

In the Matter Of:

In Re: RMP - Significant Energy Resource Decision

HEARING, DOCKET NO. 17-035-40

February 06, 2018

Job Number: 448076

1 BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

2
3 In the Matter of the Application of Docket No. 17-035-40
4 Rocky Mountain Power for Approval of
5 a Significant Energy Resource
6 Decision and Request to Construct
7 Wind Resource and Transmission
8 Facilities

9 HEARING PROCEEDINGS

10 TAKEN AT: Utah Public Service Commission
11 4th Floor
12 160 East 300 South
13 Salt Lake City, Utah

14 DATE: Tuesday, February 6th, 2018

15 TIME: 1:30 p.m.

16 REPORTER: Mary R. Honigman, R.P.R.

17 Job No. 448076

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PROCEEDINGS

OFFICER HAMMER: Good afternoon, everyone. This is the time and place noticed for oral argument in the Application of Rocky Mountain Power for Approval of a Significant Energy Resource Decision and Request to Construct Wind Resource and Transmission Facilities. That's Commission Docket No. 17-035-40. My name is Michael Hammer, and I am the Commission's designated presiding officer.

Let's take appearances, please, beginning with Rocky Mountain Power.

MS. MCDOWELL: Thank you, Your Honor. This is Katherine McDowell here on behalf of Rocky Mountain Power. With me today is Joelle Steward.

OFFICER HAMMER: I'm sorry. Will you repeat the last name for me?

MS. MCDOWELL: McDowell, M-c-D-o-w-e-l-l, first name, Katherine, K-a-t-h-e-r-i-n-e.

OFFICER HAMMER: Thank you.

MR. JETTER: Good afternoon. I'm Justin Jetter with the Utah Attorney General's Office. I'm here today representing the Utah Division of Public Utilities.

1 MR. MOORE: Robert Moore with the
2 Attorney General's Office, representing the Office
3 of Consumer Services.

4 MR. LONGSON: Mitch Longson on behalf
5 of Interwest Energy Alliance, and I believe we also
6 have Lisa Hickey, my co-counsel, on the phone with
7 us.

8 OFFICER HAMMER: I'm sorry. Will you
9 repeat your last name for me?

10 MR. LONGSON: It's Longson.

11 OFFICER HAMMER: Thank you.

12 MR. RUSSELL: Phillip Russell on
13 behalf of UAE.

14 MR. BAKER: Chad Baker with Parsons
15 Behle & Latimer, on behalf of UIEC.

16 OFFICER HAMMER: All right. In terms
17 of the order of the argument today, I thought
18 because it was the Division and Office's motion,
19 that they could begin. I would then allow any other
20 party who supported the motion to make comments and
21 then allow Rocky Mountain Power an opportunity to
22 rebut, and, finally, give the Division and Office an
23 opportunity to reply, if they're interested. Does
24 that work for the parties? All right.

25 Mr. Jetter, do you intend to speak

1 for both you and Mr. Moore, or do both of you have
2 comments to make today?

3 MR. JETTER: I think our discussion
4 was that I would probably provide some of our
5 arguments first, and he would have an opportunity to
6 follow up if he would like to. I don't want to take
7 all of his time.

8 OFFICER HAMMER: Okay. Go ahead.

9 MR. JETTER: Without totally
10 reiterating everything we've said in our motion,
11 we're basically here because, in our view, this
12 docket started with an incomplete filing. However,
13 I think we, at least, acquiesced, if not agreed, to
14 go forward with that. The process was, at least
15 partially, agreed to for that schedule on the basis
16 that -- the idea was we would get started early,
17 reviewing a project that didn't have some of the
18 final information and that that final information
19 would be provided through and updated -- edits or
20 updates to the application -- that update was fairly
21 late in the process in this case. The anticipation
22 on the scheduling of the initial schedule in this
23 docket was that those updates would be relatively
24 minor changes relating to a project similar to the
25 one that was proposed in the application, so that

1 the evaluation done by the parties up until that
2 point would be relevant going forward and would need
3 relatively minor adjustments. What happened was,
4 the RFP process was completed -- I shouldn't say
5 completed -- was at least partially completed, and
6 the results in the update were a significantly new
7 project. The project grew dramatically, the
8 justifications that were presented for doing the
9 project have changed, and the result is that the
10 analysis we performed up to the point of that update
11 are of fairly limited value going forward. And the
12 time remaining in the schedule is insufficient for
13 the Division to do, really, much meaningful review.

14 We've seen some arguments in response
15 to ours from the Company that -- there are some
16 deadlines and that the update we've got, we can go
17 forward with that or something like it and --
18 subject to some updates. We've expended a
19 significant amount of public money on outside
20 consultants in reviewing a project that is not the
21 final project. It has fairly little bearing on our
22 evaluation of what the ultimate project will be.
23 We're concerned, given some information that we have
24 now, that the project that was presented in the
25 update is also not the final project. And so we've

1 done further analysis on that basis, on another
2 moving target that will not be the final project,
3 and our concern at this point is that the decision
4 to go forward without a complete application may
5 have been a mistake in this case. I have wasted a
6 lot of time and effort and money evaluating
7 concepts, proposals that are not the final project.
8 And, so, as we're here today, our recommendation is
9 that we would need a new scheduling conference, but
10 it would be premature to do that before we have some
11 sort of a final target we're evaluating. We really
12 don't know how much time we need because we don't
13 know what the final project looks like yet. And we
14 can't do a whole lot of evaluation that would be
15 meaningful to present to the Commission without some
16 finality in what we're even evaluating.

17 And just to add a little bit more to
18 that, we don't have, at this time, any real
19 information on the outcome of a solar RFP that was
20 running concurrently with this one, and we have no
21 way of evaluating whether that RFP process would
22 affect this one, how those two interplay. We've
23 heard some arguments that they're two separate ideas
24 and they don't really offset each other, but without
25 more information, we really don't know that. And so

1 our recommendation would be to, I guess, direct the
2 Company to reach some type of a final, or very close
3 to a final, project proposal that we could actually
4 work from. At that point, we would need a
5 scheduling conference to sort out a schedule moving
6 forward.

7 And just to give a little bit of --
8 onto the discussion of the statute; the statute, I
9 think, sets a loose guideline of 120 days. It
10 effectively says 120 days or less unless the
11 Commission wants more, which I think is a fair
12 legislative indication of a benchmark time frame to
13 evaluate one of these projects. What the
14 application of that to this circumstance is, in my
15 opinion, is that that 120 days would start from the
16 point where you have a pretty good idea of what the
17 project actually is. And, at this point, we have a
18 general idea that there's a proposal of wind in
19 Wyoming and a transmission line. We don't know how
20 big it is as a final project, we don't know a lot of
21 the details about the individual projects or how we
22 would evaluate those, and so I would suggest that
23 the 120-day timeline is perfectly reasonable. I
24 don't think it's reasonable to start that clock
25 before we have an idea of what the final project is.

1 Our outside consultants and our in-house consultants
2 need some time to look at the data and the
3 evaluation before we give a recommendation. And I
4 think that is our recommendation to the Commission
5 on the schedule.

6 OFFICER HAMMER: Rocky Mountain Power
7 filed its supplemental direct testimony on
8 January 16th. Can you help me understand what
9 continues to be deficient about the application,
10 what specific materials we're waiting to receive?

11 MR. JETTER: It's my understanding --
12 and I believe the Company is -- I hope they're
13 prepared to give a little bit more explanation of
14 what's changed and why -- but it's our understanding
15 that the projects included in the supplemental
16 filing are, in fact, not the final projects. Some
17 of them are, some of them are not. That would be
18 proposed at some point, I don't know when we're
19 going to get to see that. So I think that's
20 probably the biggest deficiency is that what's
21 proposed might a complete filing, if that were
22 actually the project being proposed. I believe
23 that's no longer an accurate statement.

24 OFFICER HAMMER: Thank you,
25 Mr. Jetter. Mr. Moore?

1 MR. MOORE: First of all, I would
2 like to concur with almost everything Mr. Jetter
3 said on behalf of the Office. The important
4 distinction is, Mr. Jetter mentioned that the DPU
5 sort of acquiesced in the manner that this process
6 has gone forward; the OCS did not. Rather, on
7 October 6, 2017, we filed a response to you in IEC's
8 motion to stay the proceedings, arguing that under
9 the statutory and regulatory scheme, requires that
10 the solicitation process has to be completed or
11 substantially completed, prior to the filing of the
12 request for approval of a significant energy
13 research decision. We lost that motion and we don't
14 intend to reargue it here. I mention it only and
15 I'd like to reassert it as a means to preserve it,
16 so as we go down and talk about the schedule, it is
17 clear in the record that we are not walking away
18 from that position, even though it did not prevail.

19 Going back to Mr. Jetter's overall
20 conclusion, we concur in that, too. We do not
21 believe that we have anything close to what is
22 contemplated in the statute as a complete filing,
23 because we don't know what wind projects will be
24 included in the combined projects of the
25 transmission and the Wyoming wind project. The

1 Commission, in its notice of oral arguments, stated
2 that we should be prepared to discuss what
3 provisions are insufficient. Given the fact that we
4 do not know what projects will be included, we think
5 that -- to be responsive to the Commission's
6 order -- A, B, C, D, E, F, G of Rule 746-430-2(1)
7 are all insufficient at this stage, obviously,
8 because we don't know what the projects are.

9 In addition to that, even assuming if
10 we did know what the projects are, it is the
11 Office's contention that the requirements for
12 section C are not met, and the requirements for
13 section E are clearly not met on the basis of the
14 filing. Even assuming that the filing they made on
15 the 6th was a complete filing, section C is admitted
16 to be incomplete. In the January 26, 2018, RMP
17 reply to UIEC's motion in support of Motion to
18 Vacate the Schedule, it was stated on page 2 that
19 the RFP, the 2017 wind RFP, request C, has not been
20 completed. That includes things like summaries of
21 all bids, summaries that affect the utility's
22 rankings, et cetera; importantly, the independent
23 evaluative reports. That is uncontested; that is
24 presently not before the Commission.

25 Not to get too lost in the weeds, but

1 because RMP has not completed that process, they
2 have not responded to in full, 19 of the outstanding
3 57 discovery requests issued by the parties to Rocky
4 Mountain Power, on the basis that that information
5 is highly confidential, given the fact that the RFP
6 is not concluded. I think that goes to the
7 materiality of the omissions and the fact that we,
8 as Mr. Jetter said, are in no position to continue
9 to waste public funds chasing a shifting project.
10 And these DRs -- certainly the request for final bid
11 pricing, that's obvious that hasn't been provided --
12 but other things that just touch upon the RFP have
13 also not been provided. Questions concerning the 18
14 percent cost reduction for new turbines, that's DPU
15 13.19; terminal value benefits, a new type of
16 benefit that they -- a new analysis that they
17 presented with their last filing that wasn't in
18 their initial filing -- that has gone unanswered,
19 and that's under OCS 10.2 and DPU 13.20. I won't
20 belabor this point much more. And I also want to
21 state that we do have some problems with withholding
22 this information. We don't think it's consistent
23 with the rule. I don't need to get into the weeds
24 on this, but there may be a burgeoning discovery
25 dispute which is going to slow things down as well.

1 As to the contracts, section E --
2 assuming everything was fit to go at the latest
3 filing -- Rocky Mountain Power, in Mr. Teply's
4 testimony, lines 15 to 19, stated that his testimony
5 provides the requirements of subsection E, which
6 is, "Contracts proposed for the execution and use in
7 connection with the acquisition of significant
8 energy resources and the identification of matters
9 for which the contracts to be negotiated or remain
10 to be negotiated." However, when you look into the
11 testimony, what you have is just, while some
12 information has been included, it's very high level.
13 An example would be on line 550 to 554, "Specific
14 contracts and conditions will include but not be
15 limited to, project schedules, tracking
16 requirements, performance guarantees, indemnities
17 and damages." It did state that no party will agree
18 to accept consequential damages for PTCs. This is
19 helpful information, but it's partial information.
20 It doesn't address every contract and every
21 provision of the contract, so we are left without
22 the ability to properly analyze the state of
23 negotiations of the contracts under subsection E.
24 We also think that these omissions are material. We
25 think that by statute and rule, these are the

1 provisions that the legislature, then this
2 Commission by prior order, have established as
3 required before we can begin an energy resource
4 decision, so the materiality has already been
5 established. And, of course, any information that
6 touches on what projects we are going to begin to
7 review, a question that we do not know, is
8 axiomatic, it's material. The fact that we have
9 approximately a third of the DRs unanswered because
10 of these incomplete filings clearly shows that it's
11 material. And we also note that it's impossible to
12 know how material an omission is without knowing
13 what is omitted.

14 And this segues into other concerns
15 we have, talking about materiality, is that this is
16 largely a purview of our expert's testimony, and
17 they haven't been given the material to determine
18 what is missing and what is in those contracts and
19 what is in those bids. And just to speed up for a
20 little while, the Commission also asked for what
21 other deficiencies there exist that may not be
22 reflected simply as a rule. And, as Mr. Jetter
23 said, we get different wind projects in the initial
24 ruling; we were presented with 15 gigabytes of data;
25 we have new analysis to support the filing which was

1 not provided initially; terminal value benefits;
2 price policy scenario updates; (inaudible)
3 treatments. All these things are new and need time
4 to be reviewed. And there are also things that are
5 not new; they're just missing. An example of that
6 would be, there was a contention made in the
7 testimony that the new transmission line will have
8 to be built, in any event, by 2024. We requested
9 studies and documents in support of this; we have
10 received none. Actually, DPU requested that, that's
11 in DPU data request 14.10. There was a mention that
12 we should have known this was the fact because of
13 the state of their IRP. They said it was mentioned
14 in their 2015 RFP, but it wasn't in the Preferred
15 Portfolio, and there's been -- they can build it if
16 they want to, but I would assume that the Commission
17 might want to have something to say if it's
18 preapproved. So we don't know what really is the
19 status of that very important proclamation which
20 came in with the last filing.

21 Mr. Jetter mentioned the solar RFP.
22 We have no information to analyze one against the
23 other, particularly in regards to single projects.
24 There's been analysis about solar projects as
25 compared with and without the complete Wyoming wind

1 and transmission projects, but there's been no
2 analysis, to our understanding, of individual wind
3 projects, and how they compare with individual or a
4 set of individual solar projects. That prevents us
5 from analyzing the solar RFP in connection to the
6 wind RFP to make any type of determination with
7 regards to the value of proceeding with a solar,
8 rather than a wind, or solar and wind project.

9 That is basically my presentation.

10 OFFICER HAMMER: Thank you,

11 Mr. Moore. Mr. Longson?

12 MR. LONGSON: No comments from
13 Interwest.

14 OFFICER HAMMER: Thank you.

15 Mr. Russell.

16 MR. RUSSELL: Thank you. UAE concurs
17 with the comments of Mr. Jetter on behalf of the
18 Division and Mr. Moore on behalf of the Office. A
19 lot of the concerns that UAE has raised in its
20 comments in response to the motion have been
21 covered, so I'll keep my statement short.

22 I think the overarching problem we
23 have here in this docket is that a month from, I
24 think, today, we have a hearing on an application
25 for approval of a resource decision, but we don't

1 yet have a resource decision for the Commission to
2 approve, and I think everything else sort of flows
3 from that. Because we don't yet have a resource
4 decision, we don't, by the Company's own admission,
5 have the materials required by the rule for the
6 solicitation process. Because we don't yet have a
7 resource decision, they're still working through the
8 RFP process and we need to get to April before we're
9 going to have contracts with the wind projects that
10 are ultimately selected. Between now and then, the
11 Company needs to complete interconnection studies
12 for those projects so we know what the final prices
13 are and we know whether those that have been
14 selected for the final short list are in or out.
15 Those are very serious problems that prevent us from
16 having the information that we need to move forward.
17 Like the Division and the Office, UAE does not have
18 unlimited funds to simply throw at a witness to have
19 them evaluate a moving target, but that's what we've
20 been doing since June. And we'd like to avoid
21 having to do that again if this process, as it goes
22 along, will change the ultimate numbers. And that's
23 the concern that UAE has. Thank you.

24 OFFICER HAMMER: Thank you.

25 Mr. Baker.

1 MR. BAKER: Thank you. UIEC largely
2 concurs with the comments and arguments presented by
3 Mr. Jetter and Mr. Moore. Like Mr. Moore, UIEC does
4 want to preserve that they did not acquiesce to the
5 initial schedule and, in fact, moved almost
6 immediately upon their being granted intervention to
7 challenge the schedule. Like OCS, I won't repeat
8 those arguments here today.

9 But I wanted to mention or, you know,
10 build on that this isn't just about time, and this
11 isn't just about a legal exercise of dotting "i"s
12 and crossing "t"s. Similar to what Mr. Moore said,
13 we don't really know what we don't know, and we
14 cannot know the full extent of prejudice from what
15 we don't know. And a few examples I'll use to help
16 demonstrate how the deficiencies in the record,
17 information we believe that the act and the
18 implementing rules required to be submitted
19 initially, prevents the review mandated by the act.
20 First is -- deals with the contracts. The parties
21 have identified the costs and scheduled risks or
22 unacceptable risks that the record presently
23 presents as a result of the value of PTCs. In fact,
24 Rocky Mountain Power has acknowledged that the cost
25 in schedules are key customer risks. Ms. Crane

1 testified to that in her supplemental direct
2 testimony on lines 131 to 132. But RMP claims,
3 "Commercially available risk mitigation" will be
4 included in the contracts to, kind of, control these
5 risks. As Mr. Moore stated, that was in Mr. Teply's
6 supplemental direct testimony on lines 554 to 557.
7 Yet, RMP admits that those contract terms, the
8 conditions and pricing for the winds projects, as
9 well as the transmission projects, remain in
10 negotiations. We can't know what those mitigation
11 efforts are at this point. In fact, Mr. Teply
12 testifies on lines 274 to 279 in his supplemental
13 direct that "The wind project developers don't
14 intend to engage in an RFP process to obtain fixed
15 pricing for engineering, procurement, construction,
16 and commission of these wind projects." So,
17 presently, we know that there are economic
18 consequences associated with costs and schedules,
19 but we don't know -- and until the contracts are in
20 an executable form -- we won't know what sort of
21 mitigation measures are being proposed or available.
22 And I'll make a note that currently introduced in
23 the legislature is House Bill 279. It is a bill
24 seeking to challenge the use of what's commonly
25 known as "Broad form indemnity provisions by design

1 professionals" that could impact the generally --
2 one of these generally used commercially available
3 mitigation measures. So, at this point, we're
4 presently left to speculate about ratepayer risks
5 that might arise from the contracts or the selected
6 contractor's balance sheets, their potential
7 bankruptcy, the adequacy of their bonding and
8 insurance. The only inference that we can have at
9 this point is that there's an unknown and
10 unacceptable risk, and it's unreasonable to impose
11 those on ratepayers.

12 We have also -- they've discussed how
13 the RFP process isn't complete. And aside from the
14 rules, the specific requirements that weren't
15 included in RMP's application, and Mr. Moore
16 identified to Appendix A that identified things such
17 as -- of Rocky Mountain Power's reply to UIEC and
18 UIE's comments in support of this Motion to
19 Vacate -- such as the IE report, the final
20 Commission-approved RFP, the RFP isn't complete for
21 a number of reasons, and one that hasn't been
22 mentioned, yet it won't be for many months. A
23 primary question under the act is that the resource
24 selection has to be in compliance with the act.
25 Well, UIEC understands that the Commission's 2-1

1 decision that approved the RFP is currently under
2 judicial review. That creates a real risk that the
3 solicitation process is not compliant with the
4 requirements of the act. Until that appeal is over,
5 we won't know the likelihood of the outcome of a
6 reversal of that decision. As far as today, Rocky
7 Mountain Power has not disclosed nor evaluated the
8 potential impacts a judicial reversal of the
9 Commission's order would have. What will happen if
10 the RFP is overturned? Who will shoulder the costs
11 associated with advancing this process, perhaps
12 advancing a project, any subsequent process,
13 subsequent RFP, or any subsequent approvals that may
14 follow from that? UIEC submits it shouldn't be the
15 ratepayers. Vacating the schedule and delaying
16 continuation until these economic risks are known
17 is, really, the only way to protect ratepayers from
18 this legal uncertainty. There are similar
19 uncertainties in the transmission projects.
20 Mr. Vail's supplemental testimony on lines 115 to
21 122 describes how the transmission projects will use
22 new tower designs that are still undergoing
23 engineering and testing, initial fabrication and
24 testing, so, at this point, we don't know that the
25 final tower, what its pricing, what its risks, what

1 its reliabilities are, and we can't know until that
2 is complete, sometime estimated to be testing in the
3 summer of 2018. When the transmission line
4 represents about 85 percent of the transmission
5 project costs, not knowing these answers and -- in
6 fact, RMP is still engaged in a competitive
7 solicitation process for the EPCs that will be
8 implementing that line -- leaves costs and contracts
9 still unknown and not knowable.

10 These economic consequences and the
11 potential failure of RMP's assumptions because
12 information has not been provided and yet cannot be
13 known, begs for relief from the current schedule.
14 Setting a new schedule before this sort of
15 information is available and presented to the
16 parties will only further waste resources and time.
17 To the extent this is a time-limited opportunity, we
18 shouldn't be truncating the RFP process and the
19 review process under the act to take advantage of
20 that. The legislature has already provided an
21 alternative mechanism in 54-17-501, and UIEC, again,
22 submits that with the legal uncertainties of the
23 RFP, the economic uncertainties for the absence of
24 contracts, specific structures, what are the
25 projects, proceeding under the waiver process makes

1 the most sense.

2 I'll close with: The Commission
3 previously noted in its order denying UIEC's prior
4 Motion to Stay that no one has moved to dismiss the
5 application in this docket. If the Commission
6 believes that vacating the docket and waiting for
7 these uncertainties to be resolved is not an
8 acceptable remedy and it would prefer a motion to
9 dismiss, UIEC is happy to file such a motion and can
10 do so in short order. Thank you.

11 OFFICER HAMMER: Thank you,
12 Mr. Baker. Ms. McDowell.

13 MS. MCDOWELL: Thank you so much,
14 Your Honor. So, let me do two things. First, your
15 order asked us to address two points: Our view of
16 the sufficiency and the completeness of the filing;
17 and then to identify our critical dates for
18 commencement of construction and completion of this
19 docket to facilitate that construction schedule. So
20 I'd like to address those two issues, and along the
21 way I'll try to respond to the various points and
22 conclude with a few rebuttal points, just to
23 summarize our position and our response to the
24 parties.

25 So, to begin with, on the

1 completeness of the filing, our view is that the
2 Company's filing is substantially complete. You've
3 heard parties talk about how voluminous our filing
4 is, and it's voluminous for a reason, and it's been
5 pending for a while for a reason. This is not
6 make-work. This is not a waste of time. We have
7 filled out the record with substantial information
8 on the RFP, on the combined projects, and, really,
9 are building the record that's required in this
10 case. At this point, the only information required
11 by statute that has yet to be filed is connected to
12 the final step in the 2017 RFP process and the final
13 completion of the RFP as a result of that step. And
14 that final step, you've heard some folks already
15 allude to it, is the review of the results of the
16 interconnection studies for the final short list of
17 projects and the determination of those
18 interconnection studies on that final short list.
19 So you have to do the studies and then look at the
20 economics once those studies are done. Now, the
21 reason this piece has lagged is because the parties
22 to the RFP docket asked for a change in the RFP so
23 that instead of the bids having to have complete
24 system interconnection studies as a part of the bid,
25 the requirement was relaxed so that parties simply

1 had to have a request in the queue. So we agreed to
2 that request, that change, to the RFP. I think UAE
3 supported that change, the IE supported that change,
4 we agreed with that change as a part of trying to
5 make the RFP work for all the parties and to satisfy
6 the IE's concerns.

7 As a result of that, we have now had
8 to conduct this interconnection study process for
9 the final short list projects. And we reported this
10 in our response about two weeks ago on January 24th,
11 when we responded to the DPU and OCS motion. We
12 indicated that we would be conducting these studies
13 and then doing any kind of supplemental filing
14 required if the final short list changed as a result
15 of these studies. I can report that we have
16 completed at least the initial review of the studies
17 and posted them on Oasis. Now that they have been
18 posted on Oasis and the information is public, we
19 can report that the results have changed the final
20 short list. And one project, McFadden II, is going
21 to be replaced with another, Ekola Flats. Both of
22 those projects were in the Company's initial filing
23 as proxy projects.

24 We are currently finalizing our
25 review of those system impact studies and just

1 wanted to be clear that as we review and complete
2 our review, it's possible there could be additional
3 revisions, but we believe that will be the major
4 change that we will be seeing to the final short
5 list. So we are in that final review, we are
6 doing -- we are reviewing the equipment
7 specifications and just checking on any incremental
8 risk associated with the transmission costs related
9 to turbine types in the bid, so we're doing a final
10 check on the bid. So, just what you would expect us
11 to do, reviewing the bids, making sure, now that we
12 have that final information, the final short list is
13 really the best possible combination of projects for
14 our customers.

15 So having gathered that information,
16 we're now in the process of completing it. We
17 intend to make a limited supplemental filing on
18 Friday, February 16th. This is consistent with our
19 response where we indicated that we would, based on
20 any changes we saw in those interconnection studies,
21 update our filing to report any changes to that
22 final short list. So our plan right now is to
23 update our filing with a limited supplemental filing
24 on February 16th. The final short list, at that
25 point, will be fully vetted for interconnection

1 issues and costs and then any additional network
2 upgrades and economic analysis associated with the
3 change in the final short list. So we don't expect
4 it to be a major filing, but, we will, at that
5 point, have the final short list fully vetted for
6 all interconnection issues.

7 So at that point, when the final RFP
8 has been -- all the steps of the RFP have been
9 completed -- we'll be in a position to file all the
10 additional information that is required by the
11 statute related to the RFP. So that's bid
12 summaries, rankings and evaluations, the IE reports
13 that are available -- we need to just say at this
14 point that we -- that the IE doesn't work for us;
15 the IE works for the Commission -- so we are in a
16 position of receiving those reports. We will file
17 the ones we have, but, you know, the reports will
18 lag the completion of the RFP. So they will be
19 filed as they are available, which is the process
20 that the Commission has followed in previous
21 resource approval dockets where you have an RFP and
22 it takes a while to get the IE report. The IE
23 report is filed in the docket when it's available,
24 so we are planning to follow that process. As soon
25 as we have the IE's report, we will file it. But

1 the interim reports, the monthly reports --
2 including the report on the final short list --
3 we'll file as soon as it's available. As part of
4 that filing, the statute requires a signed officer
5 acknowledgment that the RFP has been conducted in
6 accordance with the Commission's rules and orders,
7 and so we will file that at that point once the RFP
8 is concluded.

9 So to respond to a couple of the
10 issues that parties have raised, parties have
11 indicated that the RFP can't be complete because the
12 contracts are not done. And I will say that the way
13 the statute works is that you present your basic
14 contract terms that you will ask for and then any
15 additional contract terms that you might negotiate
16 for. So it's very clear in the statute that the
17 statute recognizes the commercial reality that you
18 conclude an RFP, you select your final short list,
19 you seek approval of those projects, and
20 concurrently are negotiating with the parties for
21 the contract. So often -- I think in our last RFP
22 for gas projects, the Commission approved the
23 resources without having the contracts, just with
24 the understanding that they would follow the
25 template and come in within a reasonable range. So

1 we will file the proforma contracts on
2 February 16th, and respond to the parties' request
3 for additional details on contract terms at that
4 point.

5 Additionally, responding to the
6 parties' request for additional information on the
7 solar RFP, we also intend to update the sensitivity
8 we included in our January 16th filing now that we
9 have vested final pricing from our solar RFP that
10 was not available when we filed the January 16th
11 filing. It is available now, so we will add that to
12 our filing next Friday.

13 So we think, at that point, we've
14 provided a lot of this information already in
15 discovery, tried to be as transparent as possible
16 with the parties, and really tried to supply
17 information, really, on almost a realtime basis. As
18 soon as we have it, we try to provide it to parties.
19 At this point, I think we have responded to
20 something like 42 sets of discovery and 350
21 discovery requests, so we are really doing our best
22 to try to get the information to parties as soon as
23 we have it. But once this information is filed, I
24 think parties will see that there is ultimately not
25 that big of a change from the filing as it currently

1 exists. The 500 kV project, the transmission line
2 is unchanged. There are no changes and have been no
3 changes to that filing since we -- to that proposal
4 since we filed it. Costs have remained the same,
5 the route has remained the same. Really, all of the
6 provisions around the transmission project have been
7 unchanged. Three of the four proxy projects that we
8 included in the initial filing will remain in the
9 filing. So TB Flats and Ekola will both be in the
10 short list, and the change will be these two
11 additional projects, Cedar Springs and Uintah, which
12 were both included in our January 16th filing.

13 The economic analysis is
14 substantially the same. Contrary to OCS's
15 allegations, we have not changed the price policy
16 scenarios. The way we're conducting the analysis,
17 we've made a couple of refinements that are
18 transparent and easy to follow, but, generally, the
19 analysis tracks consistently with what we filed
20 initially in the application. And, you know, on
21 just a project dollar-per-kilowatt-hour basis, the
22 costs are generally the same. So, really, I think
23 once the information comes in next week, folks will
24 see that while the filing has been refined and
25 finalized with the final results of the RFP, the

1 heart of the filing, the substance of the filing,
2 really, is unchanged. And, far from the last eight
3 months being a waste of time, there's an awful lot
4 to build on there. All of the review of the
5 transmission line and the proxy projects, all of
6 that is to the good now, because those projects are
7 the projects that are moving forward.

8 Now, the other question that the
9 Commission asked us to address today is the required
10 schedule for the combined projects and for this
11 case. I guess I just want to be clear that we are
12 not, you know, driving a schedule arbitrarily, we're
13 not doing this to create work for folks, to do
14 anything other than to provide what we see as a
15 significant and really unique opportunity to provide
16 benefits to our customers. It's a time-limited
17 opportunity. We really start with the fact that the
18 production tax credits, which underlie the benefits
19 of this transaction, expire on December 31st, 2020.
20 We're in a position with the combined projects to
21 capture 100 percent of production tax credits on
22 those wind projects. That benefit is significant
23 enough to really allow the construction that is
24 needed of the transmission line. And that's the
25 opportunity. It's a unique opportunity, but it's

1 also a time-sensitive opportunity. If we can't get
2 that transmission line done in time to allow those
3 wind projects to connect to it by the end of 2020,
4 then we lose that opportunity to provide those
5 benefits for our customers. So that's why we have
6 really created, I think, a pretty innovative way to
7 proceed here. Understanding this was time limited,
8 understanding that a transmission line is a fairly
9 significant undertaking, and understanding that an
10 RFP project would be significant in order to show
11 that these projects really are the best possible
12 projects for our customers, we tried to figure out,
13 how do we do all of this, and how do we do this in a
14 way that both achieves those benefits for our
15 customers under that timeframe and allows the
16 parties time to review what is, admittedly, a
17 significant project. So we did this by proceeding
18 concurrently with the RFP process and our initial
19 filing, and we did that to be able to meet that
20 online date by December 2020. So if you start with
21 that date and you go back to, what is the time
22 period we need to construct the transmission line,
23 the answer is, pretty simply, we need two
24 construction seasons to build that transmission
25 line. You can't build transmission, as I understand

1 it, in Wyoming in the winter. And you can't get a
2 line like this done in one season, so we really need
3 two construction seasons. That's what drives the
4 date of April 1, 2019, as the target date for
5 commencement of the construction of the transmission
6 line. And that date has been constant in all of our
7 filings. That is really the date that we have been
8 driving toward. So to be able to commence the
9 transmission project, the construction of the
10 transmission line, beginning in April 2019, we need
11 to be able to commence the process of getting the
12 rights of way to allow us to build that transmission
13 line approximately one year in advance. So that's
14 the schedule we started with. We basically filed in
15 the spring of 2017 with the idea that we would get
16 orders from our commissions in the spring of 2018,
17 allowing commencement of construction of the
18 transmission line in the spring of 2019, which would
19 then allow us to qualify for the production tax
20 credits associated with the wind projects that would
21 be supported by the transmission line.

22 So that was the filing, that was the
23 plan and the schedule around the filing. With some
24 of the delay in approval of the RFP, with the change
25 in the provisions of the RFP that have created this

1 additional step in reviewing interconnection, we are
2 where we are. And we recognize that we can't make a
3 supplemental filing on February 16th without some
4 reasonable extension of the hearing date and the
5 target decision date. So we've looked at the
6 schedule and concluded that it's doable to try to
7 get those rights of way in a ten-month period as
8 opposed to a 12-month period, moving that target
9 decision date period from the April range to the
10 June range. And that's what we've proposed in our
11 response to the parties' scheduling motion, that we
12 would build in time in the schedule for this final
13 filing around the short list, move, then, into a
14 hearing process. We targeted proposed hearing dates
15 in April, I believe. In our filing, we targeted
16 either the week of April 18th or the week of
17 April 24th. We are looking at a hearing date, a new
18 hearing date in Wyoming, in the week of April 9th.
19 So we're basically looking to reset the schedule,
20 and it would have Wyoming continuing to be the first
21 hearing, but then have Utah follow in the same
22 sequence as the original schedule. So that's in
23 terms of just the schedule, the construction, how we
24 see this litigation playing out, and why we are
25 moving for an expeditious review. That's the story.

1 That's why we are here and asking for, not an
2 open-ended change in the schedule, not something
3 that could take another six or eight months.
4 Because, as a practical matter, if that happens,
5 this project isn't going to happen. You can't get
6 the rights of way and build a transmission line that
7 quickly. We really need a decision in -- this
8 spring or early summer in order to be able to keep
9 this project on track. So that's why we've targeted
10 June 1 as the new date. Now, if you accept either
11 the argument that January 16th or a filing on
12 February 16th is really the commencement of this
13 case and ignore the eight months that the case has
14 been pending with the transmission information, the
15 information on the proxies, the information on the
16 RFP, put all that aside and just say, this is the
17 beginning. June 1st is the new target date and is
18 more than a 120 days after our January 16
19 supplemental filing, and it would be -- I think it's
20 105 days from a filing on February 16. So we think
21 that puts a June 1 target decision date and the
22 hearings in mid-to-late April as squarely within the
23 time frames contemplated by the act. Between the
24 January filing and the February filing, to the
25 extent there were any outstanding issues,

1 outstanding questions that parties had, we think
2 those filings address them. And depending on how
3 you calculate the time, the decision date would be
4 somewhere between, you know, 105 and, I think, 130
5 days. So we definitely are within the range
6 contemplated by the statute if we go there.

7 We think that the act recognizes
8 that, in cases like ours, it's the Commission's job
9 to balance the need of the parties for additional
10 information and time with the commercial reality
11 that, you know, basically, use it or lose it. You
12 have to do these projects or the opportunity is
13 gone, and this is really that kind of situation. If
14 we don't move forward, that effectively is the
15 answer here. If this gets delayed too far, the
16 project cannot go forward. So we really want to be
17 able to balance the interests of the parties, extend
18 the schedule to allow additional testimony,
19 additional discovery, to respond to the things we've
20 heard today about what people want to see, but yet
21 keep this within the schedule that allows this
22 project to move forward.

23 That's, I think, both a response to
24 the specific questions that the Commission has asked
25 and, at least, some rebuttal to what the parties

1 have said. I just want to reiterate that we
2 appreciate the challenges associated with this
3 filing and appreciate the parties' careful review of
4 the filing and their continuing engagement in this
5 process. We're doing it because we really deeply
6 believe this is a project that's beneficial to
7 customers and we want to see it through. Thank you.

8 OFFICER HAMMER: Thank you,
9 Ms. McDowell. Aside from the reports from the IE,
10 is there any additional information that the Company
11 anticipates it would file in support of the
12 application after February 16th?

13 MS. MCDOWELL: We believe that that
14 is the information that is required by statute and,
15 at that point, the application would be complete.
16 The contracts with the counterparties will be
17 ongoing, and while we don't -- as I explained, we
18 believe that it's sufficient to file our pro forma
19 contracts with a description of what we believe we
20 will ultimately negotiate. Our expectation would be
21 that once those contracts were complete, we would
22 supplement the filing with the completed contracts.

23 OFFICER HAMMER: Thank you.

24 MS. MCDOWELL: Or at least provide
25 them in discovery. Either way. We would provide

1 them as requested.

2 OFFICER HAMMER: Mr. Jetter?

3 MR. JETTER: Thank you, Your Honor.

4 I'd like to address some things in response. I
5 believe the term that was used was "transparent as
6 possible." And I would suggest that, in fact, it
7 has been pretty close to the opposite of that. The
8 Company made decisions to invest in this project, at
9 least initially, in the later part of 2016. The
10 fact that we're here in early 2018 discussing an
11 incomplete project is no one's fault except the
12 Company's. Those delays in preparing projects,
13 going through the RFP until we're up against a
14 deadline, are their own making. We've just heard
15 today that we're going to get a new filing in two
16 weeks, approximately, or a week and a half, and the
17 request to the Commission is, just trust us. It's
18 not going to be that much different. And, I guess,
19 the request is to set a schedule based on this idea
20 that we're going to file something in two weeks,
21 which is over a year, year and a half after we
22 started looking at this project that will be
23 something like the final version. We don't know if
24 it's going to be the final version, but it's going
25 to be pretty close. And, just doing some rough

1 math, if we started with a proposal in the initial
2 application, 860 megawatts, we've jumped up to now
3 1,170 megawatts of wind, and my understanding is the
4 move from the McFadden II project to the Ekola
5 project will add approximately an additional 150
6 megawatts. So, at that point, we're going from an
7 initial application of 860, now up to 1,320
8 megawatts. That's a huge change, and to suggest
9 that, well, it's about the same thing, is kind of
10 what we're hearing, it's very different from our
11 view -- from the economics of it -- how we view what
12 analysis we've got to do going forward, and we're
13 not completely starting from square one, but we're
14 not that far off of that. And, important to this
15 discussion is, this is the first that it's been,
16 essentially, publicly disclosed or disclosed to most
17 of the parties, that this is the case, that we're
18 changing the final short list.

19 I would suggest that we can't really
20 set a schedule right now based on the idea that we
21 might have a final project in a week or two, because
22 we simply don't know what's going to come in that
23 filing. Our understanding is, at least with the
24 transmission studies, is there still is uncertainty
25 in terms of some of the costs involved. I won't go

1 into the specifics of which turbine selections cause
2 what problems, but our understanding is there is
3 still uncertainty around those issues that may cause
4 changes in the transmission costs that will be
5 flowing into this project.

6 And on the issue of transmission, the
7 primary argument from the Company has been, we need
8 to build this transmission because -- initially,
9 because we can get it, sort of, paid for as part of
10 this project. And then it turned into, well, we're
11 going to build it in 2024 anyway. We don't know
12 that, from the Division's perspective, we don't --
13 transmission for what? If the wind is not built, we
14 haven't really seen a great explanation for what
15 that transmission is for other than that. And, so,
16 relying on the premise that that is a foregone
17 conclusion that necessitates a faster schedule here
18 I think is in error.

19 On top of that, it was within the
20 Company's own testimony in their supplemental update
21 that the production tax credits would be qualified
22 for even if the transmission line is not complete,
23 so long as the turbines are synchronized onto the
24 greater transmission system. Now, obviously, we
25 recognize that the transmission line would be

1 necessary to maximize all of the production tax
2 credits, you couldn't produce the peak output of
3 those units without the transmission line. But the
4 deadline to have the transmission project online to
5 qualify for the production tax credits just simply
6 isn't that accurate.

7 Additionally, what was mentioned was
8 that by February 16th, we would have the best
9 combination of projects. And I think what that
10 really means is we'll have the best combination of
11 wind projects. We don't know that that will be the
12 best combination of all projects because we don't
13 know what the solar will be. And the main point of
14 all of these smaller arguments that I'm describing
15 here is that, we simply don't know what we're going
16 to get and we don't know how to schedule, we don't
17 know how much time. We certainly will work as fast
18 as we can to get a proper analysis, but we're --
19 frankly, we have already burned through most of the
20 initial budget we have for outside experts on
21 projects that are not the final project. We're
22 running into a concern. We have some, essentially,
23 a soft cap and a hard cap through state purchasing
24 where we may -- if we keep getting projects, we run
25 out of cap room and have to go back for a new RFP

1 for outside consultants and I'm not sure how that
2 will affect our analysis, but it may end up with an
3 incomplete analysis from the Division if the project
4 doesn't go forward fairly smoothly from here.

5 It's ultimately -- I guess my
6 argument goes back to what I had said in the
7 beginning of this hearing, is that we should have a
8 scheduling conference once we have a project that we
9 can schedule to review. And, at this point, we
10 simply just don't know what that is.

11 OFFICER HAMMER: Thank you.

12 Mr. Moore?

13 MR. MOORE: Again, I would concur
14 with Mr. Jetter and state that the Office is having
15 similar budget concerns. We've blown through a lot
16 of our money analyzing those projects. And, now,
17 because of the way the State works, we are put in a
18 real bind, and we can't tell you right now how
19 that's going to shake out. Certainly, it could have
20 an impact on the timing of our review. I wanted --
21 not to restate everything that has been said or
22 respond to whether we find it's different with the
23 change -- there was one thing that caught my ear
24 that I want to respond to. This notion that the
25 requirements and rules will be provided as

1 requested. Well, that's a waste of time. I have --
2 I don't see why we have to write discovery requests
3 saying, tell us what the rule tells us to say. They
4 state they have a somewhat complete filing through
5 the 16th. I would suggest you put it in the order
6 that they provide, with specificity, the information
7 that they claim satisfies each element of Rule
8 46-430-21. That will save everybody time and should
9 be in everybody's interest. And, with specificity,
10 rather than citing to every piece of testimony
11 Mr. Teply may have provided, the line which he
12 provided it. Instead of citing to all the exhibits
13 attached to a subject testimony, a specific exhibit
14 in the paragraph in the exhibit that addresses that.
15 That will speed things up and should help everybody.

16 And just circling back, the last
17 thing I want to say is that this hearing, as I
18 understand it, basically is a hearing about the
19 April 18th and April 24th possible hearing dates
20 suggested by the Company. Everybody's in agreement
21 that we need a scheduling conference to reset the
22 schedule. The Company wants those dates set by
23 Commission order. That is the only thing we're
24 talking about here, is my understanding, that that
25 is the substance of this agreement between Rocky

1 Mountain Power and the rest of the parties. Those
2 of us who are opposing, I don't think all of them
3 are opposing Rocky Mountain Power. As we sit here
4 today, I just see no way that we could commit to
5 those hearing dates given the vast amount of
6 uncertainty that still exists. Rather, I would say
7 that the more reasonable way to proceed is to wait
8 until we have the February 16th filing, give us a
9 chance to review it, schedule a scheduling
10 conference where all dates can be set. And I also
11 wanted to point out that there are five weeks
12 between the hearing dates, approximately, and the
13 date of decision. There seems to be enough room in
14 Rocky Mountain Power's schedule to massage those
15 dates a little bit if it will enable the State
16 parties to satisfy their statutory obligations.
17 Thank you.

18 OFFICER HAMMER: Mr. Longson,
19 Mr. Russell or Mr. Baker?

20 MR. LONGSON: Thank you. The only
21 thing that I'll add is just that Interwest would
22 urge that we have additional time to consider the
23 schedule and have a scheduling conference to
24 determine when the hearing dates would be. Other
25 than that, no additional comments. Thank you.

1 MR. RUSSELL: Thank you. I have a
2 request for clarification and because we're here in
3 formal hearing, I'll direct it to you. The request
4 for clarification relates to what we're going to get
5 on February 16th. Included in the Company's
6 June 2017 filing related to the benchmark resources
7 were a number of Excel spreadsheets that were
8 entitled as work papers that related specifically to
9 those projects. We didn't receive those in the
10 January supplement. The Company has indicated, in
11 response to some data requests about those, that
12 they're highly confidential and that they would make
13 arrangements for us to come see them. I guess what
14 I'm asking is, are we going to get those in the
15 filing or are those going to be marked as highly
16 confidential, are we going to have to make
17 arrangements to come see them, or are those going to
18 be filed with the Commission so the Commission can
19 see them as well?

20 OFFICER HAMMER: I'll allow
21 Ms. McDowell to answer that question if she chooses.

22 MS. MCDOWELL: Sure. I'm happy to
23 answer that question. The reason that some of the
24 work papers for our January 16th filing were not
25 provided and, instead, were basically made available

1 to the parties on a highly confidential basis is
2 because they related to the pending RFP. And RFPs,
3 until they are concluded, are highly sensitive in
4 competitive operations, so we have to be very
5 careful about how we manage that information. We
6 will endeavor to provide as much information as
7 possible in our work papers, yet, at this point,
8 it's not -- you know, I don't know exactly whether
9 there would be information that would still be
10 deemed highly confidential as we are concluding the
11 contracting process with the counterparties. I
12 suspect there may be some information, but we will
13 endeavor to make that information available to
14 parties as painlessly as quickly as possible. It is
15 highly confidential and I would say, this is the
16 process that we have to follow whenever there's an
17 RFP solicitation and then a resource approval.
18 There's always this sensitivity around resource
19 selection, so that's to the extent there was any
20 difference in our work papers in the January 16th
21 filing and our previous filings, it's around that
22 issue. We'll certainly work to minimize the amount
23 of information that has to be classified as highly
24 confidential to only the things that really
25 essentially are highly confidential, and we'll work

1 with the parties to try to make that available to
2 them as readily as possible.

3 OFFICER HAMMER: Anything else,
4 Mr. Russell?

5 MR. RUSSELL: Nothing that hasn't
6 already been said three times, I think.

7 OFFICER HAMMER: Thank you.
8 Mr. Baker.

9 MR. BAKER: Thank you. I'll keep my
10 final comments brief. There's just a few points I
11 think need further discussion. As an initial
12 matter, substantially complete is not complete. I'm
13 not sure -- I can agree with OCS and DPU that the
14 dates proposed by Rocky don't provide sufficient
15 time to evaluate the information that, perhaps, may
16 be coming on February 16th. But I provide that
17 February 16th isn't an appropriate starting point
18 either. As they mentioned, the IE report won't be
19 available on February 16th, and they said they don't
20 control the IE. I just wanted to note that under
21 our 746-426-4(E), the IE, by rule, has six months
22 from the end of the RFP process to complete their
23 final report. Under the rule, that date extends
24 further.

25 Similarly, I will ask a somewhat

1 rhetorical question. I don't know how the utility
2 officer can certify compliance with the Commission
3 rules and the law, when that question has been
4 presented to a judge now to determine whether or not
5 the solicitation process has complied with the rules
6 or the statute. And that also won't be known by
7 February 16th with the opening briefing, I believe,
8 not due until March 5th. Rocky Mountain Power
9 mentioned that this is an innovative process, and
10 I'm not sure that we need an innovative process that
11 allows Rocky Mountain Power to trickle out
12 information as it becomes available and asks the
13 parties to extract from them through discovery
14 request information that the rules and the statute
15 mandate be provided. Again, I submit that part 5 of
16 the act provides an expedited process to allow Rocky
17 Mountain Power to take advantage of this
18 time-limited opportunity. Thank you.

19 OFFICER HAMMER: And, Ms. McDowell,
20 as it's 5 to 1 in here, I'll allow you an
21 opportunity to provide some sur-replies.

22 MS. MCDOWELL: I appreciate that,
23 Your Honor. I think what I'm hearing is that folks
24 are saying, let's have a scheduling conference after
25 we see your filing on February 16th, and, at that

1 point, we've got 120 days. And that does not make a
2 lot of sense to me, as a person who has been trying
3 to balance the interests of the need for moving the
4 project along and meeting the project deadlines that
5 I have talked about, and also balancing the
6 interests of the parties, allowing parties to have
7 the maximum amount of time possible to file their
8 testimony, to review our testimony, to burn a few
9 weeks while people are looking at the filing and
10 getting a prehearing conference or a scheduling
11 conference on the record, and, you know, it just
12 makes sense. We're here today to talk about the
13 schedule. It makes sense to me to work off of the
14 February 16th filing date, look at the 120-day
15 period that is really -- I mean, we think the
16 120-day period should begin January 16th, but even
17 assuming it begins February 16th with this filing,
18 that gets us -- you know, we have, basically
19 parameters of that filing to, maybe, the middle of
20 June. So it makes sense to me to look at that now
21 and not wait until February 16th to get a schedule,
22 because it's going to make it that much more
23 difficult, I think, to me, what is an aggressive
24 time frame. It seems to me we ought to be looking
25 at dates right now, trying to clear them, trying to

1 get people understanding what can work in their
2 schedule and what can't. And, meanwhile, the
3 Company also is working on parallel schedules in
4 Idaho and Wyoming, needing to make sure all of that
5 syncs up. So I guess in my -- it would be my
6 suggestion that we use the time now to have that
7 discussion. It certainly would be helpful if you
8 gave direction to the parties to provide some
9 parameters for that scheduling discussion, but, in
10 any event, it seems counter to all of the interests
11 being expressed here to wait another couple of weeks
12 to get a schedule in place when we know it's going
13 to be an expedited schedule one way or the other.

14 OFFICER HAMMER: Would the parties be
15 willing, then, to recess and confer off the record
16 amongst themselves, assuming -- and I realize the
17 other parties are not in a position to do that, but
18 assuming the Company's filing will be complete on
19 February 16 and acknowledging the concerns that have
20 been raised about the judicial review that's going
21 on -- but assuming the Commission were able to
22 determine the filings were complete on February 16,
23 would the parties be willing to discuss a proposed
24 schedule to avoid or I suppose make the process as
25 expeditious as possible? And I'll ask Mr. Jetter to

1 respond first if he's ready.

2 MR. JETTER: We're always willing to
3 discuss mutually agreeable schedules.

4 OFFICER HAMMER: Mr. Moore?

5 MR. MOORE: We're also agreeable to
6 discuss a mutually agreeable schedule. We will work
7 hard, regardless of the Court's ruling, to get our
8 review done and complete. And if it is complete, we
9 will inform the Commission of that fact. We're not
10 trying to scuttle this project by delay. I just
11 don't know how fruitful discussions will be about
12 scheduling testimony about projects that we don't
13 know about, however, but we'll try.

14 OFFICER HAMMER: The other parties?

15 MR. RUSSELL: UAE is willing to talk
16 and see if we can come to some mutually agreeable
17 schedule.

18 MR. BAKER: UIEC is also willing to
19 talk about a mutually agreeable schedule, but I
20 will, on the record, note that we're skeptical of
21 the initial assumption that it would be a complete
22 filing on February 16, and not certain that we will
23 reach a mutually agreeable schedule.

24 OFFICER HAMMER: Mr. Longson?

25 MR. LONGSON: We're also agreeable to

1 discuss. The only caveat is that we have some
2 constraints with our witness availability that might
3 reign us in, but, other than that, we're certainly
4 willing to discuss it.

5 OFFICER HAMMER: Ms. McDowell, does
6 that comport with what you were suggesting?

7 MS. MCDOWELL: I think that will be
8 helpful, and I appreciate your allowing the parties
9 a moment to have that discussion. I think it just
10 makes sense, in terms of trying to move this
11 forward.

12 OFFICER HAMMER: All right. We'll be
13 in recess, then. When the parties are prepared,
14 please come and let us know and we will reconvene.
15 If I don't hear anything by 3:30, I will check back
16 with you.

17 (A brief recess was taken.)

18 OFFICER HAMMER: Ms. McDowell, I'll
19 ask you to apprise me of the parties' discussion.

20 MS. MCDOWELL: Thank you so much,
21 Your Honor. I want to say that I really appreciate
22 the parties taking the time to talk with us about a
23 schedule. I'm sorry that I have to report that we
24 were not able to reach an agreement on a schedule,
25 but I think the discussion was helpful for us in

1 terms of framing a proposed schedule that we think
2 might work for folks, or at least may provide more
3 room for solution space than the April date that we
4 came in with. We're hearing from parties that that
5 is not a workable time frame, and if we were moving
6 to a June 15th target order date, that we do have
7 some flexibility to, perhaps, move the hearing into
8 May.

9 So, what I propose to do since we
10 weren't able to reach agreement, is to propose what
11 we think would be an appropriate schedule in this
12 case and allow the parties to respond to that.

13 OFFICER HAMMER: Please, go ahead.

14 MS. MCDOWELL: So we, as I indicated,
15 plan to file in February, February 16. We're
16 looking at the parties' response the first week of
17 April, the week of April 2nd; the Company rebuttal
18 the week of April 23rd, exact dates are subject to
19 working with peoples' schedules; and, then, that
20 April 23rd would be both Company rebuttal and
21 parties' cross responses; and then hearings either
22 the week of May 7th or the week of May 14th. We can
23 make either of those dates in May work; the
24 following week in May does not work for us. That's
25 the week that moves into the Memorial Day weekend,

1 so there may be scheduling issues there. The other
2 thing is to allow us to be able to keep up with the
3 discovery flow. We request a 14-day turnaround
4 between February 16 and April 2nd, a 10-day
5 turnaround between April 2nd and April 23rd, and a
6 7-day turnaround between April 23rd and the hearing
7 date.

8 OFFICER HAMMER: Thank you.
9 Mr. Jetter, anything to say in response?

10 MR. JETTER: I do have some response.
11 With the current schedule, the way we view it, there
12 would be this coming filing, and then there would be
13 one response from the other parties in essentially
14 the surrebuttal round. What they're suggesting,
15 essentially, is that we would receive something that
16 may or may not be a final list and a complete
17 filing. If we assume that's the complete filing,
18 that would arrive to us April 16, which, ultimately,
19 is a holiday weekend, which we would probably get to
20 start looking at it -- excuse me, February 16 -- we
21 would start looking at it February 20th. That gives
22 us something, like, four to five weeks until
23 April 2nd. I think at a minimum, we need in the
24 ballpark of 60 days. This is -- I believe this is
25 the largest request of this type that we have ever

1 had in Utah. I think 60 days is certainly within
2 reason. Our opinion as to what would be a
3 reasonable option would be to -- well, let me back
4 up. First, we think it still would be the best
5 option to find out what they file on February 16,
6 determine if it's a complete filing, and then have a
7 scheduling conference to sort out what a schedule
8 would look like going forward. But, not knowing
9 what that is and assuming that it's a complete
10 filing on February 16, 60 days, roughly, from the
11 20th of February, would put a ballpark time for us
12 to respond two months later, something in that
13 midweek of April 24th, 25th, something like that.
14 And our suggestion would be that that would be the
15 final testimony prefiled in the docket, and we would
16 have a hearing potentially mid-May. And the
17 alternative, if there are more rounds of testimony,
18 we think that they need to be reciprocal with
19 approximately equal time or more so after that date,
20 assuming that's the minimum time we need to do our
21 initial review, and that's going to push the hearing
22 later, and, ultimately, that is inconsistent. I
23 don't know that that can work with a June order.

24 OFFICER HAMMER: Mr. Moore.

25 MR. JETTER: Do you mind? The other

1 thing that we would like is to keep the discovery
2 request turnaround to seven days. Through that
3 period, it's a pretty short deadline to review an
4 enormous filing, and we don't know what it will be
5 at this point. In addition to that, we would also,
6 if we hypothetically agreed to this, which is not
7 our first choice -- we don't mean to sound like this
8 is one of our main proposals here -- but if that
9 were the case and the Commission decides to go that
10 way, we'd like it recognized that there's a period
11 of time to challenge the filing's completeness. We
12 don't know if it will be complete and, frankly, we
13 just don't know what we're going to be looking at on
14 February 16.

15 OFFICER HAMMER: Thank you.

16 Mr. Moore?

17 MR. MOORE: We generally concur with
18 the DPU. We don't have our consultant's
19 availability today, so that limits the amount of
20 what we can agree to. We're also concerned about
21 the 14-day turnaround on the DRs and join DPU's
22 request that it be limited to 17. If that request
23 is not granted, I would make an alternative request
24 that objections and claims of confidentiality should
25 be served within five days so that we can sort that

1 out more expeditiously than waiting for the full 14
2 days and then get hit with a claim of
3 confidentiality or an objection that will just slow
4 down the process.

5 OFFICER HAMMER: Thank you.
6 Mr. Longson?

7 MR. LONGSON: Thank you. As I
8 mentioned earlier, our primary concern is witness
9 time constraints. We do know our witness's
10 availability, we only have one witness. There's two
11 weeks for which he's not available, so I just want
12 to get out there those weeks. It doesn't sound like
13 this is likely to be an issue, but he is unavailable
14 the weeks of April 23rd and May 1st. So to the
15 extent that the Commission wants to schedule a
16 hearing, we would be good with Rocky Mountain
17 Power's proposed dates or anything outside of those
18 dates that I mentioned.

19 OFFICER HAMMER: Thank you.
20 Mr. Russell?

21 MR. RUSSELL: Thank you. You had
22 asked that we engage in scheduling discussions based
23 on the assumption that we're going to get a complete
24 filing. We have done that the best we can. I don't
25 have all of my witness's availability right now. I

1 do have some dates that I know that he's not
2 available, but I think we can work with those
3 depending on what we do here. I do want to request
4 that there is a time for us built in, if the
5 Commission is inclined, to enter a schedule based on
6 what's said today, that there is a time for us to
7 file something with the Commission indicating that
8 we -- if we don't think the filing on the 16th is
9 complete. I support the statements of the Division
10 and Office that I think we're going to need 60 days
11 from February 16 to review whatever does get filed
12 week after next.

13 OFFICER HAMMER: Thank you.

14 Mr. Baker?

15 MR. BAKER: Thank you. I'll echo
16 what Mr. Russell stated and that UIEC, for a number
17 of reasons we mentioned on the record earlier, is
18 not in a position to concede the assumption that it
19 would be complete, and to the extent that the
20 Commission issues a new schedule, that there will be
21 an opportunity to challenge the completion or also,
22 perhaps, move for a dismissal as the Commission had
23 previously noted in an earlier order. And, at this
24 time, we're not in a position to state when or if
25 the schedule is appropriate, other than to say,

1 similar to what to DPU mentioned, we think that
2 setting a scheduling order so that there's an
3 opportunity once we have seen the filing to better
4 sketch out what dates would look like would be the
5 preferred approach. Thank you.

6 OFFICER HAMMER: Thank you. Does
7 anyone have anything else?

8 MS. MCDOWELL: Just one quick
9 follow-up with respect to a 60-day period for folks
10 to respond and then moving right into hearing, you
11 know, implicit in that, potentially, is that the
12 Company's response would be live at hearing, you
13 know, sort of a live rebuttal. And while I think
14 certain cases can accommodate that approach to
15 expediting a schedule, I'm not sure this is one
16 given the fact that the case really is around the
17 quantitative analysis of benefits. It does involve
18 modeling and analytics, really uniquely, because
19 that's how resource decisions are made, based on
20 those economic analyses. And that, I think, is
21 difficult evidence to put on live at hearing. I
22 really think a prefiling is important, so we're
23 willing to do our rebuttal expeditiously as we have
24 agreed throughout this process and, you know,
25 various iterations of the schedule, but I really

1 think that the record here would be best served if
2 the Company has a chance to do a written rebuttal.
3 Thank you.

4 OFFICER HAMMER: Thank you. Does any
5 party have anything else?

6 MR. JETTER: Just two follow-up
7 points. The first being that we did not anticipate
8 live surrebuttal in our view of what would be an
9 acceptable schedule. The Company or other parties,
10 whoever, would certainly be allowed to cross-examine
11 our witnesses at the hearing, but we did not
12 anticipate in that schedule the opportunity for
13 another round of surrebuttal from the Company or
14 other parties. And, in addition to that, we do have
15 the 39 docket ongoing in which we're using most of
16 the same witnesses, and so it would be really
17 helpful to not have an overlapping or simultaneous
18 date for testimony in those two dockets.

19 OFFICER HAMMER: Thank you. Anything
20 else?

21 MR. RUSSELL: I do have one other
22 thing. While we're talking about dates, I know the
23 Office has indicated that it is not aware of its
24 witness's dates. I've got some dates that are about
25 a week old, I don't know how good they are, but to

1 the extent that the Commission is interested in
2 setting a hearing date, I've got a witness who's
3 unavailable May 15th through the 17th. We have
4 talked -- there's been some discussion about a
5 hearing in mid-May, and I just wanted the Commission
6 to be aware of that.

7 OFFICER HAMMER: Thank you. All
8 right. If there's nothing else, the PSC will take
9 the arguments presented today under advisement and
10 we will issue a ruling in short order. Thank you.

11 (The hearing concluded at 3:50 p.m.)

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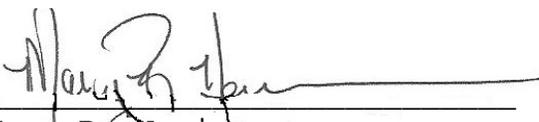
REPORTER'S CERTIFICATE

STATE OF UTAH)
COUNTY OF SUMMIT)

I, Mary R. Honigman, a Registered Professional Reporter, hereby certify:

THAT the foregoing proceedings were taken before me at the time and place set forth in the caption hereof; that the witness was placed under oath to tell the truth, the whole truth, and nothing but the truth; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such testimony adduced and oral proceedings had, and of the whole thereof.

I have subscribed my name on this 16th day of February, 2018.



Mary R. Honigman
Registered Professional Reporter #972887

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