenon</b> 225:19	<b>pivot</b> 122:14	<b>planners</b>		
<b>Phil</b> 9:4,7	<b>place</b> 24:13 35:8 63:12 102:9 110:10			

<p>53:1 58:8 59:17 123:14 274:14</p> <p><b>politicians</b> 63:15</p> <p><b>pool</b> 17:5 37:24 38:1 176:10 210:13</p> <p><b>Poor</b> 224:25</p> <p><b>portfolio</b> 59:8 74:24 131:4 142:12,20 143:1 144:23 291:2,11 292:16,22</p> <p><b>portfolios</b> 54:17,19 71:19 142:17 144:2 293:20</p> <p><b>position</b> 10:7 12:3 18:3 19:19 20:17 24:9,22 25:1 26:12 27:5 43:23 51:16 55:8 85:8,13 158:21 169:9 196:3 198:24 199:7 219:1 226:8,12 267:7 275:4</p>	<p><b>positions</b> 161:12</p> <p><b>positive</b> 60:8</p> <p><b>possibilities</b> 76:14</p> <p><b>possibility</b> 101:5 104:22 106:24 121:11 156:8 189:13 230:25 231:2, 4,17 232:11 245:24</p> <p><b>possible</b> 19:15 63:3 145:9 157:2 158:20 162:19 163:15 170:9 171:7 222:8 230:9,13,15, 18,21 249:14 250:25 263:15,16 274:24 283:14 289:8</p> <p><b>possibly</b> 222:17 231:8 283:7</p> <p><b>post-public</b> 109:20</p> <p><b>posted</b> 22:25</p>	<p>87:3</p> <p><b>potential</b> 22:2,14,15,20 23:7,18 24:17,21 25:14 28:18 32:13 33:13 34:25 39:6 55:25 59:17 67:20 72:5 73:20 79:6 100:25 126:10 127:19 141:10 145:2 147:20 149:18 155:1 163:23 169:5 172:4 199:11 227:17 231:17 235:22 236:7 247:13 248:23 256:23 257:10 258:16</p> <p><b>potentially</b> 12:6 37:5 39:6 79:21 88:6 121:13 143:3,19 149:2 153:24 191:18 219:5 230:1,4,11 231:25 237:17 240:8 246:19,25 276:20</p>	<p><b>power</b> 1:3 2:3 6:5,7,10 7:1 13:22 14:4,9, 11 16:12 30:6 46:14 47:2 50:24 55:22 57:24 60:10 67:8,17 85:9 129:23 147:15 149:20,23 157:16 166:7 177:3,9 198:21 207:3 213:20 257:5 258:5 259:2, 4,21 261:18 262:12 264:10 270:9 272:15 273:14 274:18 278:18,25 279:1,21 282:20 283:15</p> <p><b>Power's</b> 6:21 20:23 24:9 281:17 288:25 294:18</p> <p><b>power/cost</b> 60:4</p> <p><b>PPA</b> 17:21,22 18:4,7 66:11 87:2,4,7,14 136:25 137:5 153:10</p>	<p>164:16 195:19 196:18 256:8, 10,11 258:22 259:25 260:8 263:18,21 276:5,10</p> <p><b>PPAS</b> 128:4 194:11 195:3 256:15,22,23 257:22 258:9, 13 260:3,5 263:13 269:15,16,17 274:6</p> <p><b>practicable</b> 208:16</p> <p><b>practical</b> 163:21 227:12 285:20 286:8</p> <p><b>pre-approval</b> 52:13</p> <p><b>pre-bid</b> 21:17</p> <p><b>pre-issuance</b> 21:18 54:5</p> <p><b>preapproval</b> 181:24 192:6</p> <p><b>preapproved</b> 192:4</p>
--	---	---	---	---



<p><b>precedent</b> 12:17 36:8 41:2</p> <p><b>precedential</b> 31:1</p> <p><b>precedents</b> 31:23</p> <p><b>precisely</b> 121:8</p> <p><b>preclude</b> 27:24</p> <p><b>precluded</b> 11:20 29:8</p> <p><b>precludes</b> 89:19</p> <p><b>precluding</b> 245:23</p> <p><b>predict</b> 63:3</p> <p><b>predictor</b> 137:1</p> <p><b>prefer</b> 20:11 118:2 211:2,3 282:2</p> <p><b>preference</b> 20:4 118:8,20 212:18</p>	<p><b>preferred</b> 142:20 144:23 291:2</p> <p><b>preliminary</b> 44:25</p> <p><b>preparation</b> 199:15</p> <p><b>prepare</b> 51:8 201:10 202:5 215:9</p> <p><b>prepared</b> 54:14 91:15 133:23 143:17 147:2 148:10 158:16 190:7 212:6,21 213:18 216:1 232:19 239:15 244:23</p> <p><b>preparing</b> 144:20</p> <p><b>presence</b> 22:23 23:8</p> <p><b>present</b> 8:16 11:9 22:10 216:14 252:16 262:10,13 292:17</p>	<p><b>presented</b> 53:24 63:22 64:1 93:1 115:10 120:1 152:3 285:8 293:21</p> <p><b>presenting</b> 235:10</p> <p><b>preserve</b> 53:16</p> <p><b>preserved</b> 25:10</p> <p><b>president</b> 47:12 121:21 243:1 251:22</p> <p><b>presiding</b> 1:5 11:12,16 14:19 18:12</p> <p><b>press</b> 166:12 223:23 262:5 287:20</p> <p><b>pressure</b> 105:18 106:7 120:15</p> <p><b>presumably</b> 131:14 154:13 249:3</p> <p><b>presumption</b> 24:4</p>	<p><b>Pretend</b> 114:1</p> <p><b>pretending</b> 124:17</p> <p><b>pretrial</b> 244:5, 14 252:10 268:7,11 273:8</p> <p><b>pretty</b> 59:24 110:19 179:25 190:2 256:1</p> <p><b>prevail</b> 36:15</p> <p><b>prevent</b> 28:11 208:19</p> <p><b>previously</b> 215:10 235:15</p> <p><b>price</b> 18:7 58:7 60:13 66:12,17,19, 20 67:7,19 86:8 114:5 123:14 139:9 192:21 196:13 221:21 249:7, 8 254:6 256:21 259:22 261:2, 5 262:2,8 263:11 265:9</p>	<p><b>priced</b> 113:5 114:3</p> <p><b>prices</b> 58:23 59:20 66:4,5, 8 71:4 78:21 82:15,16 123:6 126:2 151:15 193:10 249:12,17,18 253:17 256:18 258:6, 12 260:14 263:10,15,17, 18 265:7,23 276:1</p> <p><b>pricing</b> 84:16 85:18,20 86:2,7 136:9, 14,16,17,19 137:15 138:3 164:3 176:14 192:16 222:4, 6 248:19,23 249:2,4,10, 11,15,23 257:23 267:18,19,25 269:17,19,22, 23 270:6,11</p> <p><b>pricings</b> 84:19</p> <p><b>primarily</b> 61:25 62:12 67:15 94:9 176:17</p>
--	--	---	---	--

178:11 232:2 274:20	224:12 225:12 232:9 259:23 265:22 276:2 278:21 294:22	252:18 273:11	<b>process</b> 1:4 6:6,12 10:23 14:13 16:6,25 18:19,21 19:14 21:3,20 22:9 23:5,14, 19,22,23 24:3,5,8,14, 15,25 25:4,8 26:19 27:13, 22,25 28:12, 15 29:4,15 33:14,23 34:6,20,24 35:12,22,25 36:8,11 38:3, 11 39:6,14 41:8,17 42:13 43:4,16 51:24 53:10,15,19 56:8,22 60:15 64:11 76:17 89:1,8,14,22 90:23 91:16, 24 92:19,21 101:15 103:11 104:16,20 106:15 109:10 111:11 119:12 128:2, 18 129:2,5,8, 12 131:24 132:24 138:2 139:17,21 140:17 141:9, 15,23 142:19 144:8 149:3 151:11,19,24, 25 153:16,23, 24 154:2,5,7,	14 155:2,12 157:25 159:16 161:15,16,25 162:15,17 163:17 164:5, 10 165:24 167:13,21 168:11,17,23 169:6,15 170:20 171:3, 4,6,24 172:2, 3 181:18,19 182:5,7 186:14 188:11 189:6, 18,19 190:14, 22 191:7,10, 22 193:13 201:13 204:9, 13 206:15 208:23 215:2 223:13 224:5, 16 235:8 236:20 239:23 245:2, 4,10,21 246:12 247:9 249:25 252:24 254:6, 10 255:5 274:16 275:15,20,22 276:4,10,20 277:24 282:3 283:19
<b>primary</b> 36:7 167:4 227:22 290:21	<b>problem</b> 157:5 227:18 235:8 243:21 247:10	<b>proceeded</b> 74:3		
<b>principal</b> 265:10		<b>proceeding</b> 14:3,8,25 15:6,17 30:24 32:11 35:6 48:18 49:25 50:25 51:16 52:7 54:13,15 64:2 84:7 89:2,12 90:20 106:8 107:20 135:8 140:2, 6,12 153:11 158:6,22 161:14 220:18,19 224:6 228:16 239:20 274:24 284:6 285:24 289:14		
<b>principle</b> 154:9 288:1	<b>problematic</b> 279:2			
<b>printed</b> 94:1 173:23	<b>problems</b> 38:13 147:21			
<b>prior</b> 21:6 54:20 76:9 129:4,5 131:23,25 144:15 184:1	<b>procedural</b> 53:12,18 140:9			
<b>private</b> 273:16	<b>procedure</b> 217:9			
<b>pro</b> 55:22 92:1 139:14 153:10,20	<b>procedures</b> 11:3 18:23 21:17 28:8 40:22 42:4 194:6	<b>proceedings</b> 11:11,19 14:21 18:15 19:12 20:20 25:10 36:22 38:20 85:6 140:10		
<b>probable</b> 263:16	<b>proceed</b> 64:14 88:23 94:13 104:10 106:14 113:22 141:4 153:24 154:12 239:18			
<b>probably</b> 66:20 137:25 180:2 188:7 190:1 202:8, 15 203:6 213:24		<b>proceeds</b> 12:22 64:8 141:18 190:23 191:10		<b>process-oriented</b> 43:7
				<b>processes</b>

<p>24:23 68:18 141:13 171:23 201:9 225:16,21 257:13,14</p> <p><b>procure</b> 56:23 68:16 72:17 143:4</p> <p><b>procured</b> 105:24 141:8 154:22 181:23 188:20 293:10</p> <p><b>procurement</b> 6:14 10:19,25 12:5,6 13:7 26:14 111:9 181:21 182:2 184:4 239:24 240:9,20 241:1 246:1</p> <p><b>procuring</b> 72:18 199:12</p> <p><b>produce</b> 82:20 113:19 118:22 122:22 126:2 128:8</p> <p><b>produced</b> 108:6,7 113:22 123:15</p>	<p>140:14 144:4 147:19</p> <p><b>producers</b> 12:4</p> <p><b>produces</b> 124:16</p> <p><b>producing</b> 117:8 144:2</p> <p><b>product</b> 176:14 254:17 293:15</p> <p><b>production</b> 10:21 51:20 62:1,16,23,25 63:8,16 76:25 100:10,18 101:6 115:21 116:23 139:24 145:11 159:6 169:3 185:8 187:19 204:18 205:5 219:6 234:3 240:13 254:16 268:21 277:4 281:18,19,20 282:6</p> <p><b>products</b> 162:12 171:4</p>	<p><b>Professional</b> 1:12</p> <p><b>proffer</b> 287:23</p> <p><b>profile</b> 101:9 123:21 155:18</p> <p><b>profiles</b> 94:25 145:12</p> <p><b>program</b> 99:5 102:20</p> <p><b>programs</b> 253:21</p> <p><b>progress</b> 81:11 97:12, 21 99:15 100:5 102:2 277:6</p> <p><b>prohibit</b> 269:25</p> <p><b>prohibition</b> 24:1</p> <p><b>project</b> 14:5, 10,11 30:9,23 52:5 59:11,15 62:2 63:1 66:12,16 67:6,14 68:24 73:17 74:24</p>	<p>75:1,15 76:4, 19 77:7,10 78:25 79:3 81:8 84:22 85:1 87:2,5, 10,15 92:5 94:14,18,20 97:12,22 100:22 103:8 104:10 105:20 107:14,16 110:14 113:12,16,19 114:5 117:1,8 119:10 120:22 121:4, 6,17 122:12 123:21 128:20 130:8, 25 131:6 132:20 136:9, 14 137:2 141:7 143:20 144:24 145:16 146:2 147:7 149:6 150:8 162:20, 25 175:21 184:22 187:18 195:13 197:16 230:16,17 231:10 232:3, 6 235:2 260:8 264:5,20 274:8 277:5 280:7 286:15 293:23</p> <p><b>project's</b></p>	<p>99:24</p> <p><b>projected</b> 58:18 62:19 105:5 208:18, 22 235:6 259:15 264:25 270:4</p> <p><b>projecting</b> 121:4</p> <p><b>projections</b> 175:12 176:5, 6</p> <p><b>projects</b> 11:1 17:11 26:11 52:3,10,24 53:3 55:1 57:16 58:6, 11,22 59:6,8 60:10 62:4 64:14 65:24 66:13,14 67:10,15 68:7 69:5 70:14 71:11 72:4,21 73:21,22 74:2,7,20 76:5,7,10,14 79:17 81:12, 16 86:13 89:14,19 92:3,7,16,18 94:24 96:8 100:5,9 101:6,10 102:5,9 103:10,16</p>
--	---	---	---	---

104:24,25 105:2,3,17, 18,22 106:5, 11,13,17 113:14 118:10,15,17 120:15 126:7 130:22,23 131:2 132:12 136:10,23 137:4,12,14, 19 138:3 140:15 143:16 144:22 145:10 148:3, 5 149:15 150:2,4,6 154:10 155:10,20 156:7,9,20 162:18,23 163:12,14 166:13 176:25 185:22 186:21 187:5 188:6 192:21 195:15 203:1 206:19 207:17 220:19 228:7 230:10 231:22,25 232:2,4 247:14 254:19 255:18,21 258:5,9,18 259:6,10,11 260:4,9 261:15,16	262:9 263:11 264:7,9,10,13 265:3 271:2 273:18 277:1 283:24 293:14  <b>promote</b> 17:3 19:17  <b>promoted</b> 278:5  <b>promoting</b> 73:23  <b>prompt</b> 14:21,25 19:11 20:20 25:9 36:21 38:20 51:25  <b>promulgated</b> 38:8,9  <b>prong</b> 38:18  <b>pronouncing</b> 29:22  <b>proper</b> 10:16 11:2 98:24 146:1 247:11 254:11  <b>properly</b> 189:24 255:6	<b>property</b> 16:14  <b>proposal</b> 57:13 68:23 107:3 122:14 129:1 130:5, 13 152:11,24 153:1,5 158:1 164:15 175:11 188:18 189:20 217:14 237:20,23 287:25  <b>proposals</b> 51:18 55:23 97:6 130:11 139:15 159:13 202:6, 9 217:15 228:9 232:22 237:21 244:19  <b>propose</b> 30:4 130:4,16 176:25  <b>proposed</b> 19:14 21:24 27:9,10 52:21,24 53:25 55:1 57:16 58:5 59:8 60:23 68:7 74:24 88:20 101:13	120:6 130:6, 15 133:7 164:8 173:10 175:14 177:1 189:15 192:10 204:8, 12 216:25 219:9 230:24 278:2,15 283:15 285:6 286:15 292:3  <b>proposing</b> 57:2 65:22 71:3,11 72:22 86:6 96:8 100:16 101:10 105:16,22 106:11,14 107:6 109:7 110:11 111:8, 23 113:17 118:12 120:16 143:8 154:6 166:8, 14 190:4 192:8 195:6 220:20 228:20 229:8 232:13 234:16 278:13  <b>proposition</b> 62:17 108:21  <b>proprietary</b> 36:5,10,18 39:15,20	<b>pros</b> 155:22  <b>prospect</b> 234:8  <b>protect</b> 16:14 17:5 23:1 24:16 25:3 38:9 42:1  <b>protected</b> 28:19  <b>protecting</b> 13:12  <b>protection</b> 126:4 261:25  <b>protections</b> 27:22 29:7  <b>protective</b> 34:6  <b>prove</b> 12:11  <b>proven</b> 270:13  <b>provide</b> 10:24 17:12 23:10 29:6 48:24 51:15 55:12, 21 57:2 58:15 60:4 64:12 80:7 89:15
---	---	---	--	--

<p>99:2 105:17 129:6 140:11, 16 155:19 160:7 164:2 171:2 173:11 174:19 175:2 176:7 187:19 197:3 221:6 244:25 247:23 253:6 268:15 269:6 271:4 275:9 276:1</p> <p><b>provided</b> 29:18 54:4 66:24 67:8 140:18 159:25 209:10 245:16 287:12</p> <p><b>provider</b> 132:17</p> <p><b>provides</b> 41:24 55:20 99:8 107:14 131:6 163:22 164:8 292:21</p> <p><b>providing</b> 21:22 22:3 60:20 66:2 83:9 105:25 144:10 175:6 246:14</p> <p><b>provinces</b></p>	<p>159:19</p> <p><b>proving</b> 245:16</p> <p><b>provision</b> 29:18 197:13 284:17 285:3</p> <p><b>provisionally</b> 220:17</p> <p><b>provisions</b> 29:14 173:5</p> <p><b>proxy</b> 71:7</p> <p><b>prudence</b> 122:3 181:24 183:8 191:12 217:7</p> <p><b>PSC</b> 133:25 257:13</p> <p><b>pschmid@ utah.gov</b> 2:10</p> <p><b>PTAS</b> 253:18, 20</p> <p><b>PTC</b> 53:4,5 58:25 96:9,19 104:15 113:6 116:22 117:6, 12 143:5 162:18</p>	<p>165:21 179:8 187:10 199:13 206:16 219:12 223:10 224:24 225:5 228:10 237:15 240:13 255:4 263:5,6 269:3 291:9</p> <p><b>PTC-BASED</b> 181:9</p> <p><b>PTC- TARGETED</b> 180:11</p> <p><b>PTCS</b> 51:20 53:2,23 59:22 60:7 63:11 94:7,22,24 101:2,20 102:14 115:19,25 116:1,2 145:17 147:8 163:5 178:13 187:7 219:6, 15 225:19 228:8 229:20 230:1,2,7,11 232:2 237:17 238:1 247:5 262:18,23 263:3 291:6</p> <p><b>public</b> 1:1,9</p>	<p>2:7 6:4 28:25 37:11,13 49:16,17 53:20 55:12 57:4,5 60:21 84:8,9,11 88:24 94:10 109:10 122:3 127:1 144:8 166:10 169:6 172:2 204:15 205:2 206:13 208:14 209:5 212:9 214:17 215:1 277:24 289:17</p> <p><b>public'</b> 52:17</p> <p><b>public's</b> 228:18</p> <p><b>publicly</b> 68:14</p> <p><b>pull</b> 63:13</p> <p><b>purchase</b> 55:22 67:8,17 97:1 100:13 101:19 102:17,25 143:5 145:13 146:7 258:5 259:2,4</p> <p><b>purchased</b> 100:15 143:9 293:15</p>	<p><b>purchases</b> 59:16 110:9, 12,13,16 111:10 115:23 156:5, 15 282:11,19 292:19</p> <p><b>purely</b> 232:24</p> <p><b>PURPA</b> 67:5 80:18 81:9,13</p> <p><b>purporting</b> 120:8 125:2</p> <p><b>purpose</b> 159:3 192:8 217:23</p> <p><b>purposes</b> 13:12</p> <p><b>pursuant</b> 167:10</p> <p><b>pursue</b> 56:20 92:16 106:7, 17 107:17 108:9 126:11 141:11 153:6 154:9 209:21</p> <p><b>pursued</b> 105:24</p> <p><b>pursuing</b> 19:13 82:15</p>
---	---	---	--	---

<p>89:20 101:4 105:17,22 118:10,17</p> <p><b>push</b> 18:2 31:22 148:8 165:20 212:19 213:1 219:11 224:24 225:4</p> <p><b>pushing</b> 192:18 256:20</p> <p><b>put</b> 30:14,21 88:15 91:5 107:18 115:22 117:2 151:6 161:8 196:18,22 217:19 237:5 258:18 260:6</p> <p><b>puts</b> 94:5</p> <p><b>putting</b> 30:6 193:23 198:1 226:23 259:19 260:4</p> <hr/> <p style="text-align: center;"><b>Q</b></p> <hr/> <p><b>QF</b> 66:24 67:5,14 79:17 80:16,20 81:19 83:8,13 86:6 87:1,13</p>	<p>136:23 137:1, 2,3 221:20 246:24 248:19,23 249:2,7 259:2 263:10,11,13 269:15,17</p> <p><b>QFS</b> 249:22</p> <p><b>qualification</b> 96:12 100:17 101:20 103:16 104:15 145:21</p> <p><b>qualified</b> 67:4 68:8,10 102:19</p> <p><b>qualifies</b> 96:15</p> <p><b>qualify</b> 53:4 94:22,24 96:9,19 100:9 101:6 116:12 143:4 145:9, 11,17 146:19, 22 197:20 228:8 240:12</p> <p><b>qualifying</b> 80:17 81:12 137:15</p> <p><b>quality</b> 277:23</p>	<p><b>quarter</b> 142:11 143:18 144:3, 21,25</p> <p><b>quarters</b> 52:9</p> <p><b>Questar</b> 13:9, 10,11,15 15:6 32:23 40:18</p> <p><b>Questar's</b> 13:18</p> <p><b>question</b> 29:21 31:8, 13,14,25 32:20 33:10 34:19 35:5 36:2,13,14 42:7 43:21 56:24 61:20 64:21 70:1, 12,17 75:2, 21,23 77:14, 23 78:6,8 80:11 81:4 82:6 85:19 86:23,25 87:1,8,11 92:25 93:9, 10,15,17 104:13 105:15,19 106:9 107:20 112:22 113:23 114:14,17,19 118:5 123:1, 5,7 124:24</p>	<p>133:16,18 145:6 146:10 151:12 154:18 174:25 175:1 182:20 183:2, 10 186:19 194:21,23,25 195:1,11 207:8 209:12, 18 218:24 219:1,23 220:16 221:23 222:9, 11,12,13,15, 20 223:18 225:12,13 226:7,11,22 228:13 229:19 232:8 234:11 236:2 237:25 246:18 247:12 248:18,21,22 249:6,20,21 250:3 259:10 260:25 262:16,19 264:7,24 287:11,21 288:24 290:22</p> <p><b>questionable</b> 281:11</p> <p><b>questioned</b> 136:4 137:7 284:4</p>	<p><b>questioning</b> 82:8 124:11 136:6 194:13 203:14 205:23 206:23 233:3</p> <p><b>questions</b> 10:11 20:3,6, 9,11 21:15,23 22:24 23:2 33:8 38:23 39:3 47:20 61:17 69:8, 11,13 83:5,10 133:10 134:16 135:22 138:19 150:19 156:22,25 157:3 165:8, 9,11,13,14 172:16,18,20 182:19,24 198:6 201:2,4 203:9,15 207:24 210:18 216:4 218:10,12,13, 15,16,18 225:23,24 228:18 233:13,15,19, 22 236:22 238:4 239:7 241:8,9,13, 15,17,19,21 244:13 248:3, 5,7,9,11,13 249:19 250:7, 24 252:7</p>
---	---	---	--	--

258:3 260:18, 19,21,23 261:7 263:23 266:1,3,5 267:22 268:7 271:9,10,12, 14,16,19,20, 21,23 286:25 287:1,3,5,7,9 288:17,19 291:19 294:9, 12,14,16	<b>quote/ unquote</b> 39:25  <b>quoted</b> 175:12  <b>quoting</b> 261:17 <hr/> <b>R</b> <hr/> <b>R-746-420-3</b> 234:20  <b>R-746421(3)( c)</b> 21:16  <b>R-746426</b> 22:5  <b>R-request</b> 51:18  <b>racks</b> 265:16  <b>Rainbow</b> 12:9  <b>raise</b> 21:7 164:12 217:7 256:17  <b>raised</b> 13:14 19:1 21:8 124:14 125:9 158:21	178:18  <b>raises</b> 218:5  <b>ran</b> 62:10 73:16 111:18  <b>range</b> 58:6,20 60:11,12 62:9,13,19 67:2 200:7,9 221:22 253:13,14,20 258:6 259:24 261:16 264:22 269:24 279:10  <b>ranges</b> 253:21  <b>rapidly</b> 259:14  <b>rate</b> 32:8 105:18 106:6 115:22 116:17 120:15 121:15,24 122:9 124:4 260:12 273:22,23 274:16,17  <b>rate-</b> 230:3 236:11 268:21	<b>rate-basing</b> 117:17  <b>ratepayer</b> 32:6,22 117:7  <b>ratepayers</b> 31:7,15 116:10 126:3 219:8 220:3, 18 230:1,11 231:20 235:22 236:3, 6 254:24 255:7,21 256:18 270:7 271:4 276:12 278:3 280:18 286:12  <b>ratepayers'</b> 114:24  <b>rates</b> 122:20 124:2,5 166:12 256:23 281:5  <b>rather</b> 12:13 289:24  <b>rational</b> 89:3,16 228:20 229:8, 17  <b>re-powering</b> 52:5	<b>reach</b> 74:1 184:2 246:16  <b>reached</b> 15:23  <b>read</b> 42:11 96:3 97:14 98:23 99:10 178:2,10,24 179:2 181:20 192:22 200:14 204:6 208:5,7 218:24 229:5 267:21,22,23 292:10  <b>reading</b> 98:22 205:9 234:22 237:15  <b>reads</b> 99:18 204:9 244:8  <b>ready</b> 176:4 277:2  <b>real</b> 143:24 162:16 254:17  <b>real-time</b> 144:11,19  <b>realistic</b> 191:12 270:5  <b>reality</b> 282:19
---	--	--	---	--

<p><b>realization</b> 234:10</p> <p><b>realize</b> 246:3 274:22</p> <p><b>really</b> 29:7 34:16 39:22 43:6,15 63:13 90:20 105:23 132:15 133:19 141:17 143:6 144:18 145:18 146:5 147:7 151:20 152:1 153:8 154:7 162:3, 10,12 164:8 171:23 193:2 202:7 203:16 210:12 228:3 237:4 252:25 253:16 254:2, 13 255:25 258:23 259:9 260:12 265:14,21,23 278:25 284:5 286:16 287:14 288:10</p> <p><b>realm</b> 153:6</p> <p><b>reap</b> 219:6</p> <p><b>reask</b> 225:13</p> <p><b>reason</b> 18:20</p>	<p>40:20 89:16 100:2 104:14 112:16 114:20 117:7 118:1 178:22 180:10 181:7 184:20 192:18,20 202:19 219:4 228:6 233:6 249:2 263:10 279:9</p> <p><b>reasonable</b> 26:21 28:2 57:8,15 115:8,13 125:23 159:7 161:18 164:11 168:24 169:4, 25 170:8,12 178:15 181:2 183:16 184:7, 14 193:6 199:10 200:12,16 204:19 205:6, 17 208:20 209:2,13 223:25 232:15 235:4 245:5,10 246:11</p> <p><b>reasonably</b> 115:2 171:3 204:13,17</p> <p><b>reasoning</b> 44:13</p>	<p><b>reasons</b> 18:9 20:22 25:21 65:22 66:1 79:22 135:15 172:7 197:17 220:1 226:14, 25 227:1,24 229:13 265:21,23 278:7 285:20</p> <p><b>REB</b> 215:10</p> <p><b>rebuilt</b> 148:6</p> <p><b>rebuttal</b> 6:18 15:12 20:17 25:22 50:2 55:10,15 56:3 158:7,9 160:3 165:18 166:21 167:23 176:20 199:4, 16,25 200:5 216:8 218:22 220:24 239:2 240:5 243:9 244:9,10 252:2 267:13 270:23 272:17</p> <p><b>recall</b> 79:14 96:3 119:25 135:21 136:5 137:9 205:23 206:6 207:11</p> <p><b>receipt</b> 121:3</p>	<p><b>receive</b> 81:15 88:22 90:22 100:19 141:2 148:3 249:8 283:20</p> <p><b>received</b> 6:17 9:18 64:11 71:13 76:11 79:1 90:19 155:3</p> <p><b>receives</b> 231:5</p> <p><b>receiving</b> 6:18 79:3,5</p> <p><b>recent</b> 66:24 138:23 196:9 264:19 269:14</p> <p><b>recently</b> 160:22 162:1 166:18 180:20 220:7 222:24 246:17 253:19</p> <p><b>recess</b> 44:9, 10 95:7,9,13, 15 135:1,2 211:9 266:16, 17</p> <p><b>recessed</b> 294:24</p>	<p><b>recognize</b> 123:23 135:8 150:25 196:15 240:10 245:11 254:22</p> <p><b>recognizing</b> 44:3 89:9 120:21 245:6 264:18</p> <p><b>recommend</b> 61:5 160:6 190:8 206:10 226:24</p> <p><b>recommendat ion</b> 18:6,9 90:13 127:11 173:1,2,4,8, 16 174:6 177:7 198:18 205:25 219:13 225:6 228:22,24</p> <p><b>recommendat ions</b> 22:10 55:10,15,17 56:2,4,12 60:24 61:7 91:16 159:11, 23,25 160:2 173:24 174:1, 5 189:9 198:16 216:18</p>
---	---	--	--	---



<p><b>recommend</b> d 174:10 229:14</p> <p><b>recommending</b> g 174:7 184:12 195:18 207:4 227:19</p> <p><b>recommends</b> 216:15 240:24 257:17</p> <p><b>reconvene</b> 134:10</p> <p><b>record</b> 6:20 44:11 47:7 48:4,12 50:13,20 51:2,4,6 57:22 64:8 74:4 76:11,20 83:1 88:9,15 89:4 90:1 94:9 95:16,20 98:8,14,24 134:16 135:4 149:14 154:3 157:12 158:6, 9 169:18 177:5 198:19 202:18 212:1 214:15 238:20 239:21 243:25 246:14 251:4,</p>	<p>19 266:19 275:3,5,7 276:13 287:15 290:2</p> <p><b>recording</b> 127:24 167:20</p> <p><b>records</b> 184:2</p> <p><b>recourse</b> 35:7 283:24</p> <p><b>recross</b> 138:8</p> <p><b>recs</b> 263:21</p> <p><b>red</b> 148:23 150:16 160:8</p> <p><b>redact</b> 23:1</p> <p><b>redacted</b> 215:11 216:9</p> <p><b>redesigns</b> 240:22</p> <p><b>redirect</b> 134:5,8,11 135:17 138:5 233:16 250:4, 8 263:25 264:1</p> <p><b>redress</b> 29:16</p>	<p>283:25</p> <p><b>reduce</b> 105:18 202:4</p> <p><b>reduced</b> 60:11 263:7, 14 265:17 271:5 279:13</p> <p><b>reduction</b> 59:2 116:10 121:23 265:10</p> <p><b>refer</b> 69:19 150:23 176:21 226:5</p> <p><b>reference</b> 65:19 88:8 120:13 150:11 217:8 225:9 226:11 248:19,23 285:19</p> <p><b>referenced</b> 24:4 32:1 50:6 61:23 76:18 111:19 150:11 151:19 178:24 217:18 226:19 260:25 262:11</p>	<p><b>references</b> 284:2</p> <p><b>referencing</b> 61:25 107:11 261:4</p> <p><b>referred</b> 145:22 168:3 223:11 264:20</p> <p><b>referring</b> 32:13 33:25 65:5 152:1 173:16 224:4 282:11</p> <p><b>refers</b> 205:20</p> <p><b>refine</b> 92:1,6</p> <p><b>reflect</b> 64:9, 18 113:11 263:18</p> <p><b>reflected</b> 72:20</p> <p><b>reflective</b> 217:6</p> <p><b>refused</b> 82:18</p> <p><b>refuses</b> 82:1 84:13</p> <p><b>regard</b> 11:15</p>	<p>13:12,14 15:8,13 17:2, 17,21 40:5 87:10 139:24 141:18 147:3 160:9 223:4 232:20</p> <p><b>regarding</b> 21:15 22:2,3 23:5,13 40:5 55:14 57:4 68:22 145:2 148:17 159:12 161:13 219:14 221:5, 11 233:24 234:7 244:5 294:21</p> <p><b>regardless</b> 53:1 257:10</p> <p><b>regards</b> 222:18 223:8</p> <p><b>region</b> 148:2</p> <p><b>regions</b> 260:1</p> <p><b>Registered</b> 1:12</p> <p><b>regularly</b> 289:17</p> <p><b>regulated</b></p>
---	--	--	--	--

257:6	234:8,13	<b>reliability</b> 57:10 88:7 147:23 204:21	59:18 143:12 212:3	65:24 72:19 109:12 110:22 156:20 159:13,22 161:2,3 163:20,24 171:15,19 172:14 203:1 240:11,23 245:13,16,20 253:1 255:9 257:5 259:12 263:19 265:8 269:2,5 270:25 277:1
<b>regulation</b> 167:22	<b>relates</b> 42:8 59:5	<b>reliable</b> 137:1	<b>remains</b> 56:16 99:8 177:10 246:9 268:2	
<b>regulations</b> 21:10 24:13 35:8 167:14 168:3 183:14	<b>relating</b> 99:20	<b>reliance</b> 100:6 222:25 223:4,8	<b>remedies</b> 15:16	
<b>regulatory</b> 13:14 24:2,7 54:6 151:1 243:1 284:6	<b>relationship</b> 290:17	<b>relied</b> 219:14 282:15	<b>remedy</b> 35:2	
<b>reinforcement</b> s 283:23	<b>relative</b> 39:15 71:6 85:18 121:10 177:25 215:3 288:6	<b>relies</b> 71:1	<b>remember</b> 78:3 79:13 237:15	<b>renewables</b> 254:14
<b>reiterate</b> 217:1	<b>relatively</b> 153:15,17 276:22	<b>relieved</b> 75:19	<b>reminding</b> 64:13	<b>repeat</b> 65:19 166:22 219:23 262:19
<b>reject</b> 20:16 25:21 38:17 240:25 245:21	<b>relax</b> 128:11	<b>relieving</b> 73:14 74:12	<b>remove</b> 173:17 293:1	
<b>rejected</b> 252:22 284:9	<b>relaxed</b> 56:5	<b>rely</b> 49:14	<b>removed</b> 174:14 257:25 284:3 286:10	<b>repeatedly</b> 124:16
<b>related</b> 26:19 65:13 71:7 92:2,7 139:15 146:10 147:21 148:18 187:22 194:4 199:18 217:2, 14 224:17	<b>relaxing</b> 216:23	<b>relying</b> 100:20 101:2 110:16 145:14	<b>removing</b> 174:15	<b>repeating</b> 93:7
	<b>released</b> 166:18	<b>remain</b> 46:1, 7,16 157:2 281:22	<b>render</b> 167:13 216:2	<b>repetition</b> 123:5,9
	<b>relevant</b> 57:11 72:16 93:9,15,17 97:19 118:4 182:19 204:23 234:24	<b>remainder</b> 268:2	<b>renew</b> 54:24 63:12	<b>rephrase</b> 223:7
		<b>remaining</b>	<b>renewable</b>	<b>replace</b> 228:10

229:19 282:24	44:19 190:17, 18 279:21	282:10,17	105:9 125:21 130:10 131:3, 15 132:11 147:21 148:11,15 161:25 165:24 179:4 209:20 223:13 240:17 247:13	169:7 181:14 183:12 184:5 185:1 224:6 274:16
<b>replaced</b> 293:6	<b>repowering</b> 217:14	<b>representing</b> 15:18 25:13 26:8 29:5 38:5 49:14 126:20 127:17 232:9 251:23,25 280:2	<b>required</b> 15:9 17:22 18:3 54:4 72:23 88:12 89:3 91:8,12,18 92:4,11,15 93:2 100:8 115:2 130:17, 21 131:12 141:20 168:5 239:23 253:18 261:19 276:15 282:12 292:14	<b>requirements</b> 56:6 58:14 87:11 96:8,18 103:4 153:9 168:2 174:10 183:17 197:1 204:14 208:8 240:3 241:1 255:10,12 273:21 280:24 281:10
<b>replacing</b> 293:10,18	<b>represent</b> 16:9 24:15 40:15 62:1 119:7 173:15 218:1,2 272:23 275:10 282:18	<b>represents</b> 22:13 280:6	<b>request</b> 35:3, 10,16 38:16 52:6,13 54:8 61:9,11 157:1 159:13 208:4 244:19 288:24 289:4 294:19	<b>requires</b> 26:20 27:11 29:4 53:13 57:5 131:19 132:15 145:15 183:24
<b>reply</b> 6:9 51:1 56:19 164:13, 21 227:23	<b>representatio n</b> 16:3,4 224:17 282:23 294:5, 6	<b>requested</b> 13:25 17:22 284:18	<b>requesting</b> 30:4 253:20	<b>requiring</b> 129:2
<b>report</b> 54:2 56:19 158:5 159:11,25 160:1 167:23 172:25 173:20,21 176:4,25 198:23 199:6 203:24,25 224:25 225:15	<b>representatio ns</b> 83:12,15 280:24	<b>requests</b> 13:3 23:11,12 128:7	<b>requirement</b> 54:8 58:12 59:2 87:2 88:22 96:12, 13 97:5,10, 14,17,19 99:14 101:20 102:1 103:6 120:14 125:13 126:23 128:11,13	<b>requires</b> 26:20 27:11 29:4 53:13 57:5 131:19 132:15 145:15 183:24
<b>reported</b> 166:11	<b>representativ e</b> 27:3 217:17 231:19 232:14	<b>requested</b> 13:25 17:22 284:18	<b>requesting</b> 30:4 253:20	<b>requiring</b> 129:2
<b>reporter</b> 1:11, 12 95:8 135:6 213:12 223:6 243:18,21 273:25	<b>representativ es</b> 119:15,19	<b>requested</b> 13:25 17:22 284:18	<b>requesting</b> 30:4 253:20	<b>requiring</b> 129:2
<b>reporters</b> 210:23	<b>represented</b> 7:18 15:3,14, 19 16:22 18:11 41:16 157:10 225:11 276:2	<b>require</b> 18:18 28:13 56:7 68:3 87:15,20 91:8 92:13 102:23 103:2	<b>requirement</b> 54:8 58:12 59:2 87:2 88:22 96:12, 13 97:5,10, 14,17,19 99:14 101:20 102:1 103:6 120:14 125:13 126:23 128:11,13	<b>requiring</b> 129:2
<b>reports</b> 37:4				<b>requisite</b> 11:8,13
				<b>rescind</b> 63:11
				<b>research</b> 196:16
				<b>reserve</b> 212:4 282:13

<b>reserves</b> 279:4	26:14 28:8 30:17 47:12 52:12,14,22, 23 53:8	292:13,14,16, 22,24 293:11, 20 294:3	172:10,14 174:14 175:15 177:25 179:14,20 180:7 181:8 184:19 188:19,21 190:6,9 191:1,13 199:12,18,21, 23 208:12,13 209:4,6,15 210:11,13 216:19 217:21 219:4, 9,12 220:3 221:11 222:10,14,17, 19 223:5,12, 19 224:1,2,5, 17,24 225:7, 18 229:7 230:12 232:12 234:16 236:16 239:22 240:4, 8,12,17,18, 21,23 245:5, 7,13,17,18, 20,24 246:11, 19,22 247:1 253:1,24 254:24 255:9 256:10 268:20,25 269:2,5,7 270:15,21,25 271:1 275:10, 11,18 276:9, 12,18,24	277:12,13,15 278:2,16 279:11,18 281:14,15 282:8,14 283:1,12,16, 18 286:13,17 288:6 292:1, 4,5,9,21 293:8
<b>resident</b> 209:3	54:17,19 56:18,25 57:15 68:2 71:12,15 89:13 91:22 104:18 106:20 109:5 111:9 114:7 116:8 118:9 122:14 133:6 136:20 154:20 155:3, 16 169:24 170:3,15 172:6 175:6 181:15,21 182:2 185:2 190:25 191:9, 10,16 192:16 193:2,9 194:7 198:17,25 199:8 205:3 208:18,21 219:10 221:21 223:9 224:20 229:18 233:7 235:2,4 237:8 239:22 246:4, 6,8,10 253:4 268:4 270:20 274:4 278:6 279:3 280:3, 6,8,12,15,20 281:10 283:20 288:9 290:23 291:11,22,24	<b>resources</b> 1:5 6:6 11:22,23, 25 13:4 19:16 31:11 51:21 53:17 54:16, 20,24 55:18 56:13,23 57:1 59:9 60:3,19, 25 66:25 67:22 71:2,4, 8 72:17,18,19 73:4 89:11 91:13,19,25 92:8,22 94:21 97:6 100:16 105:4 106:24 108:7,11,18, 24 109:6 110:2,3,6,10, 12,21 111:24 112:11 113:25 114:8, 25 115:6,14 116:6 119:2, 17 120:3 129:18 131:19 136:18 143:4, 11,15 148:2 153:7,20 154:4 155:8, 11 156:2 159:22 161:5, 17,22 163:19, 21,24 164:3, 11 165:21,23 166:5 170:11 171:15,16,19		
<b>residents</b> 209:14 231:20 286:12				
<b>resist</b> 119:2				<b>respect</b> 35:1 44:16 83:13 198:16 219:2 284:15 287:13 289:8 294:19
<b>resistant</b> 118:25				
<b>resisted</b> 122:16 124:22 192:13				<b>respectfully</b> 26:25 61:9
<b>resisting</b> 111:16 124:22 226:12				<b>respond</b> 82:11 115:14 117:20,23 122:6 145:5 159:4 182:17, 21 203:19 244:8 285:4,9
<b>resolution</b> 22:11				<b>responded</b> 120:23 123:1
<b>resolve</b> 99:22				<b>responding</b> 192:22 227:3 244:9
<b>resolved</b> 285:1				<b>response</b> 14:5 23:7 54:23 55:4
<b>resource</b> 6:13 10:19 12:5 13:2,7,23				

76:3 90:19 104:13 146:20,23 171:19 177:8 190:2 222:2 227:7 231:8	<b>restriction</b> 127:3,16 173:9,17 174:16 233:24 234:1 240:6 245:12 257:16	<b>results</b> 54:21 62:19 64:9,18 76:9 113:20 140:13 142:12 144:11 154:1 169:10,13,14 171:22 209:22 255:14 269:8	280:24 281:10	<b>revises</b> 99:7
<b>responses</b> 9:14 22:25 23:3,11 91:4	<b>restrictions</b> 39:13 174:13 224:2 245:6, 23	<b>resume</b> 244:18	<b>revenues</b> 263:19	<b>revisions</b> 270:18
<b>responsibiliti es</b> 167:4,12	<b>restrictive</b> 221:5 226:20	<b>retail</b> 159:8 168:25 169:4 204:19	<b>reverting</b> 145:25	<b>RFP</b> 5:12 7:20 10:23,24 11:21,24 12:4 13:5,6,24 14:2,6,9,13 16:10 17:18 18:1 24:23 26:21 27:8,20 28:6,20 31:10,18 32:17 33:14, 15,19,21 34:2,3 35:2 37:17 38:1 39:8 41:23,24 43:9 44:18 50:5 51:23 52:8,17,21 53:7,10,14, 18,25 54:6,22 55:2,4,9,11, 13,24 56:6, 12,24 57:3,5, 14 60:14,16, 19 61:3,6 64:7,10,19 65:7,9,23 66:3 67:22 68:9,11,13,17 70:20 71:9 76:16 78:22 86:8 88:5,7, 12 89:8,21 90:6 91:19,21 92:2,9,21 100:16
<b>responsible</b> 80:17 81:8 274:3,14,15 275:12 286:5	<b>rests</b> 291:14	<b>retained</b> 24:24 239:25 245:8	<b>review</b> 21:21 37:4 51:24,25 52:10 54:6 55:15 61:8 66:3 90:22 91:23 103:2 107:19 119:12 122:3 140:20 151:24 152:3 153:10,21 160:11 173:2 198:1 199:19 246:17 254:9 269:10 277:24 293:22	
<b>rest</b> 27:17 157:4 201:12 250:5	<b>result</b> 10:20 13:4 18:15 32:6 57:7,14 128:23 129:5 144:19 155:13 159:6 161:16 164:10 169:2 183:6 209:22 217:25 239:22 245:4 264:9 275:8	<b>retest</b> 193:1		
<b>restart</b> 18:19		<b>retired</b> 272:15		
<b>restate</b> 86:22 219:25		<b>retract</b> 223:3	<b>reviewed</b> 132:22 168:2 246:11	
<b>restrained</b> 71:25	<b>resulted</b> 274:6	<b>return</b> 115:23 124:4	<b>reviewing</b> 71:19 160:25 215:6	
<b>restrict</b> 223:25	<b>resulting</b> 12:6 13:6,24 116:21 280:25	<b>returns</b> 124:8	<b>reviews</b> 52:21	
<b>restricted</b> 219:4 229:6 246:6 278:4		<b>revenue</b> 5:13 58:12,14 59:2 96:1 120:14 273:21 274:15	<b>revise</b> 245:19	

101:13	197:14	<b>RFP'S</b> 25:1	116:25 117:6	198:16
103:13	198:24 199:7		121:9 123:2,	
104:16	201:21 202:3	<b>RFP-</b>	21 126:9	<b>RMP-3</b> 50:19
105:23 107:1	205:4 206:1,	<b>TARGETED</b>	127:12,13	
108:6 109:10	10 207:3,4	180:11	128:3 145:12	<b>RMP-4</b> 50:19
110:1,2	208:23 209:9		149:16 185:3	
115:11	210:5,8,9,10	<b>RFPS</b> 166:18	186:2,10	
118:14,17	215:6 216:16	178:24 179:4,	187:14	<b>road</b> 42:3
120:6 122:2,	217:2,14	9 180:20	190:22 191:2,	181:25 185:7
4,14 128:23	218:7 219:2,	181:12,16	4,19,23	190:3 192:12
129:5,17	3,5,14,22	184:14 192:9	193:22 194:4,	
130:15 133:7,	220:1,6,9,12,	196:9 209:21	9,10,17	<b>Robert</b> 2:11
21 136:2	14,15,18	210:4 224:15	195:2,4	
137:8,20	221:2 222:25	254:1 273:18	204:21,25	<b>Robinson</b>
138:25	225:16	274:4,5	205:10,16	1:12
139:11,12	226:13,24		206:5,9,16,24	
140:13 143:7	227:4,25	<b>Rick</b> 3:4 5:4,	258:17,19,20,	<b>robust</b> 29:3
149:3 151:17	229:2,6,18	6,9 7:2 46:24,	22,24 291:11	51:24 54:23
152:12,24	233:24 234:2,	25 47:8	292:2	164:9 171:3
153:3,19	8,13 235:21,	280:17	<b>risks</b> 79:4	172:7 208:15
154:4,23	25 236:20		121:2,5,10,11	227:25
155:12	239:21 240:2,	<b>rights</b> 14:11	122:4,6,17,	252:24 275:9
157:24 159:5	19,20,22,25	22:19 94:12	19,25 123:11,	281:18
161:13	245:19	143:12,13,14	18,19 193:17,	
162:14	246:12,15	257:9,12	20 195:14	<b>robustness</b>
163:11,19,20	247:4,6,9,11		237:21	176:12
164:6,25	252:21,22,25	<b>rights-of-way</b>	<b>risky</b> 122:18	
168:17,22	253:4,25	141:3,5,7,9,		<b>Rocky</b> 1:3
169:2,8,11,23	254:11,20,23	15	<b>rmoore@</b>	2:2,3 6:5,6,
170:7,10	255:2,5,8		<b>utah.gov</b> 2:14	10,21 7:1
171:12,13	257:3,18	<b>rising</b> 267:19		13:22 16:11
172:13	263:17 265:4	269:20	<b>RMP</b> 5:4,6,9,	20:23 24:9
176:18	268:24 269:5,		11 47:14,15	46:14 47:1
180:12 181:3,	8 270:19,25	<b>risk</b> 57:10	48:2,3,11,24,	50:24 57:24
14 182:1	273:19 275:5,	74:23 90:7	25 49:22,24	85:9 157:15
183:6,15,20	8,24 276:4,	91:5 94:5,24	50:4,12 57:22	198:20 207:2
184:3,6	11,23 278:4	101:8 103:5	60:17 64:4	213:20
186:2,3,20	284:8 285:14	104:19 107:1	150:24	262:12
187:3,22	286:8,11	115:3,4		264:10 270:9
188:8 189:5,	287:13 288:4,			
23,25 192:10,	11 291:23			
14,19 196:23	292:3 294:3,6			

281:17 283:14 288:24 294:18	<b>Roswell</b> 242:25	16:7 21:9,12 24:3,12 25:2 28:12 29:6,18 35:8 38:8 41:7 54:1 160:23 196:11 204:15 208:20 235:4 239:24	<b>said</b> 13:10 23:16 33:24 40:9,10,13,19 41:9 62:21 78:1,2 90:5 93:4 98:4 120:11 123:12 124:16 125:19 128:10 137:4 171:8 176:24 178:2 181:1 185:5 186:16 188:2,9,23 191:9 192:7 193:11,21,25 194:1 196:7 197:14,15,16, 22 201:11,20 217:17 224:14,22 227:7 228:19 229:4 230:22 231:13 235:16 263:10,22 275:4 276:25 283:8	95:1 105:24 108:7 111:23, 25 112:11,14, 20 114:4,14 119:4 127:17 140:13 146:4 151:22 154:15 155:18 161:22 163:15 205:15 216:4, 5 224:4 226:7 227:2 235:24 237:12 239:7, 8 244:13,14 246:16 249:17 252:7, 8 254:1 262:23 267:23 268:7, 8 281:3 288:9
<b>ROE</b> 124:9	<b>roughly</b> 111:2 139:16 156:6	<b>ruling</b> 100:21 294:20		
<b>Roger</b> 7:10	<b>round</b> 6:8	<b>run</b> 74:18 111:20 121:8		
<b>role</b> 38:7 157:20 159:15	<b>route</b> 186:8	<b>running</b> 144:3,13		
<b>roles</b> 190:15	<b>RPS</b> 203:1	<b>runs</b> 212:3		
<b>roll</b> 90:24	<b>RR</b> 154:17	<hr/> <b>S</b> <hr/>		
<b>rolled</b> 283:15	<b>RRP</b> 17:20			
<b>rolling</b> 91:9	<b>RTL-S1</b> 47:15 48:3 49:24			
<b>Roman</b> 235:1	<b>RTL1</b> 47:14 48:1			<b>San</b> 251:21
<b>room</b> 8:18 9:23 23:16 26:1,3 44:4 45:7,11 49:15 80:13 95:12 158:8 195:24 207:1,16,20 212:20 213:15 244:22 266:19	<b>RTL2</b> 47:14	<b>S&amp;p</b> 225:9 244:18		<b>Sarah</b> 4:15 200:2 266:23 267:2,8
	<b>RTL3</b> 47:14 48:1	<b>safe</b> 89:24 97:1,7,22 100:12 101:18 102:12,17,25 103:8 127:5 134:18 138:24 143:16 145:13 146:7 155:7 213:24	<b>sales</b> 59:16	<b>sat</b> 195:24
	<b>rule</b> 12:10 22:13 40:22 101:1 234:18 235:13		<b>Salt</b> 1:10 2:5, 9,13,16,21,25 238:24	<b>satisfaction</b> 97:16
	<b>ruled</b> 9:20 11:4		<b>same</b> 16:17 17:20 47:22 49:25 57:2 62:22 68:18 71:17 92:3,20	<b>satisfies</b> 169:24 170:7, 11
<b>Rose-marie</b> 1:12	<b>rules</b> 10:24			<b>satisfy</b> 61:6

<p>103:3 149:23 171:14 217:17 235:6</p> <p><b>save</b> 280:18</p> <p><b>saved</b> 46:2</p> <p><b>savings</b> 51:23 53:6 54:25 60:4 71:15 279:12 280:11 291:8</p> <p><b>saw</b> 143:20 285:5 287:24</p> <p><b>say</b> 27:14 34:10 37:18 40:7,11,12, 14,24 42:11 62:6 66:11 67:4 84:1 89:24 101:8 102:9 104:16 105:1,10 113:2 115:3 119:4 122:18 123:3 138:3 139:16 149:20 153:4 155:5,7,9 173:6,9 174:12 175:19 190:3, 6,11 195:21 198:2 201:10 202:2,8 212:16 213:12</p>	<p>221:25 229:1, 25 230:13 231:17 232:19 233:25 242:9 251:9 253:17 262:1 263:16 269:16 277:7, 12 281:24 284:5</p> <p><b>saying</b> 27:25 42:3 75:15 78:4 82:14, 16,17 99:12 106:2 108:4,8 112:4 119:7 120:8 122:6 124:25 131:11 132:5 133:2 137:17 150:25 151:10 171:14 174:9 177:17 178:1, 3 179:13 182:19 187:11 200:16 209:17 230:9 281:13 285:15</p> <p><b>says</b> 11:12 28:4 37:15,25 99:1 167:4 168:11 184:23 196:24 200:18 204:8 229:4 235:1</p>	<p>247:5 284:7,8</p> <p><b>scale</b> 265:21</p> <p><b>scales</b> 17:11 90:21 258:13</p> <p><b>scenario</b> 73:10 112:25 122:23 153:25 275:14</p> <p><b>scenarios</b> 58:6 60:11,13 62:10 121:9 123:12,13 143:22 155:11 227:11</p> <p><b>schedule</b> 53:13,18 88:20,21 90:18 91:7 140:5,8,9 157:6 188:10 189:12 249:3 262:17,22</p> <p><b>scheduled</b> 141:20 289:17</p> <p><b>scheduling</b> 15:9 21:2 36:24 41:9 48:14,16</p>	<p><b>Schmid</b> 2:7 3:6,12,22 7:4 28:23,25 29:2,20 61:16,17,19 138:8,9 165:10,11 211:1,5 213:18 214:1, 2,12 216:13 218:9 220:13, 15 221:23 223:17 224:8, 12 228:13 229:11 233:16,17 238:6,7 241:14,15 248:8,9 260:24,25 261:6,8,9 271:15,16 287:4,5 291:17,18,21 294:1</p> <p><b>scope</b> 55:9, 14,18 57:14 60:23 61:2 82:9,13 83:5 85:15 89:10 90:14,18 91:18 92:13 115:11 117:19 118:5 124:7,13 153:16 221:2, 25 223:18 228:14,19,22 247:3 249:1 268:24 269:5 270:24 285:8</p>	<p>292:5</p> <p><b>scoring</b> 91:24</p> <p><b>SCR</b> 30:21</p> <p><b>screen</b> 276:18</p> <p><b>screening</b> 254:9 276:19</p> <p><b>scrutinize</b> 64:21</p> <p><b>seal</b> 292:20</p> <p><b>search</b> 236:15</p> <p><b>seasonal</b> 141:23</p> <p><b>seasons</b> 141:23</p> <p><b>seats</b> 46:7</p> <p><b>second</b> 14:18 18:1 38:18 48:15 53:2 65:6 97:10 98:17 102:1 113:7 114:5 150:24 151:10 153:19 204:7</p>
--	--	--	--	---



<p>212:5 219:19 227:23</p> <p><b>secondly</b> 85:23 97:21 184:14</p> <p><b>section</b> 99:1 100:1,6 167:11 173:25 235:7 240:19</p> <p><b>sections</b> 99:1 167:22</p> <p><b>sector</b> 273:17</p> <p><b>secure</b> 87:5 143:2 260:14</p> <p><b>securities</b> 260:6</p> <p><b>security</b> 86:13 87:3, 10,15 258:22</p> <p><b>seek</b> 217:25 240:17 255:15 256:3 261:23 283:25</p> <p><b>seeking</b> 17:4, 19,20 19:5 31:17,18 39:15 60:19</p>	<p>74:3 106:17 127:6 140:21 224:15 225:18 245:2 264:16 285:22 286:9</p> <p><b>seeks</b> 13:11 15:16</p> <p><b>seem</b> 110:19 172:2 286:8</p> <p><b>seeded</b> 162:7 163:16 192:23</p> <p><b>seems</b> 12:14 29:11 61:21 177:20 226:8 236:13 284:15 286:4 287:14</p> <p><b>seen</b> 60:5 96:1 160:21 192:14 196:16 200:13,19 207:18 253:25 265:17,20 285:5</p> <p><b>sees</b> 235:9</p> <p><b>segment</b> 75:16,19 129:19</p>	<p>131:21 133:4 148:1 278:13 283:22</p> <p><b>segments</b> 73:1,3,7,9,18 74:6 75:15 76:23 130:17 148:20 150:7</p> <p><b>select</b> 73:1</p> <p><b>selected</b> 68:8 140:15 158:1 175:20 230:23 246:11 270:7 275:10</p> <p><b>selection</b> 53:10 198:17 208:12 269:25 276:24</p> <p><b>selective</b> 75:3</p> <p><b>self-build</b> 194:10</p> <p><b>self-builds</b> 196:1</p> <p><b>Selgrade</b> 7:23 9:2,8</p> <p><b>sell</b> 257:5 258:12</p>	<p><b>selling</b> 259:2</p> <p><b>sells</b> 282:21</p> <p><b>semantics</b> 170:9</p> <p><b>sending</b> 21:22</p> <p><b>sends</b> 8:8</p> <p><b>senior</b> 251:22</p> <p><b>sense</b> 122:8 152:20 160:18 201:13 212:10 215:22 227:12,13 232:18 253:16 255:4 265:1 275:25</p> <p><b>sensitive</b> 19:3 23:2</p> <p><b>sensitivities</b> 73:17 74:18 76:2,21,23 77:6 143:17 144:4 150:1</p> <p><b>sensitivity</b> 73:9,13,24 76:16 78:2,4 142:24</p>	<p><b>sentence</b> 135:13 168:20 169:21,22 173:14 174:15 204:7 215:19,21,25 229:25</p> <p><b>sentences</b> 42:8</p> <p><b>separate</b> 18:25 33:11 43:14,19 56:21 89:12, 14 92:21 101:14 104:20 106:8, 15 111:11 150:6,17 154:14 155:12 160:8 163:20 210:4</p> <p><b>separately</b> 104:5 127:4</p> <p><b>September</b> 1:8 6:1 15:10, 11 20:23 60:21 61:4,11 90:15 239:3 243:10 289:1, 3,7,10,16</p> <p><b>sequence</b> 210:2</p> <p><b>series</b> 135:21</p>
---	---	---	--	--

<p><b>serve</b> 157:23 158:1 245:25 253:21</p> <p><b>served</b> 158:2</p> <p><b>serves</b> 14:24 21:10</p> <p><b>service</b> 1:1 58:12,16 62:4 81:14 102:6,9 117:2 127:1 129:1 130:9 148:4,13 166:11 179:9 215:1 257:18 260:4 261:18 281:4</p> <p><b>serviced</b> 148:24</p> <p><b>services</b> 1:9 2:11 7:11 15:25 32:25 45:9 68:16 238:23 239:1 243:7</p> <p><b>serving</b> 19:2 159:17</p> <p><b>set</b> 20:22 41:5,6,7 43:6 108:7 132:25 198:25 199:8 208:15 234:17</p>	<p>235:12 252:7 257:13 275:9 282:18</p> <p><b>sets</b> 41:2</p> <p><b>settlement</b> 15:23</p> <p><b>seven</b> 123:15 274:12</p> <p><b>several</b> 88:2 146:19 162:1 164:17 196:9 206:22 208:24 258:9 259:14,25 261:15 264:14,16 274:5 275:13 290:14</p> <p><b>shadow</b> 246:7</p> <p><b>Shannon's</b> 12:9</p> <p><b>shape</b> 10:24 12:4 142:5 213:22</p> <p><b>share</b> 39:19 51:10 129:15 144:6 227:6</p> <p><b>shared</b> 145:1</p>	<p><b>sharing</b> 144:18</p> <p><b>shifting</b> 127:13</p> <p><b>short</b> 94:5 129:11 130:19 131:2, 25 132:2 140:16 154:1 155:4 189:3 190:5 201:15 202:14 231:7 276:9,22</p> <p><b>short-list</b> 131:24</p> <p><b>short-listing</b> 131:23</p> <p><b>short-term</b> 57:10 204:21</p> <p><b>shortlist</b> 92:14</p> <p><b>shortly</b> 264:17</p> <p><b>should</b> 8:17 10:17 18:3 19:8 20:16 21:19 25:17, 18 26:25 27:2,7,12,17, 24 28:2,5</p>	<p>29:11 30:8 37:9 38:4,12 39:8 43:10 55:25 89:21 93:25 106:10 146:22 150:15 160:19 164:10,18,23 167:17 174:14 177:4 195:22 196:19 197:18,19 198:24 199:7 204:25 205:12 209:5, 15 210:15 215:24,25 219:4 221:2 225:2 229:2,6 231:13 232:25 240:20 245:20 250:6 252:22 253:4 254:21 257:2, 12 265:2,4 267:23 277:12 284:3</p> <p><b>shouldn't</b> 259:16</p> <p><b>show</b> 10:16 18:9 20:18 35:18 82:19 85:1 88:9,15 96:24 97:12, 18 99:14 102:2 104:9</p>	<p>109:19 112:7 132:9 143:21 148:11 278:2 292:22</p> <p><b>showed</b> 100:4 107:1 109:11 280:9 292:9</p> <p><b>showing</b> 6:11 11:13,15 12:13 102:4 108:8 111:19 137:8 142:16 144:1 175:10 183:6</p> <p><b>shown</b> 57:19 58:25 102:3 108:11 112:8 181:14 277:4</p> <p><b>shows</b> 52:23 58:2 108:1 109:6 110:1 113:3 122:22 240:15 277:3</p> <p><b>shut</b> 16:24</p> <p><b>sic</b> 89:7 167:11</p> <p><b>side</b> 14:9,10, 13 74:15 200:23 274:18</p>
---	--	---	--	--

<p><b>sides</b> 20:5 187:9</p> <p><b>sign</b> 86:6 258:21 260:7</p> <p><b>signal</b> 292:21</p> <p><b>Signature</b> 150:16</p> <p><b>signed</b> 86:11 253:19 260:3</p> <p><b>significant</b> 13:23 52:13 53:6 68:3 96:25 110:20 123:25 163:22 202:20 206:24 253:7, 11 254:7 260:2 269:11 270:8</p> <p><b>significantly</b> 31:20 66:5,9 98:15 192:16 249:23 269:14,22</p> <p><b>signing</b> 86:6 197:24</p> <p><b>Sigurd</b> 148:24</p> <p><b>silent</b> 228:25</p>	<p>229:2</p> <p><b>similar</b> 14:15 16:11 30:10 73:10 140:10 151:24 153:23 165:23,24 182:7 200:2 219:15 223:12</p> <p><b>similarities</b> 30:1,24 31:2, 4,17 166:2,3 223:14</p> <p><b>similarly</b> 44:22 71:25 72:22 226:25</p> <p><b>simple</b> 50:2 107:23,24</p> <p><b>simply</b> 52:16 64:18 72:4 122:7 143:1 183:4</p> <p><b>simulation</b> 113:21 293:20</p> <p><b>simulator</b> 279:22</p> <p><b>simultaneousl y</b> 209:21</p>	<p><b>since</b> 6:16 66:6,9 155:4 192:16 199:14 203:16 289:5</p> <p><b>sir</b> 119:8</p> <p><b>SIS</b> 17:16</p> <p><b>sit</b> 26:8 89:6 103:15</p> <p><b>sits</b> 63:1</p> <p><b>sitting</b> 46:17 120:7 163:8 209:3 216:21</p> <p><b>situation</b> 30:2 100:1 147:8 161:19 166:5 170:18 184:24 185:5, 22 190:12 224:4 227:8 283:24</p> <p><b>situations</b> 185:13</p> <p><b>six</b> 202:9 203:5 212:3 213:6 226:17 274:12</p> <p><b>six-state</b> 81:14 119:9</p>	<p><b>size</b> 280:8</p> <p><b>skeptical</b> 277:15</p> <p><b>sleeves</b> 90:24 91:10</p> <p><b>slightly</b> 196:4 234:19 262:24</p> <p><b>slow</b> 191:24 193:7</p> <p><b>slows</b> 193:4</p> <p><b>small</b> 253:1 288:6</p> <p><b>smaller</b> 17:5</p> <p><b>solar</b> 11:23, 25 12:4 34:3 43:10 56:13, 17 66:4,5,8, 14,25 67:13 71:25 72:3, 12,18 73:15, 21,25 75:8 78:21,25 84:23,24,25 88:13,17 89:13 91:19, 25 92:3,7,8, 22 93:3 103:13 104:25 105:2,</p>	<p>3,20 110:21 111:22 113:17 115:15 116:5, 8 117:15 118:2,8,17,20 127:23,24 136:13,17 137:8,11,14 138:25 139:1, 3,13,15 148:20 149:2 151:15 152:12 153:6, 12,20 154:7 155:1,6,16,19 156:8,21 162:5 165:23 166:5 171:13 172:10,13 178:10 179:20 180:6, 13,14,15,18, 21 181:8 184:13 186:4, 9,20 187:3 188:8 189:1, 6,14 190:6,24 191:14 192:9 193:5,6,12 199:18,23 200:4,6,19 201:8,15,23, 24,25 202:25 206:3 207:3, 17 209:6,17 210:9 219:15 221:18,21 222:4,5,10, 14,18 223:12, 19,25 224:5, 18 226:24,25</p>
---	--	--	--	--

227:3 228:11, 19,21,25 229:2,10,18, 20,23 230:17, 21 231:2,16 233:6 236:1 237:8,12,16, 23 238:1 246:19,24 248:19,20 249:4,8,11, 15,17,22 252:1,22,23 253:3,5,9,10, 12,18,25 254:13,23,25 255:2,4,9 257:18 258:4, 13,17,18 259:6,10,14, 22,25 262:2,8 265:17,20,23 267:19,25 269:1,4,12, 14,17,19,22, 23,25 270:2, 3,8,11,12,18, 21 271:1,2 286:13	<b>solicitation</b> 1:4 6:6,12 16:6 19:14 21:16,21,25 22:4,9 23:5,6, 8,14,18,23,24 25:7 33:17,23 34:6,9,12,15 38:3 55:2 64:11,15 76:17 88:21 89:13 115:14 157:24 159:16 161:20,24 162:6,8,16 163:16,25 164:1,10 167:21 168:5, 11,23 170:19 171:1 172:7, 10 199:10 201:9,10 204:8,9,12 208:9 209:10 214:25 218:7 230:20 239:23 245:2, 10,21 246:25 249:5,24 275:20 279:10	200:19 225:11 246:6  <b>soliciting</b> 21:19 22:1,9, 19,24 23:3,10 168:4 204:20, 22  <b>solution</b> 236:6 256:11 285:19,20  <b>solve</b> 235:16 236:2 291:23  <b>solving</b> 235:21  <b>somebody</b> 35:23 37:20 49:18  <b>somehow</b> 36:10 267:16 276:11  <b>someone</b> 9:15 80:1 209:3  <b>something</b> 28:23 35:11, 24 38:14 106:10 107:16 114:9 117:9 124:17 126:1 133:23	141:11 175:17 187:6 236:15 265:13 286:3 287:24  <b>sometime</b> 66:21 294:22  <b>sometimes</b> 215:17 261:24,25  <b>somewhat</b> 122:18 275:2  <b>somewhere</b> 112:2 131:11 132:10 142:18 237:16  <b>soon</b> 61:4 90:15 116:9 134:22 144:3 153:17 162:18 163:21  <b>Sophie</b> 8:7  <b>sorry</b> 42:6 69:23 139:7 168:13 173:12 204:24 219:23 223:6, 7 243:8,13,18 244:3 247:19,	22 248:21 251:6,9 262:6,19 267:21 273:15,22 277:11 284:13 294:7  <b>sort</b> 31:13 33:24 40:6 41:19 144:22 255:20 293:3  <b>sorts</b> 30:14 159:21  <b>sought</b> 15:16  <b>sounds</b> 151:6 172:12 189:12 237:4, 9  <b>source</b> 80:8 98:3 192:9, 19,24 279:4  <b>sourced</b> 113:5 114:3  <b>sources</b> 178:9 183:7 184:12 225:5  <b>sourcing</b> 256:5  <b>south</b> 1:10
<b>sole</b> 41:25 284:1,2,11  <b>solely</b> 71:1 85:17 101:3 237:9  <b>solicit</b> 26:22 162:11 208:15 210:10 240:3	<b>solicitations</b> 10:20 68:19 158:4 159:18, 20 160:22 162:1,9,22 170:21,22 171:8,9,17 178:15,22 179:1,2,15,22			

<p>2:4,8,12,20, 24 73:20 74:25 75:12, 14,20 77:7,10 148:18,19,20 149:5,22,24 150:11 179:11 180:3 214:18 238:23 283:22</p> <p><b>southeastern</b> 149:7</p> <p><b>southern</b> 26:11 71:24 72:10 73:14, 15,25 74:13 75:4,7,24 149:20 221:20 280:10</p> <p><b>southwestern</b> 149:20</p> <p><b>space</b> 167:19</p> <p><b>speak</b> 10:7 40:4 121:22 134:14 213:11 251:2</p> <p><b>SPEAKER</b> 262:3 287:16, 19</p> <p><b>speaking</b></p>	<p>26:1 49:15</p> <p><b>special</b> 219:17 261:24</p> <p><b>specific</b> 73:24 74:6 79:9 81:5 88:19 91:24 92:5 93:10 96:3 119:22 123:5 130:3 144:24 152:8 179:15 198:16 200:10 205:8, 19 246:6,8 285:22</p> <p><b>specifically</b> 76:21 79:8 166:6 183:13 185:4 195:13 199:24 218:3 229:1 292:4 293:17</p> <p><b>specifications</b> 92:7 139:13</p> <p><b>specifics</b> 84:18 94:3 155:9</p> <p><b>speculating</b> 74:5</p> <p><b>speculation</b></p>	<p>105:7,10 194:17</p> <p><b>speculative</b> 57:19 62:7,11 120:25 122:6, 7,18</p> <p><b>speeches</b> 92:25 93:7</p> <p><b>spend</b> 30:5, 20 211:2 231:9</p> <p><b>spending</b> 113:3 124:1</p> <p><b>spent</b> 253:11 274:10,11,12</p> <p><b>spoken</b> 33:8 46:3</p> <p><b>spower</b> 2:23 8:22 10:4,15 11:22,25 12:3,15 14:16 15:16 16:18 17:7,15,20,21 18:5 19:2,4,7, 13 20:18 21:3,7 22:16 24:9,19 29:11 33:1 34:4 35:14,15 36:17 38:14 42:19,21 44:12,18</p>	<p>45:10 85:24 136:23 251:22,25 252:21 253:10 257:17 258:12,19 259:1,6 261:20 284:18</p> <p><b>spower's</b> 10:17 11:19 12:1 15:13, 18,19 16:9,24 17:2,3,17 18:10,16,20 19:16,19 20:16,24 25:22 32:13, 16 42:25 200:5 253:18 254:5 258:13, 17,20 294:21</p> <p><b>stable</b> 148:9</p> <p><b>stack</b> 114:7</p> <p><b>staff</b> 81:10 119:24 212:6</p> <p><b>staffing</b> 256:4 257:19</p> <p><b>stage</b> 21:1 36:23 37:1 132:13 254:6</p>	<p><b>stages</b> 37:17, 24 219:20 220:7</p> <p><b>stakeholders</b> 143:23 144:6, 12 269:9</p> <p><b>stand</b> 25:12 174:11 266:23 272:1 290:4</p> <p><b>standard</b> 25:18 70:15 87:7 102:3 105:1 146:8 169:25 170:8 219:10</p> <p><b>standards</b> 6:13 29:10 148:9 204:3 224:25 245:11</p> <p><b>standpoint</b> 31:1 237:5</p> <p><b>stands</b> 126:17 215:21</p> <p><b>start</b> 45:17 94:3 101:18 102:16 106:20 107:8 141:22 150:25 174:9</p>
---	--	--	--	---

178:21 189:24 194:15 202:7 213:22 216:1 244:2,4 263:2,3 266:22 267:24	53:1	267:17	18	285:5
<b>started</b> 27:9 28:15 84:23 143:18 187:10	<b>stated</b> 14:7 25:1 65:21 115:11 164:14 170:16 198:15 222:24 239:20 258:4 280:14	<b>stating</b> 219:25 282:7	<b>step</b> 26:18,19 51:19 64:2 152:14 182:1, 2 237:6	<b>stop</b> 88:13 189:6 204:24 208:7
<b>starting</b> 70:10 204:7 215:19 261:2	<b>statement</b> 42:9 55:24 88:3 93:8,17 115:24 130:20 167:25 168:8 184:9 196:23 222:16 224:21 225:9 228:11 229:21 230:3 239:15 241:2 246:13	<b>status</b> 32:4 37:3 55:13 68:24 81:11, 16 175:15 176:6 190:17	<b>step-downs</b> 263:6	<b>storage</b> 159:22 171:19
<b>starts</b> 27:13, 25 28:12 173:15 174:7 234:23	<b>statements</b> 216:23	<b>statute</b> 10:17 11:12,17 26:20 27:11 43:15 70:15 183:24 234:18,19 235:12 240:16	<b>steps</b> 89:1 92:12 146:2 182:1 293:8	<b>straight</b> 232:16 257:23
<b>state</b> 11:4 12:7,23 26:13 47:6 52:9 159:9 165:19 168:16 169:1 170:10 175:11 181:5 182:4,6,24 183:5,11,14, 15,17 200:3 204:20 231:19,23 238:19 251:3, 18 253:3,8 273:19 274:8	<b>states</b> 21:17 22:6,20 40:23 63:19 88:8 159:18 167:10 169:22 179:12 180:8, 10,15,17,22 181:4,5,7 200:5,7 228:7 230:2,5,10	<b>statutes</b> 29:6 35:23 182:24	<b>Steve</b> 8:18 272:1	<b>straight-up</b> 105:4
<b>state-specific</b>		<b>statutorily</b> 15:25 32:24	<b>Steven</b> 4:18 272:7 273:12	<b>strategy</b> 47:12 142:3
		<b>statutory</b> 6:13 16:5,14, 17 42:13 152:17 181:13 183:17,19 184:5 208:6	<b>still</b> 46:3,4 59:9 90:25 102:12 145:25 169:9 176:1 185:19 186:23 187:16,19 221:8 228:8, 11 229:20 230:3 237:25 245:12,14,15 246:12 255:10 285:6 290:9	<b>stream</b> 19:24 59:1 60:8 62:13 106:1,2
		<b>stay</b> 122:20 212:6 213:5,	<b>stipulated</b> 284:17 285:2	<b>streamed</b> 9:16
			<b>stipulation</b>	<b>streaming</b> 213:17
				<b>streams</b> 57:19 58:19
				<b>Street</b> 2:4 251:21
				<b>strictly</b>

<p>217:15 218:3 235:9,16 236:2</p> <p><b>strong</b> 180:15,18</p> <p><b>strongly</b> 142:17 253:3 256:7</p> <p><b>structural</b> 37:19</p> <p><b>structure</b> 87:23 154:6 161:13 168:21 265:5</p> <p><b>structured</b> 31:11 274:19 288:11</p> <p><b>struggling</b> 228:15</p> <p><b>studied</b> 58:10 90:10</p> <p><b>studies</b> 17:17 71:7 73:11 74:22 76:10 130:6 137:8 139:9 144:20 147:25 148:2, 10 255:16,23, 25 257:20 277:16</p>	<p>279:21</p> <p><b>study</b> 56:6 69:3 74:9 78:2,5 89:25 90:4 93:1,10, 12 123:12 128:2 144:11 217:2 254:6 255:14</p> <p><b>study's</b> 152:3</p> <p><b>studying</b> 72:21</p> <p><b>stumbled</b> 218:25</p> <p><b>styled</b> 219:21</p> <p><b>sub</b> 278:12</p> <p><b>subject</b> 11:9 13:6,13 87:18 111:3 137:24 183:14 193:15 221:15 282:1</p> <p><b>submit</b> 24:10 26:25 28:17 165:1 257:21</p> <p><b>submitted</b> 23:12 57:22 109:20 128:12</p>	<p>157:25 159:14 267:12</p> <p><b>submitting</b> 56:8</p> <p><b>subsegment</b> 76:18 77:6,9</p> <p><b>subsegments</b> 76:23 143:19 150:7</p> <p><b>subsequent</b> 44:14</p> <p><b>subset</b> 75:13 253:1</p> <p><b>subsidiaries</b> 166:7,17 179:18</p> <p><b>substance</b> 23:7 287:25</p> <p><b>substantial</b> 14:8 254:8,18 255:13</p> <p><b>substantially</b> 11:18 64:17 101:9 259:18 263:14</p> <p><b>substantive</b></p>	<p>275:6</p> <p><b>substituted</b> 229:24 230:2</p> <p><b>such</b> 17:13 22:22 23:2 31:21 35:19 36:9,17 99:19 184:7 224:17 231:9 255:25 258:23 275:15 277:9</p> <p><b>sued</b> 81:19 82:16,17</p> <p><b>sufficient</b> 6:11 16:8 28:16 109:3 111:7 156:18 177:8 245:16</p> <p><b>sufficiently</b> 36:17 208:11, 17 235:2</p> <p><b>suggest</b> 146:6 186:25 198:4 201:19 209:4 210:7 219:8 246:25 275:7</p> <p><b>suggested</b> 17:24 29:13 79:22 161:7 164:25 197:25</p>	<p>224:14</p> <p><b>suggesting</b> 107:12 108:13 110:5 112:17 120:18</p> <p><b>suggestion</b> 196:15</p> <p><b>suggestions</b> 175:9</p> <p><b>suggests</b> 220:2</p> <p><b>suing</b> 81:24</p> <p><b>Suite</b> 2:4,16, 20 242:25 251:21</p> <p><b>summarize</b> 158:15,19 274:22,25</p> <p><b>summarized</b> 50:1 54:15 55:3 57:21 64:4</p> <p><b>summarizes</b> 142:14</p> <p><b>summarizing</b> 239:15</p>
--	--	--	---	---

<p><b>summary</b>  49:22 51:9,15  57:23 104:14  109:4 125:23  216:14  244:23,25  247:19  252:15  257:17 258:1  268:15 273:8  287:12  292:12</p> <p><b>summer</b>  279:23 280:3,  21</p> <p><b>Summit</b> 14:4,  7,15</p> <p><b>superior</b>  232:12</p> <p><b>Supernova</b>  12:9,18</p> <p><b>supervised</b>  273:23</p> <p><b>supervisor</b>  274:2,5</p> <p><b>supplement</b>  89:4 94:9  158:20 220:8</p> <p><b>supplemental</b>  5:7 6:20</p>	<p>47:15 48:2  49:24 50:6  54:10 57:21  60:17 65:17  69:21,23  70:21 140:12  142:13  155:12</p> <p><b>supplementin  g</b> 64:8 154:3</p> <p><b>supply</b> 86:12  231:7</p> <p><b>support</b>  12:21 27:5  48:20 79:25  231:24 232:4  233:5,25  253:7</p> <p><b>supported</b>  231:25  276:13</p> <p><b>supporting</b>  276:18</p> <p><b>suppose</b>  192:11  237:22</p> <p><b>supposed</b>  228:17</p> <p><b>supposedly</b>  178:7</p>	<p><b>supposition</b>  106:19</p> <p><b>Supreme</b>  11:3 12:8  15:1,24 16:20  18:22 40:8,9</p> <p><b>surface</b>  110:18</p> <p><b>surrebuttal</b>  6:19 48:17,21  49:13 51:9,17  55:7 89:9  90:11 115:9  158:24 159:1  217:10 218:8  241:3 247:20,  23 258:2  281:25 282:2  284:15 285:8,  17 286:20</p> <p><b>surrounding</b>  83:8 180:15</p> <p><b>suspect</b>  176:1 250:1</p> <p><b>swear</b> 157:13  214:5 238:11  242:14 251:7,  10 266:24  272:3</p> <p><b>switch</b> 210:23</p> <p><b>sworn</b> 47:2</p>	<p>51:5 157:16  158:10 214:4,  9 238:15  242:18  251:14 267:3  272:8</p> <p><b>syncs</b> 173:22</p> <p><b>system</b> 55:20  56:5 59:3  61:1 66:13  67:14 72:19,  24 73:9 74:8,  21 89:11  108:18 109:3  111:6,22  112:2,19  115:12 128:1  129:24 130:1,  5 131:11  132:14,18,19  147:5,6,12,  13,18,22  148:1,8,15,21  149:19  153:14  155:14,17  156:18  163:23 164:7  166:9 175:22,  25 216:23  240:24  269:13 270:5  275:15  278:18 279:3,  5,14,16,24  280:8,21  281:9,16  283:6 292:6</p>	<p><b>systems</b> 30:6  166:5,14  246:24</p> <hr/> <p style="text-align: center;"><b>T</b></p> <hr/> <p><b>table</b> 7:7,11  46:1,16  142:13 268:5</p> <p><b>tailored</b> 292:4</p> <p><b>take</b> 18:2 35:3  44:5 53:22  64:2 66:10  76:8,25 95:8,  11 106:21  113:15,24  115:3 118:19  133:5 134:7  137:22  139:20  147:22  162:17,25  171:20 187:6  188:2,5  189:1,18  190:22  191:23 195:3,  9,12 196:5  198:24 199:6,  13 201:22  210:25 211:3  234:2 241:24  258:24  266:10  267:22 271:2  278:15 289:6,  9</p>
--	--	---	--	---



<p><b>taken</b> 33:3 129:14 133:3 196:2 200:15 202:20 207:10 266:17</p> <p><b>takes</b> 162:15 186:17 189:22 212:8</p> <p><b>taking</b> 26:12 57:6 142:4 146:3 162:2 191:3 204:16 238:1 247:10 263:20</p> <p><b>talk</b> 43:12 72:25 120:8 135:10 174:11 253:9 281:23 293:17</p> <p><b>talked</b> 93:4 139:25 151:4 160:14 163:3 168:6</p> <p><b>talking</b> 28:13 31:9,10 76:7 84:22,23 85:2 109:23,25 121:21,22 124:8 135:9 148:23 162:5 177:6 186:22 187:21 192:9 202:13</p>	<p>260:11</p> <p><b>talks</b> 173:4</p> <p><b>target</b> 153:20 170:22 181:3</p> <p><b>targeted</b> 178:14,22 184:6,14 199:10 288:4</p> <p><b>targeting</b> 57:3 64:15 131:7</p> <p><b>tariff</b> 67:20 79:6 127:2 255:17 257:21 258:16 274:13,14 283:10</p> <p><b>tariffs</b> 127:24</p> <p><b>tax</b> 11:4 12:22,23 32:7 51:20 62:1, 16,23,25 63:8,16,17 77:1 99:4 100:10,18 101:6 115:21 116:15,23 121:15,23 122:9,21 123:6 139:24 145:11</p>	<p>180:12 185:8 187:20 195:22,25 219:6,14,15, 16,18 234:3 240:12,13 254:16 255:5 268:21 277:4</p> <p><b>taxes</b> 62:22</p> <p><b>taxpayer</b> 32:6</p> <p><b>team</b> 81:10 91:9,15 128:6,8 255:13,14 256:4 260:13</p> <p><b>team's</b> 90:22</p> <p><b>teams</b> 261:25</p> <p><b>technical</b> 92:7 139:13 214:17</p> <p><b>technically</b> 21:1</p> <p><b>technologies</b> 104:18 110:22 254:4 265:8</p> <p><b>technology</b> 71:16</p>	<p><b>telephone</b> 8:25</p> <p><b>telephonic</b> 194:14 241:25 242:10</p> <p><b>telephonically</b> 45:4,10</p> <p><b>telling</b> 37:21 80:2 189:5,8</p> <p><b>tells</b> 175:16</p> <p><b>Temple</b> 2:20</p> <p><b>ten</b> 58:18 59:15 60:1 76:13 95:11 210:23,24 256:11 266:16 280:11,16,19 286:1 293:24</p> <p><b>ten-year</b> 160:14,15 165:2</p> <p><b>tend</b> 155:19 292:19</p> <p><b>tendency</b> 58:22 135:12</p> <p><b>tender</b> 263:13</p>	<p><b>tenor</b> 17:21</p> <p><b>term</b> 60:2 62:6 161:7,9 164:16,22 240:11 263:14,15 270:6</p> <p><b>terminated</b> 172:3,6</p> <p><b>terms</b> 31:22 34:24 40:2 43:17,18 64:5 68:11 75:6 84:14 85:2,4 125:5 129:7 130:4 151:13 152:19 153:8 154:19 159:1 160:6 205:1, 11 206:10 259:25 262:2 276:12 281:18</p> <p><b>territories</b> 179:9</p> <p><b>territory</b> 67:24 81:14 119:9 179:5 255:19</p> <p><b>test</b> 16:20 38:18 89:22 100:14 101:3 103:1 106:5,</p>
---	--	---	--	--

<p>11 118:12 161:20 163:23 164:11 170:1, 13,19 177:18 209:11 227:20,21</p> <p><b>tested</b> 64:10 107:10</p> <p><b>testified</b> 47:3 73:2 90:1 120:21 124:19 127:22 157:17 164:18 207:16,21 213:24 214:9 238:15 242:18 251:14 253:15 261:14 267:3 272:8 275:1 289:24,25</p> <p><b>testifies</b> 200:24</p> <p><b>testify</b> 49:21 85:7,12 86:20 124:9 237:17 272:2</p> <p><b>testifying</b> 82:25 114:12 182:15 238:25 243:3,</p>	<p>5,6</p> <p><b>testimonies</b> 47:18</p> <p><b>testimony</b> 5:5,7 6:18,19 15:12 20:17 25:23 47:14, 15 48:1,3,21 49:11,25 50:2,7,8 51:9, 17 52:20 53:24 54:3,10 55:11,16 56:3 57:21 65:18, 21 66:24 69:20,21,22, 23 70:11,22 71:17 81:1 82:9,19 83:6, 9 85:15 87:25 88:2,7,8,18 89:2,9,17 90:11 98:6 109:4 115:10 124:9,13 125:8,9 134:15 136:13 138:24 139:25 142:2, 13 157:4,11 158:7,9,15, 19,20 159:3, 10,14 160:3 165:19,22 166:21 167:10,15,24 172:1 176:20 178:2,10,25</p>	<p>182:13 193:9, 17 194:5 199:4,16,19, 25 200:2,5,14 203:10 207:14 210:20,25 215:8,14 216:4 217:5 218:6,8,22 220:11,22,24 221:3,24 222:1,4,11 223:1,10,18, 24 224:9,22 225:5 226:6 228:25 229:1 234:6 236:8 239:2,5,8,11, 16 240:6 243:9,12,15, 17 244:6,8,9, 14,17,23 246:23 247:2, 17,23 249:12 250:10 251:23 252:2, 5,8,11,16 258:4 267:13, 15 268:8,11, 16 270:23 271:5 272:17, 21,23 273:8 274:22 277:3 278:12 279:20 282:2 283:8 285:5, 11,13 287:22</p> <p><b>testing</b> 56:17 176:4 177:11, 14 178:6</p>	<p>190:23</p> <p><b>THAD</b> 1:5</p> <p><b>than</b> 21:24 24:20 31:13 43:14 56:25 59:14 60:3 61:10 62:14 63:22 67:1,9, 10 71:2,10 89:25 105:5, 21 106:10 107:2 110:15 116:18,22 117:15 122:9 123:20 128:15 129:14 151:3 162:15 175:11 186:18 198:25 199:8 205:2,6,11 206:4 210:25 211:4 215:18 217:22 225:14 228:7 230:5 232:10 233:10 235:23 245:13 249:13,15,23 259:18 263:11,17 264:25 265:19 269:14,24 276:2 280:21 282:21 286:17</p>	<p>292:20 293:25</p> <p><b>thankfully</b> 27:21</p> <p><b>their</b> 12:12,13 16:1 17:5 25:13 27:1,7 33:3 36:3 38:17,21 45:3 51:3 55:23 56:8 65:12 67:11,16,17 79:20,23 110:23 114:1 119:25 128:3 130:4,13 132:18 136:20 143:16 151:6, 7 152:7 166:14,16 175:14 176:14 179:18 196:20 197:2 199:20,22 202:5 213:11 226:14 240:2 246:6 256:4 257:3,10 259:2 265:8 274:13 277:23 278:16 279:4 280:19 281:3 282:13 283:9, 15,16 288:11</p> <p><b>theirs</b> 164:25</p>
---	---	---	---	---

<b>themselves</b> 9:10	216:24	277:13	229:14,15 249:8,11 254:11	14 123:22 126:15,18 128:12 129:2, 6,15 134:7
<b>there'd</b> 154:21	<b>third</b> 19:15 143:13 174:6 256:6	<b>threshold</b> 125:20,25 285:21 286:2	261:25 263:1, 3,7,17 277:23 283:19 291:23 293:24	137:22 138:2 139:10 140:23 141:1, 4 142:10,23 143:24 144:8, 20 145:1
<b>therefore</b> 24:16 68:8 103:5 216:1 227:19 240:20 245:18 292:3	<b>third-party</b> 132:17	<b>through</b> 9:16 22:23 23:8 24:6 25:7 28:14 29:14 31:7,14 48:1 53:10 57:3 58:2,17 59:14 60:1 64:15 67:12 73:9 76:16 81:14, 21 91:20,25 92:6,21 93:18 95:2 96:5 102:17 104:19 105:22 106:8 107:19 109:18 111:10 125:21 128:8, 25 132:17 139:14 151:23,24 153:22 157:25 161:20 169:15 170:19 175:25 176:22 177:15,24 181:16,17,19, 25 189:19 191:14 192:6 225:17,22	<b>throughout</b> 81:9 142:17 191:22	147:7,19,24 149:16 150:3 151:14 154:2 161:22 162:17,19,24 163:1,2,4,6, 15,19 168:22 169:7 170:6 171:20 184:20 186:15 188:4 189:1,6 190:11,20 193:24 194:1 199:13 201:14 202:5, 21,25 206:17 208:18 210:21,22 213:4 217:16 223:21 231:7, 9 235:2 237:10,13 239:10 241:4, 24 247:11 249:17 254:8, 19 256:19 257:21 262:4, 21 266:13 268:17 274:23 276:3, 7 278:23
<b>therein</b> 47:21	<b>thorough</b> 51:25		<b>throw</b> 184:25	
<b>thermal</b> 201:25	<b>thought</b> 197:17 200:22		<b>throwing</b> 187:25	
<b>thing</b> 40:4,6 43:13 84:23 86:17 134:14 159:22 173:3 186:16 210:3 289:22	<b>thoughts</b> 159:16		<b>Thursday</b> 212:24	
<b>things</b> 31:22 35:10 41:24 59:19 62:16, 22 63:7 90:25 98:4 99:13 168:6 184:4 210:1 217:11 274:25 285:14	<b>thousands</b> 224:19		<b>tied</b> 140:1 269:1 270:21	
<b>thinking</b> 46:9 153:17 202:7	<b>threat</b> 286:2		<b>till</b> 70:1	
<b>thinks</b> 182:22	<b>threatened</b> 257:1,7,25 284:9		<b>time</b> 15:5 17:23 18:14 40:3 47:18,25 49:1 50:8,12, 23 58:2 72:7 76:6,15,24 80:21 81:10 87:3 90:9,21 91:8,12 92:11,13 93:2 94:8 95:7 109:9,21 115:4 119:4,	
	<b>three</b> 21:6 58:10,15 141:23 158:3 183:7 191:19 208:5 210:23 247:9 273:17 274:11			
	<b>three-quarter</b>			

<p>281:4 282:7, 20 287:17 294:3</p> <p><b>time-limited</b> 53:16 56:14 88:4 89:17 90:7 94:6 104:8 151:9</p> <p><b>time-limiting</b> 89:1</p> <p><b>timeline</b> 21:20 22:2 54:6 137:9</p> <p><b>timelines</b> 17:13 88:19 90:2</p> <p><b>timeliness</b> 15:2,8</p> <p><b>timely</b> 18:16 23:11 41:15 86:14 255:16 276:19</p> <p><b>times</b> 88:2 111:4 146:19 172:1 206:23</p> <p><b>timing</b> 74:5 89:3 91:5 118:21 152:13 178:11,19</p>	<p>183:20 185:20 186:13 206:11,22 292:14</p> <p><b>tired</b> 125:2</p> <p><b>title</b> 214:14 251:4,18,21</p> <p><b>to--</b> 197:10</p> <p><b>today</b> 7:2,6 8:6,8,23 9:22 13:8 20:24 38:14 40:3 42:11,19 44:4 45:11 47:21 51:10 52:16 56:16 62:3 64:3 66:25 85:15 86:8 88:2 89:6 93:19 103:15, 19,22 106:16 111:14 121:21 122:2 126:20 128:10 129:16 158:22 163:17 172:12 175:8 180:10 185:3 189:2 192:13 193:21 200:6 203:10 205:7 207:4,16,21 210:20 216:4,</p>	<p>14,21 238:25 243:3,5 244:11 247:20,24 250:10 251:24 252:7 265:19 268:7 270:17 275:2, 21,23 276:2 277:4 280:17 282:7 284:4, 24 285:6,8 289:19 290:15 292:5</p> <p><b>today's</b> 6:19 147:4</p> <p><b>together</b> 146:25 163:14 185:23 209:25 210:3 244:17</p> <p><b>told</b> 79:7 80:1,22 195:22 232:1 283:20</p> <p><b>tomorrow</b> 134:20</p> <p><b>tonight</b> 212:19 213:1, 3,5,19</p> <p><b>took</b> 120:25 201:11</p>	<p>292:15</p> <p><b>tools</b> 28:11</p> <p><b>top</b> 58:1,17, 21 60:6 119:11 135:12 173:1</p> <p><b>topic</b> 95:6</p> <p><b>topics</b> 82:8</p> <p><b>topology</b> 280:2</p> <p><b>totally</b> 286:4</p> <p><b>touched</b> 39:8</p> <p><b>touches</b> 49:13</p> <p><b>touted</b> 231:21</p> <p><b>towards</b> 97:13 99:6,15 102:2,19 213:23 276:17 277:6</p> <p><b>track</b> 26:14, 15,17</p> <p><b>tracking</b> 221:18</p>	<p><b>trade</b> 258:23</p> <p><b>traditionally</b> 292:19</p> <p><b>trail</b> 135:12</p> <p><b>transaction</b> 282:16,20 293:13</p> <p><b>transactions</b> 108:23 109:11 110:9, 18 111:7 217:19 234:9 282:9,10,17, 18 292:19 293:2,6,18,23</p> <p><b>transcript</b> 135:7,8,14</p> <p><b>transfer</b> 278:17</p> <p><b>transition</b> 55:7</p> <p><b>transitioning</b> 95:6</p> <p><b>transmission</b> 51:22 52:5,15 55:19 56:10 57:16 58:5 59:6,7,10,11 61:1 68:3,7,</p>
--	---	---	---	---

23,24 69:4 71:22,25 72:3,5,9,13, 23 73:1,3,7,8, 14,19 74:6,20 75:3 76:4,22 89:18 94:14, 18,20 99:21, 22 100:3 102:10 103:18,21,22 104:3,11 109:15 110:14 113:4 114:4 115:4 128:1,6,19, 24,25 129:20, 22 130:1,9, 16,18,22,25 131:1 132:17, 19 133:2,6 141:6 142:24 144:5 145:4 146:11,18,19 147:4,6,9,12 148:13,25 149:19 150:2, 5 155:9,14 162:20,23,25 163:5,7,13 165:25 166:8 175:15,22 177:2 178:20 184:22 185:6, 13,18,25 186:5,10,16, 17,22 187:1, 18 188:3,6 190:13 191:20 193:22,23,25 194:3,4	195:3,6,15 206:4,18,21 215:20 217:15 223:13 224:7 231:12 234:17 236:16 247:14,15 255:13 261:17,18,21, 23 262:1,15 273:24 274:13 275:8 277:14,17,19 278:2,8,16,18 279:13,19,25 280:1,25 281:6,21,22 282:14,24 283:4,9,15,23 286:15 288:13 291:3 292:1  <b>transmission's</b> 128:16  <b>transparency</b> 43:16  <b>transparent</b> 21:11 24:25 35:25 43:4 144:12 171:7 252:21  <b>travel</b> 157:5  <b>treat</b> 26:23	288:13,14  <b>treated</b> 21:11  <b>treatment</b> 45:6 56:1  <b>tried</b> 122:5 270:21  <b>trigger</b> 160:17 197:23  <b>trigger-release</b> 197:13  <b>trouble</b> 173:12 213:10  <b>troubled</b> 41:18  <b>troublesome</b> 27:20  <b>troubling</b> 26:9  <b>true</b> 35:5,20 62:18 67:25 68:4 69:1 71:23 74:16 99:25 102:15 171:25 172:5	176:2 191:16 219:16,17 221:10 230:23 258:7 262:17,22,24 269:3 278:7  <b>truly</b> 29:9 35:11,24 275:24 278:5  <b>trusting</b> 83:18  <b>truth</b> 214:6 238:12 242:14 251:8, 10 266:25 272:4  <b>try</b> 85:17 125:17 135:13 144:12 151:6 182:13 183:22 193:19 194:22 219:25 236:15 242:6 274:24  <b>trying</b> 17:3 28:15 39:3 52:16 81:20 82:19 85:17, 21 88:19 122:16,18 143:22 152:18	182:18 194:25 210:6 226:22 228:16 233:3 235:15 291:23,24  <b>turbine</b> 145:3  <b>turbines</b> 143:9 146:12  <b>turn</b> 23:21 57:24 71:17 87:24 98:17 190:1 199:3 203:24 277:14  <b>turned</b> 186:23 242:6  <b>turns</b> 176:2 188:20 190:4, 24  <b>twenty</b> 273:15  <b>two</b> 31:22 41:10 45:2 52:10 81:19 96:23 97:18 113:13 124:1 131:8 135:8 136:18 138:1 139:2,8,21 147:15 162:4 163:7 185:7
---	---	---	--	---

186:1,5 189:22 202:9 212:15 263:8 266:14,22 285:14,20	<b>U</b>	156:19 253:6	168:21 173:24 184:7 194:6 212:8 239:23 240:19 251:5 253:19 254:20,22 272:24 283:9 290:9	<b>understandin</b> g 17:10 48:14 63:9 70:16 85:7,18 96:11 97:3,11,15, 24,25 98:3,25 100:20 101:17 102:7, 16 116:7,24 126:24 127:9 136:12 166:10 172:11 179:6 184:19,23 217:23 219:22 220:6, 9 234:7 285:12,15 292:7
<b>type</b> 54:15 56:25 65:7 67:12 92:3 105:24 118:9 132:13,20 140:13 154:6 159:22 162:12 170:3, 15 195:14 198:17 200:12 215:18 221:11 232:6 246:4,6,8,10	<b>U.S.</b> 121:14 252:1 253:10	<b>umbridge</b> 120:25	<b>undermine</b> 88:6 247:6	<b>understand</b> 43:23 45:24 79:18 97:14 104:6 108:16 116:4 117:25 118:3 120:7 125:13 130:14 131:8 146:15,23 152:13,15,19 162:12 176:19 178:1, 3 180:9 181:19 182:22 188:12,13 191:2 196:21 216:21 226:24 233:8 249:6 254:2 255:11 256:8 282:22,25 283:5 288:4 294:18
<b>types</b> 58:21 73:10,16 74:5 91:22 136:18, 19 150:2 153:10 154:15 159:20 161:22 164:3 180:7 196:1 198:25 199:8 210:10 240:23 253:5 278:6 281:14	<b>UA</b> 95:24	<b>unable</b> 67:11	<b>underneath</b> 161:8	<b>understands</b> 232:23
<b>typical</b> 24:7	<b>UAE</b> 5:13 95:4 120:10, 24 125:9 192:10 233:5 271:25 272:18 273:1 286:9	<b>unacknowled</b> ged 219:20	<b>understand</b> 43:23 45:24 79:18 97:14 104:6 108:16 116:4 117:25 118:3 120:7 125:13 130:14 131:8 146:15,23 152:13,15,19 162:12 176:19 178:1, 3 180:9 181:19 182:22 188:12,13 191:2 196:21 216:21 226:24 233:8 249:6 254:2 255:11 256:8 282:22,25 283:5 288:4 294:18	<b>understood</b> 217:12 232:23 235:11
<b>typically</b> 101:10 260:6 261:19	<b>UAE'S</b> 127:10	<b>unanimously</b> 119:16	<b>understand</b> 43:23 45:24 79:18 97:14 104:6 108:16 116:4 117:25 118:3 120:7 125:13 130:14 131:8 146:15,23 152:13,15,19 162:12 176:19 178:1, 3 180:9 181:19 182:22 188:12,13 191:2 196:21 216:21 226:24 233:8 249:6 254:2 255:11 256:8 282:22,25 283:5 288:4 294:18	<b>underway</b> 128:11
	<b>UAPA</b> 10:16 12:21 19:8	<b>uncertain</b> 59:19 153:5 187:17 229:23	<b>underneath</b> 161:8	<b>undue</b> 23:23 286:6
	<b>UCE</b> 268:10	<b>uncertainty</b> 256:20	<b>understand</b> 43:23 45:24 79:18 97:14 104:6 108:16 116:4 117:25 118:3 120:7 125:13 130:14 131:8 146:15,23 152:13,15,19 162:12 176:19 178:1, 3 180:9 181:19 182:22 188:12,13 191:2 196:21 216:21 226:24 233:8 249:6 254:2 255:11 256:8 282:22,25 283:5 288:4 294:18	<b>unfair</b> 35:25 256:9 257:11 286:12
	<b>UDOT</b> 37:15	<b>unclear</b> 133:22 247:7	<b>understand</b> 43:23 45:24 79:18 97:14 104:6 108:16 116:4 117:25 118:3 120:7 125:13 130:14 131:8 146:15,23 152:13,15,19 162:12 176:19 178:1, 3 180:9 181:19 182:22 188:12,13 191:2 196:21 216:21 226:24 233:8 249:6 254:2 255:11 256:8 282:22,25 283:5 288:4 294:18	<b>unfavorable</b>
	<b>ultimate</b> 28:10 76:16 249:14	<b>unconsciona</b> ble 257:17	<b>under</b> 6:12 9:20 10:16 11:2,16 12:5, 10,21 14:19 21:1,9 22:13 24:3 43:15 65:6 67:5,14 68:11 87:23 98:18 102:19 122:22 128:4 157:19	
	<b>ultimately</b> 10:24 33:18 36:15 39:8 74:23 94:13 140:20,24 142:25 145:17 152:6 154:10 155:20			

231:12	163:22	<b>update</b> 54:12 55:12 57:20 60:14,20 68:22 70:20, 25 71:3 78:24 92:6 219:21 220:8 246:21 249:17 269:9, 10 270:14,16 289:9,17	262:15	<b>usual</b> 210:25 234:17
<b>unfettered</b> 23:17	<b>unresolved</b> 22:11		<b>upgrading</b> 73:24	<b>Usually</b> 232:4
<b>unfortunately</b> 227:6	<b>unsupported</b> 286:7		<b>upwards</b> 110:17 255:17	<b>Utah</b> 1:1,10, 13 2:5,9,13, 15,16,21,25 8:13 9:18,19, 24 10:22,23 11:2,3,4 12:8, 17 14:25 15:24 16:20 18:22 26:9,14 28:8 29:6 34:3 40:8,21 42:4 54:1 56:19 57:4 60:22 66:5,8, 14 67:24 70:15 71:24 72:3,10,12,18 73:14,15,21, 25 74:13 75:4,8,20 105:2 115:2 127:19 149:8, 19,21,24 151:25 165:23 167:11,14 168:3 180:15, 24 181:21 183:5,24 200:2,6 209:3,14 221:20 223:12,16 224:4 229:25 230:3 231:2, 19,20 232:1,
<b>UNIDENTIFIED</b> D 223:20 262:3 287:16, 19	<b>untenable</b> 88:6 90:6 137:9 247:4	<b>updated</b> 64:9, 18 71:6 78:21,25 151:15 219:21 220:7 246:20 249:17 270:9, 20 275:23	<b>urges</b> 270:23	
<b>unique</b> 17:7 42:23 170:23, 24 184:15 199:10 275:2 291:5 292:24	<b>until</b> 20:11 46:2 65:15 95:11,13 97:21 109:9, 20 130:19 132:7 135:1 141:7 169:14 190:6 200:14 211:8,9 217:12 283:21 292:10 294:22	<b>updates</b> 71:10,12 81:15 246:17	<b>use</b> 21:13 35:12 89:23 107:23 141:19 143:15 154:11 265:7 281:13	
<b>unknown</b> 36:23		<b>upfront</b> 276:10 285:25	<b>used</b> 16:21 110:1,3 122:9 150:3 199:17 200:4 248:18 249:16 269:12 275:14,16 279:21 291:4	
<b>unless</b> 27:25 28:1 49:17 107:4 126:21 167:3 191:25 212:15 240:22 245:19 283:21	<b>untimely</b> 41:12	<b>upgrade</b> 72:5 75:3 99:22 102:11 130:13 253:17	<b>useful</b> 290:20	
<b>unnecessarily</b> 18:17	<b>unusual</b> 181:23 188:5 224:5		<b>Users</b> 2:16 8:14	
<b>unopposed</b> 25:16	<b>unworkable</b> 286:4	<b>upgrades</b> 68:3,25 130:21 131:12 166:1 223:13 224:7 261:20,22,25	<b>using</b> 11:23, 25 39:6 240:19 275:22 279:22,24	
<b>unreasonable</b>	<b>up-front</b> 116:18			

3,12,13,15, 18,21 233:1, 4,5,10 238:24 239:23 248:19 249:22 253:8, 12 254:24 255:6,21 256:18 257:5, 13 260:1 263:13 264:6, 8 266:23 267:9,12,25 268:18,23 269:3,11,17 270:12,18,23 271:1,4 273:19 276:12 280:10 286:12	21 246:5 253:25 254:3  <b>utility</b> 13:19 17:11 21:19 22:1,9,20,24 23:4,10 25:6 30:4 32:8 115:20,22 119:21 124:18,20 168:4 181:25 197:9,10,21 204:20,22 209:20 214:16 224:18 238:22 240:17 243:1 258:12 261:22  <b>utility's</b> 181:17  <b>utilizer</b> 68:14  <hr/> <b>V</b> <hr/> <b>V-a-s-t-a-g</b> 238:22  <b>vague</b> 80:1  <b>validation</b> 137:25  <b>validity</b>	257:10  <b>valuable</b> 185:8  <b>value</b> 59:14 62:13,17,25 101:7 106:1 108:20,21 143:11 154:12,25 164:4 173:11 174:19 175:2, 6,7,9 176:7 177:12 199:11 205:1, 16 207:12 220:11 237:21 247:5 261:2  <b>VAR</b> 1:5  <b>variable</b> 59:13  <b>variables</b> 59:19 190:14  <b>various</b> 29:5 72:6 73:16 79:17 94:25 151:3 225:16 227:10 274:2  <b>vary</b> 87:9  <b>varying</b> 58:7	<b>vast</b> 25:10  <b>Vastag</b> 4:5 7:12 238:10, 11,14,21 241:6,8,23  <b>versa</b> 155:14  <b>version</b> 18:1 219:21  <b>versus</b> 11:4 12:9 16:12 33:16 87:23 145:13 193:18 194:10 195:3 196:1 219:2,9 220:19 249:8 280:7 281:7 286:7 289:24  <b>vetted</b> 68:14 177:15,17 181:16 189:19 197:18 227:8 234:15  <b>vetting</b> 165:24 177:23 223:12 224:5  <b>via</b> 224:4 258:13 259:2  <b>viability</b>	247:6  <b>vice</b> 47:11 155:14 243:1 251:22  <b>view</b> 98:16 160:9 161:24 189:9 204:25 209:14 254:5  <b>viewed</b> 161:1 184:18  <b>violate</b> 240:9 245:25  <b>violating</b> 196:25  <b>virtually</b> 144:18  <b>Vision</b> 52:4 68:21 70:25 78:23  <b>volatile</b> 59:18  <b>voltage</b> 147:20,21 148:7,8 283:2,3,7  <b>volume</b> 87:22 117:12 128:7 142:25
--	--	--	---	---



175:24 242:6	150:23 153:7	274:9	266:22	75:17 278:13,
<b>voluntary</b>	156:3 161:11	<b>waste</b> 231:7	<b>weather</b>	18 279:17
52:14	164:12		99:16	283:22
<hr/>	169:11 171:7	<b>Waterhouse</b>		<b>whatever</b>
<b>W</b>	176:13	196:14	<b>website</b> 22:25	33:13,17
<hr/>	213:14			39:21 100:2
<b>wait</b> 20:11	226:24 228:2	<b>watts</b> 111:21	<b>wedge</b> 31:21	104:17
70:1 197:15	229:16 233:9,			113:19 117:7
	11,12 235:5	<b>way</b> 21:12	<b>weed</b> 276:20	128:16 152:4
<b>waited</b> 36:23	236:10 237:5,	32:16 36:1		219:10
	25 247:12	43:6 45:16	<b>week</b> 60:22	224:22
	284:7	46:22 50:2	90:16	<b>whereby</b>
	<b>wanted</b> 37:18	68:13 86:25		140:11
	40:12 65:8	94:13 98:20	<b>weeks</b> 126:19	<b>wherever</b>
<b>waiting</b>	168:18	111:15	202:9 210:9	46:16
284:14	195:17 228:2	146:11		
	286:20 289:2	160:10 175:5	<b>weigh</b> 10:9	<b>whether</b>
<b>waive</b> 54:8		192:12 194:9	26:5	14:23 15:2,
257:3	<b>wants</b> 9:15	195:5 204:9		13,22 16:22
	26:11 28:9	232:15	<b>WEK</b> 277:16	27:15,16
<b>waiving</b> 257:9	93:5 212:13,	235:13 236:5	279:22,24	30:17,18 31:6
	15 217:1	258:2 275:9,	280:2	33:22 37:10
	245:4	17 277:7		43:9,10 45:5
<b>walk</b> 95:2		279:16,17	<b>welcome</b>	49:16 52:17
96:5	<b>warrant</b>	280:14	26:25 27:6,7,	56:25 57:1,7
	276:21	283:14	17 28:3	59:3 75:23
<b>walk-down</b>	<b>warrants</b>	286:16,19		76:4 87:12
71:4	169:25	288:11	<b>Wells</b> 214:19	96:7 104:24
	170:12	<b>Wayne</b> 3:14		105:10,13,19,
<b>want</b> 20:3,8		7:15 157:9,14	<b>went</b> 75:12	20,23 106:9,
24:5 26:5	<b>wars</b> 139:9		197:21	12 122:2
30:22 41:21		<b>ways</b> 94:24	224:18	128:25 130:8
52:20 82:11	<b>Wasatch</b>	96:23 97:18	225:17,21	131:5 137:1
93:18 101:11	16:12,13	114:21 151:2,	274:12 277:7	141:19
107:8 109:18	74:14	3 193:19		145:16 146:8
117:20,23	<b>Washington</b>	<b>wearing</b>	<b>west</b> 2:16	148:19 154:5
118:25 119:5,				155:23
6 120:20				
125:3 126:6				
131:13				

156:20 159:5 161:16 165:22 167:13,20 169:2,13 173:10 175:1, 5 177:12 178:7 184:1, 18 186:5 194:22 195:7 198:24 199:7 204:16 205:2, 4,24 207:8,9 210:14 222:5 223:10 224:3 226:23 228:18,19,23, 25 229:23 236:3 240:1, 12 245:9,22 246:10,18 270:16 280:9 285:6 286:16 290:23	<b>white</b> 20:8,10 33:7,9 34:8, 13,18 36:2 38:23 51:14 150:22,23 152:10 154:13 156:22 185:12 201:1, 3 236:23 237:2 241:18, 19 248:14,15, 17 266:2,3 271:20,21 287:10,11,18, 21 288:17	10:5,10,11 11:11,20 12:3 14:11,21,25 15:5 18:14,17 19:4,5,12,16 20:20 24:22 25:19 26:22 27:19 33:12 34:1 35:7 37:10 38:20 44:7,12,16, 18,20 45:6,16 49:8,14 51:15,17 53:4,5,8 55:5, 7,8,11,21,24 56:9 57:7,17, 24 59:22,25 60:11,20 61:2 62:4 63:21 64:1,8,13,16, 17,20 65:14 67:6 70:14 71:17 85:16 86:1,20 90:9 92:16 95:3 96:15 98:23 99:3 100:18 101:1 105:4, 17 106:20 107:4 108:11, 20,21 113:5 114:22 115:3, 13,16,23 117:8 119:5 122:4,22 125:6,17 127:10 128:23 129:10,22,25 130:24 131:1, 3,14,22	132:21 133:3 137:1 140:11, 19 141:25 145:17 148:8, 15 151:14,15, 16 152:6,25 157:9 159:5 161:16,19 168:23 169:7, 10 170:7 171:13 172:1 173:9 174:16, 19 177:21,24 179:13 183:6, 7 186:3 190:7,8 191:6,15,18 193:8 194:21 195:22 196:1, 3,13 197:4 199:3 204:6 205:3,4 206:19 217:24 219:8 220:3 221:23 226:5 228:13 235:6,22 240:25 243:18 244:1, 25 245:4,10 246:3 251:2,3 252:24 253:1, 2,5 256:20,25 263:1,13 266:15 268:25 275:8 276:1,24 278:17,20 279:7,12,19 281:21 284:9 285:6,21,24 286:11,17	293:11 294:19,21  <b>willing</b> 128:10 129:17 133:20 245:19 287:14  <b>willingness</b> 6:15 36:4 39:9  <b>wind</b> 1:4 6:6 11:22 27:6 51:21 52:3,5, 10,24 53:3, 17,23 55:18 56:23 57:14, 16 58:5 59:7, 9,11 60:25 68:6,23 69:4 70:14 71:2,21 84:22,24 88:3 89:11,18 90:8,14 91:3 92:5,16 94:21 96:8,14,18 100:5 102:5,8 103:8,10,16 104:25 105:1 106:16,20 107:2 108:24 109:6,14,19 110:10,14,19, 21 111:1,22, 24 112:9 113:5 114:3,7 115:12 116:1 117:7,10,13, 15 118:2,8,
<b>Whichever</b> 20:7	<b>White's</b> 249:21			
<b>while</b> 10:15 11:6,22 15:15 17:23 21:1 24:1 29:8 31:16 49:8 92:10,14 95:5 101:5 128:5 146:17 230:23 242:10 246:20 275:13,16 282:1 291:7	<b>whole</b> 84:23 173:3 186:15 191:12			
	<b>wholly</b> 288:16			
	<b>whom</b> 47:9 238:25 242:22 243:5			
	<b>whoops</b> 168:17			
	<b>wide</b> 277:16			
	<b>widespread</b> 225:19			
	<b>will</b> 6:20 9:22			

14,20 120:4 129:17 131:2, 10 136:10,16 139:1 142:16, 20,25 143:4, 21 144:1,4 145:3,10 146:12 147:9, 14 154:4,22 155:3,8,13, 16,17 156:7, 12,21 157:24 162:18 163:8, 11,19 164:1, 9,11 165:20 166:9,13,15 169:24 170:10 174:13,16,18 175:15 176:25 177:8 179:13 181:9 184:19 185:6 186:1 187:5 190:9 191:1,9 199:1,8,12, 18,20 200:17 203:1 206:2 210:5,8 216:19 217:14,20 219:9,12,15 220:3 221:5, 12 222:17 223:5,9 224:1,2,15, 16,20,24 225:6,18 226:13 228:7, 10,21 229:9, 17,19 230:23, 24,25 231:10	233:24 234:3, 17 237:17,22 238:1 240:7, 16 244:19 245:13 246:21 247:14 249:18 252:25 254:13 255:4 268:19,24 270:9,14 275:8,23 277:19 278:2, 8,10,20 279:1,5,6,8 280:7,13,25 281:1,2,3,5, 12,21 282:14, 23 286:11,15 287:13,23 288:2 291:3 292:1,5 293:19	102:24  <b>winds</b> 113:1 281:9  <b>winners</b> 129:11  <b>winning</b> 14:2 53:21  <b>winter</b> 279:23 280:3,21  <b>Wisconsin</b> 179:11 180:3  <b>wish</b> 47:17 262:4  <b>withdraw</b> 194:21 222:11 229:11  <b>within</b> 58:10, 15 76:6 82:13 87:3 118:5 127:3 128:14, 15,17 130:13 141:17 147:23 150:3 210:8 228:22 232:21 235:7 268:20 285:7 292:15  <b>without</b> 27:4	45:10 59:9 60:9 72:8 74:4 78:15 104:19 106:15 109:15 112:10 124:25 155:9 190:23 252:21 254:1, 7 255:20 270:11 293:25  <b>witness</b> 7:6 8:15,18,22 45:8,9 46:5 47:1 49:10 69:12 70:9 75:25 77:22 81:6 86:20 87:9 92:24 105:14 118:7 123:10 139:6 140:3,7 141:16 142:10 145:8, 24 146:14,17, 24 147:2 149:5,10,13 150:13,15 151:18 153:4 155:2 157:9, 15,22 158:18 159:2 195:12 199:25 201:16,19 202:15,23 203:4 208:10 214:3 217:10 241:25 244:8 258:4	<b>witnesses</b> 3:2 4:3 7:13 45:3, 21,25 46:8,16 158:22 162:7 164:17 212:3, 23 242:11 252:23 266:15  <b>wonder</b> 39:10 45:19 70:10 95:6 134:6 145:7 203:13  <b>wondering</b> 154:21 234:9 285:2 289:25  <b>word</b> 89:23 244:10  <b>words</b> 39:12 42:22 90:23 129:25 132:1 151:6 154:24 215:16 227:1 237:5 244:10 289:1  <b>work</b> 27:14 90:24 91:9 96:24 132:21 153:7 157:11 251:20  <b>workable</b> 286:8  <b>worked</b>
	<b>wind-limited</b> 172:6  <b>wind-only</b> 154:5 164:6 176:18 179:8 181:12 219:2, 4,14 220:1 229:6,14  <b>wind-targeted</b> 183:15  <b>window</b> 60:7 62:1 89:7,8			

264:11 274:19	<b>Wright's</b> 268:11	186:14 216:20 221:3, 12 226:13 228:7,21 229:9,17 230:2,5,12, 16,18,24 231:10,21 232:16,25 240:7,16 246:20 268:24 270:15,22 275:8 277:12, 19 278:2,3,8, 19 279:15,17, 18 280:12,21, 25 281:12 282:14,23 283:10,21 287:12	237:16 256:10,12,15, 17,22,23 257:22 261:3 263:15 278:24 293:9, 14	119:10 122:5 142:23 153:11 155:5 156:14 215:25 216:1 217:3 250:2 264:9,11 293:10,15
<b>working</b> 81:12 91:7,10 127:18 128:8 162:23 171:18 274:20	<b>write</b> 190:17		<b>year-to-year</b> 58:14 59:23	<b>yours</b> 107:9 173:25 226:7
<b>works</b> 76:15 215:18	<b>writing</b> 286:3 287:24		<b>years</b> 58:11, 15,18 59:15 60:1,8 61:24 62:3 63:9 73:12,23 76:13 87:17 110:7 121:7 148:25 158:4 161:10 163:7 185:7 186:1,5 187:19,21 188:6 193:8 195:24 256:16 259:14 261:2 263:5 265:19 270:8 273:14, 16 274:10,11, 12,18 292:16 293:24	<b>Youtube</b> 9:16
<b>world</b> 180:13	<b>written</b> 6:17 17:18 33:20 44:13 55:21 133:21 294:20			<b>Yvonne</b> 2:2 7:1
<b>worry</b> 40:25 255:20	<b>wrong</b> 35:12 117:9 125:8 227:13 259:10 264:24 292:7			<b>yvonne.hogle@pacificorp.com</b> 2:6
<b>worth</b> 81:3 219:10 224:23 277:13	<b>Wyoming</b> 26:12 43:11 53:19 59:9 60:19 67:24 68:6,23 70:14 71:11,21 81:24 83:21, 24 84:9 88:3, 24 94:10 104:24 109:14 113:2 129:19 133:2 140:2,10,21, 25 141:7,24 142:16 147:13 149:7 173:9,17 174:13,16,24 175:20,22 177:4,9	<hr/> <b>X</b> <hr/>		<hr/> <b>Z</b> <hr/>
<b>worthwhile</b> 275:3		<b>X-mile</b> 131:19		<b>zeal</b> 26:10
<b>would-be</b> 16:21		<b>Xcel</b> 166:16		<b>zero-cost</b> 112:10 114:7
<b>wrap</b> 141:17		<b>XYZ</b> 40:15		<b>zero-fuel</b> 60:2
<b>Wright</b> 4:15 8:5,7 200:2 213:6 266:12, 15,23,24 267:1,2,7,8 271:6,9		<hr/> <b>Y</b> <hr/>	<b>years'</b> 273:13	
		<b>Y-axis</b> 58:3	<b>yet</b> 8:25 9:20 27:9 32:9,17 50:9 54:13 71:14 78:6 90:7 107:10 118:2,24	
		<b>year</b> 54:22 156:6 162:2 190:7 192:17		