

In the Matter Of:

In Re: RMP - Significant Energy Resource Decision

HEARING, VOLUME II, DOCKET NO. 17-035-40

May 30, 2018

Job Number: 451405

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the)	Docket No. 17-035-40
Application of Rocky)	
Mountain Power for)	
Approval of a Significant)	HEARING
Energy Resource Decision)	
and Request to Construct)	
Wind Resource and)	VOLUME 2
Transmission Facilities)	

May 30, 2018
9:00 a.m.

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

Reporter: Teri Hansen Cronenwett
Certified Realtime Reporter, Registered Merit Reporter

Job No. 451405

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1 May 30, 2018

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

3 CHAIRMAN LEVAR: Okay. Good morning. We're
4 back on the record in Public Service Commission docket
5 17-35-40, the application of Rocky Mountain Power for
6 approval of a significant energy resource decision and
7 voluntary request for approval of the resource decision.

8 We were in the middle of cross-examination for
9 witness Rick T. Link for the utility. Are there any
10 preliminary matters before we continue with that
11 testimony? Not seeing anything from anyone.

12 So Mr. Link, if you want to take the stand.
13 You are still under oath from yesterday. And I believe
14 it was Mr. Baker's turn to cross-examine.

15 RICK LINK,
16 was called as a witness, and having been previously
17 sworn, testified as follows:

18 CROSS-EXAMINATION

19 BY MR. BAKER:

20 Q. Good morning, Commissioners. Thank you and
21 good morning, Mr. Link. I just have a few questions for
22 you this morning. Your model includes assumptions of
23 the generation profiles of these wind projects; is that
24 correct?

25 A. Yes, it does.

1 **Q. And where did these generation profile**
2 **assumptions come from?**

3 A. The generation profiles are based on the
4 information supplied with the bids that were submitted
5 into the 2017R RFP ultimately backed by the historical
6 data sets that were a requirement as part of the RFP in
7 terms of wind speed and their own assessment, using
8 their own experts, to derive essentially what we call a
9 12 by 24, which can get converted into an 8,760 hour
10 wind generation profile.

11 And then we subsequently had our own expert
12 review that data and information to confirm whether
13 those profiles and ultimate expected performance levels
14 were -- were accurate in accordance with the data that
15 were provided.

16 **Q. And from -- from these assumptions, you**
17 **generate the PTC value of the project; is that correct?**

18 A. The PTC value is more a reflection of the
19 aggregate energy at any given point in time, or through
20 annually. So it's -- in other words, the PTC value
21 doesn't matter, the time of day in which the generation
22 is being produced. It's more a reflection of just the
23 total output, the total megawatt hours.

24 **Q. So what other assumptions are in your PTC**
25 **value?**

1 A. It's essentially the total volume by year. So
2 megawatts hours by project by year times the PTC value
3 dollars per megawatt hour.

4 **Q. And the PTC values help drive your claimed**
5 **economic benefits of the combined projects; is that**
6 **correct?**

7 A. Yes. The PTCs are a critical element of the
8 net benefits that we're projecting for these projects.
9 I think in aggregate we're at about 1.2 billion or so of
10 gross PTC benefits for the projects.

11 **Q. And is the company guaranteeing the PTC values**
12 **used in its economic model?**

13 A. The company is guaranteeing the qualification
14 for the PTCs, but we are not guaranteeing that the wind
15 will blow.

16 **Q. Or that the generation profiles will actually**
17 **meet what are estimated; is that correct?**

18 A. Correct. The generation profiles on an hourly
19 basis across the year, as I indicated, are backed by the
20 historical data set supplied by the bidders, and then
21 validated by our own third party experts. But the
22 actual, again, hourly profiles are not in and of
23 themselves a critical driver to the PTC benefit. That's
24 more just aggregate generation levels.

25 MR. BAKER: No further questions.

1 CHAIRMAN LEVAR: Okay. Thank you.

2 Ms. McDowell, do you have any redirect?

3 MS. MCDOWELL: Yes, I just have one question
4 for Mr. Link.

5 REDIRECT EXAMINATION

6 BY MS. MCDOWELL:

7 Q. And you were asked some questions about the IE
8 report, specifically page 81 of the IE report. Can you
9 turn to that? So yesterday there was some discussion
10 around the modeling of PTCs and how that impacted the
11 bid valuation. Do you recall those questions?

12 A. Yes.

13 Q. And you were asked some questions about the
14 second full paragraph of the IE report. I'd like to
15 direct your attention to the third full paragraph of
16 that report. And can you give me your interpretation of
17 what that third paragraph means as it relates to the
18 paragraph you were questioned about yesterday?

19 MR. BAKER: Chair LeVar, at this point I'll
20 object to the question for the same reason that counsel
21 objected to other questions yesterday. We have the
22 author of this report, who will testify before us. We
23 can ask him about his understanding or his reasons for
24 writing that paragraph, I suppose.

25 CHAIRMAN LEVAR: Ms. McDowell, do you want to

1 respond to the objection?

2 MS. MCDOWELL: Well, we can ask that question
3 to Mr. Oliver, but those questions were asked to
4 Mr. Link yesterday. So I think it's fair to get his
5 interpretation of not just the second paragraph, but
6 also the third paragraph.

7 CHAIRMAN LEVAR: Yeah. Considering the extent
8 of discussion during cross-examination, I think I am
9 inclined to deny the objection and allow the question to
10 go forward.

11 A. So the paragraph states that the independent
12 evaluator essentially concluded, or did not believe that
13 any bid was -- had an inherent competitive disadvantage
14 associated with any of the parameters of the
15 solicitation process.

16 So I believe, if I recall the line of
17 questioning yesterday, was in regard to the treatment of
18 PTCs, and how that might influence selections of a BTA,
19 a build transfer agreement, versus say a power purchase
20 agreement. And I believe in my response I had indicated
21 that ultimately the IE, from what I recalled in the
22 report, found that it didn't cause a competitive
23 disadvantage, and I believe that reference to the third
24 paragraph is where I recall that being stated.

25 MS. MCDOWELL: That's all I have. Thank you.

1 CHAIRMAN LEVAR: Okay. Thank you. Any
2 recross based on that question? I am not seeing any
3 indication from anyone. Commissioner White, do you have
4 any questions for Mr. Link?

5 EXAMINATION

6 BY COMMISSIONER WHITE:

7 Q. Yeah. It's been a while since yesterday. I
8 wanted to return to something you were explaining your
9 summary about, the response of the company to the
10 commission's order on the RFP with respect to how it
11 performed the solar RFP.

12 And what I thought I heard you say was
13 something to the extent that -- and let me back up here
14 for a second. I recognize that we have had new portions
15 of the -- your testimony with respect to that report.
16 The analysis and part of the report itself has been
17 stricken. So I certainly don't want to stray there.

18 But could you go back and explain again what,
19 how that -- how the company responded to the
20 commission's direction in terms of including wind. And
21 I think I heard you correctly, tell me if I am wrong,
22 that wind was included in the analysis of the solar RFP?

23 A. Yes. And I can respond without addressing any
24 of the information that has been struck from the record
25 in my testimony.

1 So when -- as -- because we were -- we were
2 processing the two RFPs in parallel, they were on
3 slightly different staggered schedules, but they were
4 still being done concurrently with one another. We had
5 received, you know, initial pricing from the solar RFP
6 at various stages of our evaluation of bids in the wind
7 RFP, and then ultimately received best and final pricing
8 from the solar bidders in the solar RFP in coordination
9 with the wind RFP process.

10 And as we received that information, we were
11 updating our sensitivities in this docket to account for
12 the solar RFP bids. So initially we had kind of the
13 initial bids, the indicative offers that informed our
14 solar sensitivities, and then ultimately we had best and
15 final pricing from the solar RFP that we brought into
16 the winds RFP to perform those sensitivities.

17 And I think what's key, and how I feel we
18 responded to the concerns raised in your order for the
19 RFP approval, is that when we performed the
20 sensitivities, we allowed our model to choose from all
21 bids, the wind and the solar.

22 So we didn't hard code the wind projects into
23 the model's portfolio. We allowed it to choose from
24 those bids and the solar bids, and it could choose any
25 combination it wanted to based on the economics to

1 arrive at essentially the least cost portfolio.

2 So that was why I made the statement yesterday
3 in my summary that the sensitivities essentially were
4 analyzed as if those bids were submitted into a single
5 RFP. That's how we would evaluate them if they were
6 done through a single RFP. And our models in those
7 cases continued to choose the wind projects, along with
8 the solar projects.

9 So when the solar bids were introduced as an
10 alternative, it didn't displace the wind bids as a
11 result of that. It continued to choose them, and then
12 it added the solar bids to it. And fundamentally,
13 that's the rationale behind my statements in the
14 position that the -- the solar bids do not displace the
15 wind projects, they are best viewed as really an
16 incremental opportunity in addition to the wind
17 projects.

18 Q. Okay. There was discussion yesterday about
19 price policy scenarios and the company's use of the
20 official forward price curve. Can you walk me through
21 how that was utilized in this RFP versus how that
22 particular data set is used in other scenarios that the
23 company utilizes it? For example, the IRP or other --
24 other dockets.

25 A. Sure. Yeah. We use our official forward

1 price curve, the easy answer is really for everything
2 that we do. So it gets used in our avoided cost
3 pricing. It gets used in power cost studies.

4 The term obviously varies there. Net power
5 costs are typically a one year view. But it's still the
6 same official forward price curve that we use
7 essentially throughout our business to support our
8 financial analysis of projects, to support our position
9 for which we trade around, to support really all of our
10 analysis that we perform.

11 We routinely update our official forward price
12 curve no less than every quarter. And our process for
13 establishing what our official forward price curve is,
14 fundamentally has not changed for many, many years. And
15 that process is one in which we, at the end of a given
16 trading day, at the end of, let's say, of a calendar
17 quarter.

18 So first quarter March 31st, as long as that's
19 a weekday, our traders in our front office have exposure
20 to where the market is transacting on that day, where
21 it's closing for various market hubs, both power and
22 natural gas. They -- they lock those prices down at the
23 end of that trading day, and we use that data for
24 essentially the first six years of the term of our
25 forward curve, so actual observed market quotes of where

1 the market is transacting to form our official curve.

2 I would highlight that that -- those set of
3 data get validated by our risk management team to ensure
4 that they are consistent with their independent
5 assessment of broker quotes that they received for that
6 same trading day to make sure that they're within reason
7 of what an independent broker is seeing in the market.

8 And then beyond that six year period, we use a
9 fundamentals based or fundamental-driven forecast, and
10 then we blend the two together over a one year
11 transition period. So in year seven, it's an average of
12 essentially the prior year's -- let's say January price
13 of market and the subsequent forward year of the
14 forecast so that we get a blended transition of market
15 to the fundamentals forecast. And that's done for
16 natural gas.

17 And then for power, we use that gas price
18 forecast to inform our electricity price projections on
19 the wholesale market, using a model that has the same
20 gas price information to get that fundamentals period.
21 And so that same curve is used throughout the company.

22 **Q. And is that -- is that typically industry**
23 **practice? I mean, I guess what I am wondering is what**
24 **other options are there in terms of data sets used if**
25 **you are doing, or trying to do future pricing**

1 **comparisons?**

2 A. Yeah. In my experience, that general concept
3 is what I am familiar with from my counterparts that I
4 speak to routinely through IRPs or other forums; and
5 even within our affiliates, let's say within Berkshire
6 Hathaway, a very similar process is used.

7 Each company can use slightly different
8 assumptions around how much market they use, whether
9 it's six years, four years, longer periods, and which
10 fundamental curves they use. So I think but
11 conceptually from my experience, a lot of utilities do a
12 very similar approach to establish their base forecast.

13 Other alternatives that I have seen in other
14 forums is just to rely on, let's say, something like an
15 Energy Information Administration kind of reference case
16 type forecast, and we haven't done that. That forecast
17 is actually higher than our current official forward
18 price curve as it stands today. And that's primarily
19 because sometimes that EIA forecast can become a little
20 stale. It's not updated as often relative to some of
21 the other forecasts that we have access to, which we
22 review every quarter along the way.

23 So as changes are being implemented in
24 fundamental markets that these forecasters are seeing,
25 we try to stay on top of that to make sure we have kind

1 of the most current and up-to-date information
2 available.

3 Q. Thanks. And I guess the final question --
4 sorry. The final question is, in terms of carbon
5 policy, where does the company derive that? I mean,
6 obviously that's -- from a political standpoint, that's
7 a real moving target right now. But just help me
8 understand where the company derives that.

9 A. Sure.

10 Q. Those different options.

11 A. The pricing that we have used in our analysis
12 here is also based off third party. So the same third
13 party forecasters that produce the natural gas price
14 forecasts that we review, and ultimately use to
15 establish not only our official curve but our low and
16 high price scenarios, also produce various scenarios
17 that include different CO2 price levels in their
18 assumptions.

19 And so we rely on those forecasts to help
20 derive where -- in this docket essentially our medium
21 and high price assumptions would fall. For the low
22 case, we use zero, conservatively throughout the entire
23 time frame.

24 And so we really rely on those. They are
25 intended to be kind of proxy price assumptions for

1 future regulations, because obviously we're a little
2 uncertain how anything might be implemented, if it is
3 implemented at some point in time, whether it's a tax or
4 a cap and trade or some other structure to try to
5 regulate those emissions.

6 But regardless of the structure, the
7 regulatory paradigm behind those price forecasts, the
8 concept is, there is still some incremental cost that
9 has to be accounted for if there is a policy, and what's
10 an appropriate level or range that might be required to
11 achieve certain levels of emission reductions over --
12 over time. So they're estimates. They're forecasts.

13 The numbers that we are using are relatively
14 low. You know, we don't start the CO2 price assumption
15 in the medium case, I think until around 2030. So a
16 full 10 years into the operation of the proposed
17 projects. And the price point on those are relatively
18 low and not hugely impactful to the economic analysis.

19 The high case it starts, I think in 2026, and
20 it's a little bit higher price point, but not nearly as
21 high, let's say, as some other alternatives, like a
22 social cost of carbon or some of those other numbers
23 that have been tossed out there.

24 COMMISSIONER WHITE: Thank you. That's all
25 the questions I have. Thank you.

1 CHAIRMAN LEVAR: Thank you. Commissioner

2 Clark.

3 COMMISSIONER CLARK: Thanks.

4 EXAMINATION

5 BY COMMISSIONER CLARK:

6 Q. Good morning, Mr. Link.

7 A. Good morning.

8 Q. I also want to ask a few questions about the
9 work that you did with the final results of the solar
10 bid process in relation to the projects that are under
11 consideration in this docket, the wind projects. And
12 you mentioned that the model was selecting both the
13 projects in question here plus some solar --

14 A. Uh-huh.

15 Q. -- projects, or the wind and solar projects.
16 The -- what I am interested in is the relative value of
17 the projects that were selected. So -- and I am -- I
18 certainly -- my questions are not intended to draw from
19 your -- invite you to share confidential information, or
20 invite you to the -- the material that's been stricken
21 relative to sensitivity modeling that you did with
22 respect to the solar projects.

23 But I'd like to get a sense of where the
24 relative values are as you reviewed them, wind versus
25 solar. Were the solar projects sprinkled among the

1 wind? Were the solar projects coming in all of lesser
2 value than all the wind? Were they all of higher value
3 than the wind projects in question? What did -- what
4 would that look like?

5 A. Sure. So our primary focus -- I'll start by
6 answering, and noting that our primary focus on the
7 sensitivities for the solar analysis were done through
8 that 2036 time horizon, and that's primarily because
9 that's the study period, as I think I noted yesterday,
10 where our models are choosing the projects among the --
11 all of the options, whether it's solar or wind.

12 And so in reference to the results from those
13 studies, we -- we ran our sensitivities two ways, really
14 to help answer this specific type of question. So we
15 first ran, as I described in response to Commissioner
16 White's question, allowing all bids to be chosen,
17 whether they are wind or solar, and in that case it
18 choose both.

19 We also, of course, have in this proceeding
20 the 18 cases for the wind projects, kind of the wind by
21 itself without consideration of any of the solar bids.
22 And so to kind of close that loop, we also ran
23 sensitivities that were solar only and did not allow the
24 wind bids so that we could get a sense of how everything
25 compared and stacked up to one another.

1 And essentially what we found when comparing
2 the wind-only to the solar-only proposals through that
3 2036 case, using our base case assumptions, is that the
4 wind and transmission projects produced more value than
5 the solar projects, in terms of a PVRRD benefit.

6 It's not to say that the solar projects, in
7 and of themselves, didn't lower system cost. And so
8 there is still, you know, very much so an economic and
9 opportunity to fill our remaining capacity needs with
10 those projects as well. They provide incremental
11 benefits, but the wind was proportionately higher.

12 I think we found that they were very similarly
13 situated or got a little closer when we went to the low
14 gas zero CO2 price policy sensitivity under that,
15 through 2036 perspective.

16 But I would highlight then that when we ran
17 them together, given the fact that they both showed
18 value independently, when the model chose -- had the
19 ability to choose from all of them and chose both solar
20 and wind, the aggregate of the PVRRD of that combined
21 renewable portfolio, which was over a thousand megawatts
22 of solar and over a thousand megawatts of wind in
23 aggregate, had a higher overall PVRRD benefit than what
24 we're showing for just the combined projects in this
25 case, as summarized in my testimony.

1 **Q. What conclusion would you draw from that?**

2 A. I think the most important conclusion that I
3 draw that's pertinent to this proceeding is that there's
4 an opportunity for us to pursue the solar as supported
5 by that analysis, suggesting that there is value to
6 doing the solar in addition to the wind. But regardless
7 of where that ultimately lands, and we're continuing to
8 have active discussions with solar developers to
9 identify, and if there's value there, to pursue those
10 projects.

11 But regardless of what happens there, the
12 economics of the wind and transmission, the combined
13 projects in this proceeding, are retained and will only
14 grow if we add the additional resource. So if we don't
15 do any solar, we have got that documented in my
16 testimony. If we end up adding the solar to it and find
17 those additional opportunities that we think bring value
18 to our customers, that won't in any way harm the
19 economics that we're seeing from the combined projects.
20 Those economics will be retained.

21 **Q. Could you also conclude that the solar**
22 **projects are more valuable than the wind projects?**

23 A. I haven't concluded that, based on the
24 testimony and the analysis that I have performed. And
25 this starts to dabble a little bit into the area of the

1 restricted information.

2 Q. Okay. I appreciate it. And the model run
3 that addressed both, and that selected wind and solar
4 together, does that outcome give you any -- any
5 indication of how they -- how -- any ability to rank
6 order them, the ones that are selected from a value
7 perspective? Is it simply, it's in or it's out, or does
8 it -- or can you assess some -- some differences in
9 value?

10 A. I think it could be -- it could be estimated
11 from the information we have available to us. We
12 haven't performed that estimate to try to rank order
13 project by project how that would exactly work. To kind
14 of model it explicitly outside of an estimate, I think
15 would require, you know, ident -- having all of the
16 resources in the aggregate wind and solar portfolio, as
17 a starting point.

18 We have that simulation of what system costs
19 are, and then stepwise removing one project at a time,
20 to try to get a sense of what its marginal contribution
21 is to that overall aggregate portfolio value. And we
22 haven't gone through and done all of those model runs
23 independently at this stage.

24 COMMISSIONER CLARK: Thank you. Those are my
25 questions. Thank you.

1 CHAIRMAN LEVAR: Okay. Thank you. And I
2 don't have any further ones. So thank you, Mr. Link.
3 We appreciate your testimony --

4 THE WITNESS: Thank you.

5 CHAIRMAN LEVAR: -- yesterday and today. And
6 I think we are going to move to Mr. Oliver next to go a
7 little bit out of order to accommodate his schedule. So
8 if you will come to the stand.

9 Mr. Oliver, do you swear to tell the truth?

10 THE WITNESS: Yes, I do.

11 WAYNE OLIVER,
12 was called as a witness, and having been first duly
13 sworn, testified as follows:

14 CHAIRMAN LEVAR: Okay. Thank you. And let me
15 just make a few comments before he starts. His
16 statutory role in this process is a little bit unique.
17 He's employed by the commission. We have elected during
18 his testimony today not to engage one of our commission
19 attorneys in an adversarial role in this process. So to
20 accommodate his testimony and cross-examination, I think
21 the way we're going to move forward is, we'll allow him
22 to give a summary of his report, and then we'll allow
23 any of the attorneys in the room to cross-examine.

24 We will entertain objections to any
25 cross-examination questions from any -- from any party.

1 So in the essence of him having a dedicated attorney,
2 we'll entertain those objections if the -- if the need
3 arises. So feel free to do so.

4 So Mr. Oliver, why don't you start by just
5 explaining your relationship with the commission in this
6 docket, the work you performed and summarize your final
7 report.

8 THE WITNESS: Thank you, Chairman LeVar,
9 Commissioners Clark and White. My name is Wayne Oliver.
10 I am president of Merrimack Energy Group Incorporated.
11 My business address is 26 Shipway Place in Charlestown,
12 Massachusetts.

13 Merrimack Energy was retained by the Public
14 Service Commission of Utah to serve as independent
15 evaluator for PacifiCorp's 2017 renewable energy
16 requests for proposals. Merrimack Energy's involvement
17 as IE began at the initiation of the solicitation
18 process, at the time of development of the RFP, and
19 continued through evaluation and selection of the
20 preferred resources.

21 As part of the IE's assignment, we are
22 required to prepare a final report on the solicitation
23 process, which is intended to provide an assessment of
24 all aspects of the solicitation process, including the
25 IE observations, conclusions, and recommendations. The

1 IE report was filed as part of this docket on February
2 27th, 2018.

3 The RFP was undertaken under the Utah statutes
4 dealing with energy resource procurement, which
5 establishes the requirements for undertaking the
6 solicitation process and defines the role of the IE.
7 Merrimack's Energy's -- Energy's final report provided a
8 description of the entire solicitation process up
9 through the final selection of the preferred resources.

10 In that regard, I will focus on our primary
11 conclusions regarding the solicitation process. I will
12 first address my observations regarding the
13 implementation of the solicitation process, as it
14 pertains to the Utah statutes. I will then discuss the
15 risks that are present in this process, which could
16 potentially affect customers.

17 From a solicitation process perspective, we
18 found that the 2017R RFP generally conformed to the
19 requirements of rule R 746-420, and that all bidders
20 were treated the same and were provided the same level
21 of information at the same time. All bidders provided
22 the same information in their proposals, that allowed
23 for a consistent and equitable evaluation.

24 The evaluation methodology used by PacifiCorp
25 was the same general methodology as adopted for its

1 integrated resource plan, and was based on the same
2 models as used for IRP assessments, including the SO, or
3 system optimizer model, and the planning and risk PaR
4 model. The IE found that the benchmark resources
5 provide the same information as all other proposals and
6 were evaluated using the same methodology and
7 assumptions.

8 The results of the solicitation process
9 illustrate that the pursuit of wind resources to take
10 advantage of the production tax credits should result in
11 significant savings to customers based on the SO and PaR
12 model runs.

13 The result of the RFP was that cost for wind
14 resources were lower than the cost of -- than the costs
15 included in the original IRP analysis, and the benefits
16 to customers even higher than projected. The IE found
17 that the initial short list evaluation and selection was
18 reasonable.

19 The IE also found that PacifiCorp's selection
20 of the final portfolio of wind resources was a
21 reasonable selection based on the economics of the
22 resources selected, and given the transmission
23 constraints associated with the position of various
24 resources in the interconnection queue.

25 The final resources selected were the top

1 ranked projects from an economic perspective. While the
2 process overall was undertaken in an effective and
3 consistent manner, consistent with Utah statutes, the IE
4 believes there are still several risks that need to be
5 considered in any final decision on the value of the
6 resource proposals put forward by PacifiCorp.

7 Merrimack Energy concluded that the capital
8 cost of PacifiCorp's benchmark resources should be
9 closely scrutinized to ensure that the costs on which
10 the economic evaluation was based are realistic. We had
11 some reservations in our assessment, both of the initial
12 cost of the benchmarks as described in our report on the
13 benchmark resources, and also of the best and final
14 offers of the benchmarks. In the latter regard, we were
15 concerned about the continuing lowering of costs for the
16 benchmark resources relative to the pricing of other
17 wind proposals submitted.

18 As IE, one of our primary concerns with
19 utility ownership resources competing with third parties
20 is the case where the utility ownership option wins the
21 bid with a low cost estimate of its capital and
22 operating costs but then experiences higher actual
23 costs, or cost overruns relative to the winning proposal
24 that could have resulted in a different resource
25 selection if the costs had been more realistically

1 anticipated and properly accounted for.

2 Therefore, we are concerned, based on the
3 benchmark costs relative -- relative to other wind
4 projects that were competing with the risks that actual
5 capital costs for PacifiCorp's benchmark resources could
6 have been higher than bid.

7 The second major risk we were concerned about
8 is the PTC risk. We raised the issue in our report on
9 the design of RPF that transmission facilities are not
10 completed on time, the benefits of the PTCs could be
11 lost or eroded. The PT benefits -- PTC benefits are
12 significant and drive the economics of these resources.

13 Merrimack Energy included a table in our final
14 report that listed the expected PTC benefits for each
15 project based on PacifiCorp's analysis, including the
16 estimated levels of generation for each PacifiCorp owned
17 resource.

18 PTC benefits can be eroded depending on
19 several factors, including whether or not the actual
20 capacity factors of the wind resources are lower than
21 expected based on wind resource studies. A third major
22 risk is the cost associated with the transmission
23 facilities, either as a result of potential cost
24 overruns or one or more wind generation projects fails.

25 One of the concerns we had, as described in

1 our RFP design report, was that PacifiCorp's contracts
2 attempted to shift risks onto PPAs and BTAs suppliers
3 who were asked to absorb the risk that the transmission
4 facilities would not be completed in time to be able to
5 garner all the PTC benefits. We noted that assigning
6 risks to counterparties who cannot manage that risk was
7 a concern.

8 Finally, one of the primary issues the IE is
9 required to address in its assessments of the
10 solicitation process is whether the solicitation process
11 is consistent with Utah statutes, 54-17-101, and is in
12 the public interest taking into consideration whether it
13 will most likely result in the acquisition, production
14 and delivery of electricity at the lowest reasonable
15 cost to retail customers of an effective utility located
16 in the state, including 1, long-term or short-term
17 impaction, 2, risks, 3, reliability, 4, financial
18 impacts on the affected utility, and 5, other factors
19 determined by the commission to be relevant.

20 In our view PacifiCorp's selection of the
21 final portfolio of wind resources is in the public
22 interest based on the wind proposal submitted, albeit
23 subject to cost risks associated with the benchmark
24 resources and other risks as discussed previously.

25 Since PacifiCorp's solicitation is based on

1 procurement of wind resources, combined with new
2 transmission capacity, it is not possible to determine
3 if this combination meets the lowest reasonable cost
4 standard, since the analysis did not determine other
5 resources, including solar resources would have been
6 included in a final least-cost, or least-risk system
7 portfolio.

8 Thank you, and that concludes my initial
9 comments.

10 CHAIRMAN LEVAR: Okay. Thank you, Mr. Oliver.
11 I think we'll go next to Ms. Hickey. Do you have any
12 questions for Mr. Oliver?

13 MS. HICKEY: Good morning. Thank you, Chair
14 LeVar. Just a couple.

15 EXAMINATION

16 BY MS. HICKEY:

17 Q. I think that first of all, sir, my name is
18 Lisa Tormoen Hickey. I represent the Interwest Energy
19 Alliance. We're a trade association of wind and solar
20 developers working with renewable -- with environmental
21 groups.

22 I wanted to leave aside most of what you said
23 but for the recommendations specific to future RFP. Was
24 one of the goals of your work to develop recommendations
25 that might be viewed going forward into future RFPs?

1 A. One of our, you know, tasks was to provide
2 recommendations as part of the process, and we did
3 include several recommendations in our report.

4 Q. Do any of those recommendations apply to all
5 sorts of RFPs for renewable energy, including RFPs
6 directed to solar resources as opposed to just wind
7 resources?

8 A. Do you have a specific reference in the report
9 to that?

10 Q. Yes. Now, I have a redacted nonconfidential
11 copy, but I will refer you to part B at the very end,
12 recommendation. My page 83.

13 A. Okay.

14 Q. So I am assuming because it's at the end, and
15 these are general recommendations, that these
16 recommendations might apply to future RFPs; is that
17 true?

18 A. That's correct, yes.

19 Q. Now, you talked about a transmission workshop,
20 and I understand the PacifiCorp did pull a transmission
21 workshop in effect, combined with another workshop;
22 isn't that true?

23 A. Well, I guess I -- you know, we have been in
24 several PacifiCorp solicitations, and we have -- and
25 other solicitations requested a -- or suggested a

1 transmission specific workshop. And that -- those were
2 held by PacifiCorp. And those workshops, I would --
3 that type of workshop I would have considered consistent
4 with the workshop of the entire solicitation that was
5 presented in this case.

6 **Q. Would that be important in the solar RFP?**

7 A. Transmission issues and interconnection issues
8 are important in any RFP, but I think -- you know, so I
9 would say it would be applicable to a solar RFP as well.

10 **Q. Would the spreadsheet model recommendation**
11 **number -- second bullet, simplifying that model, would**
12 **that improve RFPs going forward related to solar**
13 **resources?**

14 A. I'm not sure if those models were used with
15 the solar valuation or not, but certainly we -- you
16 know, the model is -- the model is very detailed. All
17 the models were very detailed, but they were somewhat
18 cumbersome to review and evaluate, and that was the
19 issue we were focusing on.

20 But we were able to track through and follow
21 the results, you know, fairly easily. But it was -- not
22 fairly easily, but we had to do a lot of, you know,
23 review back and forth to different tabs in the model.
24 But I think it really needs to be, you know, cleaned up
25 and better organized more than anything.

1 **Q. Does that improve transparency for you in your**
2 **role as an independent evaluator?**

3 A. Yes, it would.

4 **Q. Your third bullet point relates to benchmark**
5 **costs. I think you have talked about that. Would**
6 **that -- would that recommendation apply to solar**
7 **resources also, if benchmark projects were included?**

8 A. Well, if there's a benchmark project, for any
9 type of resource, I mean, one of the things that we
10 focus on is really scrutinizing in detail the resource
11 costs relative to market benchmark, and based on our own
12 knowledge of being involved in a number of different
13 solicitations with different types of resources, and we
14 also attempt to ensure that all costs are accounted for
15 by the utility in its cost structures. So it really
16 would apply to any type of resource.

17 **Q. If there is anticipated a solar RFP going**
18 **forward, would you want the opportunity to review the**
19 **RFP in advance, as you did this wind RFP, in order to**
20 **set it up to incorporate some of these recommendations?**

21 A. Yes. And ideally as an independent evaluator,
22 you had -- it's preferable to get involved up front in
23 the process, to at least be able to review the initial
24 RFP and provide comments if there's anything we see in
25 the RFP that could affect the integrity of the

1 valuation, integrity of the process.

2 Q. As to your fourth bullet point related to the
3 terminal value, would that apply to solar resources?
4 Would that recommendation apply?

5 A. I'm not certain about that. If terminal value
6 is just used for the wind RFP because of the unique
7 aspects of the assets, that would apply to wind as
8 opposed to solar.

9 MS. HICKEY: Thank you. I have no more
10 questions.

11 CHAIRMAN LEVAR: Okay. Thank you.
12 Mr. Holman, do you have any questions for Mr. Oliver?

13 MR. HOLMAN: Thank you, Mr. Chair. No, I do
14 not. Thanks.

15 CHAIRMAN LEVAR: Okay. Thank you. Ms. Hayes?

16 MS. HAYES: No. Thank you, Mr. Chairman.

17 CHAIRMAN LEVAR: Okay. Thank you. I think
18 I'll go to Ms. McDowell next.

19 MS. MCDOWELL: Thank you.

20 EXAMINATION

21 BY MS. MCDOWELL:

22 Q. Good morning, Mr. Oliver.

23 A. Good morning.

24 Q. I'm Katherine McDowell, here on behalf of
25 Rocky Mountain Power.

1 A. Good morning.

2 Q. Thank you for your testimony today. I just
3 have a few questions. I believe your testimony was that
4 you, on the ultimate question of whether this
5 solicitation and results were in the public interest,
6 your opinion is that it was in the public interest,
7 correct?

8 A. Yes. The overall results associated with the
9 wind solicitation, which I was a part of, were in the
10 public interest and are estimated to provide substantial
11 benefits.

12 Q. So in -- and you supported, just going back to
13 the RFP approval process, I did review your testimony in
14 that case, and it -- your testimony did support the
15 wind-only solicitation, the targeted solicitation; isn't
16 that correct?

17 A. Well, as I recall, I don't have my testimony
18 in front of me, but we did support the process of going
19 forward with the wind RFP. But we also raised the issue
20 that a solar -- we thought a solar RFP could be
21 dovetailed on the wind RFP.

22 Q. And I -- let me just quote. I didn't -- I
23 wasn't able to print out the transcript, but I am just
24 going to quote a section of your testimony from the
25 transcript and ask you to accept it, subject to check,

1 that it sounds like a reasonable statement of your
2 position. I think it does capture what you just said.

3 And this is a quote from the transcript at
4 page 161 of the December 19th, hearing. "It seemed to
5 me that if the solicitation process that PacifiCorp has
6 offered today, based on issuing this RFP at this time
7 for wind resources only, and a separate RFP for other
8 renewable resources as soon as practicable, is not
9 unreasonable and provides a significant opportunity to
10 test the market and assess the potential system benefits
11 associated with other renewable resources."

12 Does that sound like your position from the
13 RFP process?

14 A. It sounds consistent and reasonable, yes.

15 Q. And is it your understanding that PacifiCorp
16 in fact did conduct a concurrent solar RFP?

17 A. Yes. I am aware that PacifiCorp did conduct a
18 separate RFP, yes.

19 Q. So just going to your statement that while the
20 wind resources provide significant benefit and are in
21 the public interest, you cannot determine whether
22 wind-only resources are in the lowest, are the lowest
23 reasonable cost without an integrated procurement
24 process. I think you included that in your summary,
25 that conclusion. Do you recall that?

1 A. Yes.

2 Q. So you were not the IE for the solar RFP,
3 correct?

4 A. That's correct.

5 Q. And you haven't studied all the testimony and
6 analysis in this proceeding; is that true?

7 A. I have read, you know, different pieces of
8 testimony, but not all of them.

9 Q. So I assume your limited scope of work
10 contributes to a conclusion that you cannot say whether
11 the wind resources are the lowest-cost resource; is that
12 correct?

13 A. Well, my scope of work really ended at the
14 time I -- we submitted the report in terms of, you know,
15 reviewing any resources. And at that time, you know,
16 basically what we had presented to us, you know, by
17 PacifiCorp was, what I looked at was more of a parallel
18 evaluation, you know, the SO -- the SO and PaR model
19 results for wind versus the SO and PaR model results for
20 all the solar.

21 It was, you know, no integration at that
22 point. It was basically just -- you know, it was really
23 a parallel evaluation process, based on the last
24 information I had from, you know, as the IE in this
25 process.

1 Q. So you would agree that the commission could
2 make that cost determination if it had that information,
3 the information that integrated the results of those two
4 RFPs, correct?

5 MR. BAKER: Objection. I believe that
6 question is outside the scope of Mr. Oliver. I think he
7 had appropriately described what his scope was, and it's
8 not to continue beyond after his report here.

9 CHAIRMAN LEVAR: Do you want to respond to the
10 objection?

11 MS. MCDOWELL: Yeah. I mean, this just goes
12 to his statement about while he believes the results of
13 this RFP process are in the public interest, it's
14 difficult for him to conclude, given his scope of work,
15 that they are the lowest-cost resources available. So I
16 am just exploring how it is that the commission could
17 make that determination, which is the ultimate
18 determination in this case.

19 CHAIRMAN LEVAR: And I think he is -- I think
20 he has given answers to what the scope was and what his
21 recommendations covered. I think to that particular
22 question I am going to sustain the objection.

23 Q. (By Ms. McDowell) So is it your understanding
24 that when the commission makes that public interest
25 determination, that the commission looks at several

1 factors? You know, I think you listed the multiple
2 factors, the low cost factor ones, but there is several
3 other factors?

4 MR. BAKER: Objection. I don't believe his
5 scope of work includes opining on what the commission
6 should consider in making the overall public
7 determination. He looked and talked about what his --
8 his interpretation is based on the specific RFP, not
9 what the commission should decide based on the broader
10 statutory scheme.

11 CHAIRMAN LEVAR: I think I am going to
12 overrule that objection. I think his statutory
13 relationship with the commission is advisory to the
14 commission. So I am going to allow him to answer this
15 question.

16 Q. (By Ms. McDowell) Do you need me to restate
17 the question?

18 A. Yes, if you could please.

19 Q. Yes. So ultimately the question that the
20 commission needs to determine is whether these resources
21 are in the public interest, and the commission looks at
22 several factors. And that low cost factor is one of
23 five; is that correct?

24 A. That's correct. Yes.

25 Q. So I just want to review a couple of the key

1 conclusions of your report. Would you agree that the
2 response to this RFP was robust?

3 A. Yes, it was, and we -- that was one of our
4 conclusions in our report.

5 Q. And just again, was your ultimate conclusion
6 that PacifiCorp complied in general with the rules and
7 statutes that pertain to the RFP process in Utah?

8 A. That -- that was one of our conclusions, yes.

9 Q. And I think you also mentioned that PacifiCorp
10 used a consistent and equitable evaluation process, and
11 by that, were you meaning that with respect to all of
12 the bids presented, it applied the same modeling
13 methodology?

14 A. Yes. You know, the same modeling methodology,
15 same assumptions, same input forms that all the bidders
16 had to put -- all the bidders, including the benchmarks,
17 had to provide the same level of information.

18 Q. And that was the 20 year SO modeling. Is that
19 the modeling and evaluation you are referring to?

20 A. The modeling and evaluation took several
21 forms. It was -- you know, the short list analysis, it
22 was based on the spreadsheet model and the more detailed
23 analysis based on the SO and PaR models.

24 Q. So you mentioned that you had some concerns
25 about whether the benchmark bids could be potentially

1 understated in terms of the costs. Do you recall that
2 part of your summary?

3 A. Yes, I do.

4 Q. Are you aware that under this process, the
5 commission preapproves the amount of costs only up to
6 the company's estimates for the cost of the projects?

7 A. I am not -- no, I am not -- I am not aware of
8 that specific --

9 Q. Well, let me just ask you to assume that
10 hypothetically. Assume that the commission is approving
11 only the amounts that were bid into the process, only
12 the amounts of the estimate, and that any amount over
13 those estimates would be closely scrutinized by the
14 commission and would have to be established to be
15 prudent.

16 Would that address the concerns you had about
17 the commission closely scrutinizing the actual costs of
18 the bids?

19 A. Well, certainly there are a number of ways of
20 doing that, and one is to establish, you know, a firm
21 cap. There's -- you know -- but it's, you know, it's
22 not my -- you know, I don't look at it as my role to
23 firmly state that that's the way it should be done. But
24 that's a requirement in some -- you know, that's one
25 option, I guess.

1 The other is, you know, the prudent standard
2 and how broad that could be. But it's, you know, that's
3 really, you know, up to the commission to determine, you
4 know, that -- that process.

5 But I -- I raise that because there's, you
6 know, there's some consideration that if, you know, you
7 know, how do you define that prudent standard? And if
8 costs, you know, end up being a lot higher than
9 anticipated, you know, the PPA bids are firm, they have
10 to live by the bid they submit. Whereas, you know, I
11 have seen cases where they are self build or benchmark
12 could, you know, increase the price of it, and they may
13 not have won under that original price, but they could
14 win under the, you know, under the low price.

15 And that's my concern. And as IE, that's one
16 of the things we focus on all the time that, you know,
17 making sure that the pricing is reasonable and that, you
18 know, all costs for the benchmark are accounted for.
19 And that's what we try to do.

20 **Q. So your recommendation would be in a -- in a**
21 **statutory scheme where the costs are preapproved up to**
22 **the estimate, and then prudence has to be established**
23 **for anything above that, that the commission apply a**
24 **strict prudence standard?**

25 **A. I think, yeah. In a case like this, I think,**

1 yeah, that prudent standard should be -- should be
2 fairly strict.

3 MS. MCDOWELL: That's all I have. Thank you.

4 CHAIRMAN LEVAR: Okay. Thank you,
5 Ms. McDowell. Mr. Jetter.

6 EXAMINATION

7 BY MR. JETTER:

8 Q. Hi. Good morning, Mr. Oliver. My name is
9 Justin Jetter. I'm an attorney with the Utah Attorney
10 General's office, and I represent one of the Utah's
11 regulatory agencies, the Division of Public Utilities.

12 A. Good morning.

13 Q. I have just a few brief questions for you this
14 morning. You described the comparison a little bit,
15 that you didn't have that available to you in your
16 analysis to directly compare the solar RFP results along
17 with the wind results. Is that accurate?

18 A. Yes. The only thing we had was the
19 presentation that PacifiCorp provided us that identified
20 the results. But again, that was -- we looked at it as
21 more of a parallel path evaluation. It was, you know,
22 two separate evaluations.

23 Q. Okay. Thank you. And are you aware, there
24 was no all-source RFP, and so is it accurate that there
25 wasn't information on current bid prices for other

1 resource options?

2 A. That's correct, yes.

3 Q. And so it would be fair to say that those
4 could be cheaper; we just don't know?

5 A. That's -- that's a -- I can accept that
6 statement, yes.

7 Q. Okay. And would you accept -- would you agree
8 that if we were seeking to fill capacity need with a
9 lowest-cost alternative resource, it would be prudent to
10 review all types of generation that could provide that
11 capacity?

12 A. You know, utilities, you know, generally, you
13 know, apply different -- different approaches, but I
14 think for, you know, for a capacity need, it should
15 be -- I would say, you know, given the market as it is
16 today with so many different options out there, I would
17 say that an all-source RFP would be an appropriate way
18 of filling a capacity need. And in fact, many utilities
19 are doing that right now.

20 Q. Thank you for that. I would like to just
21 change gears just a little bit to ask you a question
22 about some of the bids that were excluded because of
23 queue position in the transmission queue.

24 Is my understanding accurate that there were
25 some PPAs that may have been lower cost resources if

1 they had been at a more preferential spot in the queue
2 for transmission?

3 A. There was one PPA that potentially could have
4 been lower cost.

5 Q. Okay. In your experience, would you say that
6 if third party developers had advanced knowledge of what
7 the queue position cutoff would be, that would have
8 given them some advantage ahead of time to be able to
9 secure an earlier queue position?

10 A. Well, I don't know if it would allow them to
11 secure an earlier queue position, but it may have
12 affected how they -- how they bid, or if they bid.

13 Q. Okay. Thank you. Mr. Oliver, those are all
14 of my questions. Thank you for your time and your
15 report. It's been very useful for the parties.

16 A. Thank you.

17 CHAIRMAN LEVAR: Thank you, Mr. Jetter.
18 Mr. Moore.

19 MR. RUSSELL: The office has no questions.

20 Thank you.

21 CHAIRMAN LEVAR: Okay. Thank you.

22 Mr. Russell.

23 MR. RUSSELL: Thank you, Chair LeVar.

24 EXAMINATION

25 BY MR. RUSSELL:

1 Q. Mr. Oliver, my name is Phillip Russell. I'm
2 an attorney representing an industrial consumer group
3 called the Utah Association of Energies or UAE. I do
4 have a few questions for you.

5 COURT REPORTER: Can you pull your mic closer
6 to you?

7 MR. RUSSELL: Yeah, sorry. She chastised me
8 about that before the hearing started, and I'm
9 apparently not a very good listener.

10 Q. (By Mr. Russell) Your report addresses the
11 final short list, correct?

12 A. Yes.

13 Q. And that final short list consisted of four
14 projects totaling approximately 1,300 megawatts of
15 capacity, correct?

16 A. Subject to check, it should be correct.

17 Q. Yeah. And are you aware that the -- that one
18 of those projects has been removed from consideration in
19 this docket?

20 A. Yes, I am.

21 Q. Okay. And that's the Uinta project, correct?

22 A. Correct.

23 Q. And that is the one of the four that would not
24 have interconnected in the new -- on the new
25 transmission line that's also being considered, correct?

1 A. It's my understanding.

2 Q. Do you have an understanding as to why the
3 Uinta project has been removed?

4 A. Not -- not totally. I don't fully understand
5 that, you know, justification behind the decision.

6 Q. Okay. As we have discussed, the Uinta project
7 didn't interconnect to the new transmission segment, and
8 so it could be built without incurring the expense of
9 that transmission line, right?

10 A. That -- that's my understanding, correct.

11 Q. And you note in your report that the costs of
12 the transmission line are approximately \$700 million,
13 right?

14 A. I believe that's correct.

15 Q. Yeah, and just -- if you need to check it,
16 it's on page 85 of your report, towards the top.

17 A. I -- subject to check, I think it's correct.

18 Q. All right. When the company conducted its
19 economic review and analysis of the initial short list
20 that it developed, and then to narrow that initial short
21 list down to the final short list, it imposed the cost
22 of the transmission projects on all of those initial
23 short list projects, right?

24 A. I'm sorry. Could you repeat that? Are you
25 talking about the initial -- the short list evaluation?

1 Q. Yeah. After they had the initial short list
2 of projects, to narrow that initial short list to the
3 final short list, they imposed the costs of the
4 transmission projects on those initial short list
5 projects, right? To get it down to the final short
6 list?

7 A. That's my recollection, but I am not sure if
8 you -- if you could point me?

9 Q. I believe it's on page 31 of your report.

10 A. My report -- my report pages may be slightly
11 different than yours, so...

12 Q. That -- that that may be the case. I'm in a
13 section in -- that's section 4, bid, evaluation,
14 methodology, and there's a subsection titled short list
15 evaluation methodology.

16 A. Okay. I have that.

17 Q. Okay. And I don't know what page we are
18 working with so let's just work from that sub header
19 down.

20 A. Okay.

21 Q. It's the third paragraph starting the nominal
22 levelized. Do you see that?

23 A. Right.

24 Q. Okay. And it states, "The nominal levelized
25 net benefit reflects interconnection network upgrade

1 costs but does not include the cost of the
2 Aeolus-to-Bridger/Anticline transmission line, which
3 would be captured in the economic analysis in forming
4 selection of the final short list." Do you see that?

5 A. Yes.

6 Q. Okay. So does that -- does that refresh your
7 recollection as to the question I had originally asked?

8 A. Yeah. Yeah. Certainly the -- the only
9 network upgrade costs are included in the initial short
10 list evaluation, but the full transmission costs were
11 included in the final.

12 Q. And that was true with respect to projects
13 that did not require the new transmission line in order
14 to interconnect, correct?

15 A. Yes.

16 Q. Okay. Including Uinta?

17 A. Yeah. I, you know, again subject to check,
18 but I'm -- you know, there's a lot -- there's a lot of
19 data that was available. You know, the company's
20 looking at a portfolio. So, you know, the transmission
21 costs for the Aeolus-to-Bridger/Anticline project were
22 included in that evaluation.

23 Q. Okay. Thank you. So let's imagine a scenario
24 where the transmission project costs were only imposed
25 on those projects that required the transmission line to

1 be built in order to interconnect.

2 So those projects that did not require the
3 transmission line, like Uinta and presumably others, is
4 it possible that we could have ended up with a different
5 mix of resources in the final short list than those
6 currently being presented in the final short list?

7 MS. MCDOWELL: I think I am going to object to
8 this question on the basis that I think it goes outside
9 his -- the scope of his report, which is to evaluate the
10 resources that were presented, not to get into
11 hypotheticals about what other -- how else it could have
12 been done, what else could have happened.

13 CHAIRMAN LEVAR: Mr. Russell, could you repeat
14 the question again, and then respond to the objection?

15 MR. RUSSELL: Sure. The question was if --
16 and, again, we're talking about the fact -- or we're
17 talking about the imposition of transmission project
18 costs on all projects that were selected to the initial
19 short list, and narrowing those down to the final short
20 list, regardless of whether those projects required the
21 new transmission segment to interconnect.

22 And the question was, is it possible that if
23 the transmission project costs were imposed only on
24 those that required the new transmission segment to
25 interconnect, is it possible that we might have ended up

1 with a different final short list, if those PPAs or bids
2 that were outside of that transmission constraint were
3 not burdened with the cost of the transmission line?

4 In response to counsel's objection, I'll note
5 that Mr. Oliver was involved from this process before
6 the RFP was written. He's been involved in this process
7 from the timing of the selection of the bids, through
8 the initial short list. He was involved in the
9 narrowing down from the initial short list to the final
10 short list.

11 I think this question is well within
12 Mr. Oliver's purview as an evaluator of whether this RFP
13 was fair and transparent.

14 MS. MCDOWELL: So I think part of my concern
15 here is that I believe that the record is getting
16 confused by exactly how the transmission costs were
17 assigned. They were not assigned on a project by
18 project basis, and I think that is the predicate for the
19 question. And somehow or other we got from this part of
20 the report to that conclusion, which is really not what
21 happened. And I think -- I am concerned about now we're
22 getting into a hypothetical that is based on a
23 misrepresentation of how the costs were assigned in this
24 RFP.

25 CHAIRMAN LEVAR: Okay. Considering that and

1 considering the explanation, I think I'm going to allow
2 Mr. Oliver to answer the question. If you feel like any
3 follow-up questions are appropriate for clarity after
4 everyone has asked questions, I think we'll allow that.
5 But I think it's an appropriate question for him to
6 answer at this point.

7 A. Okay. Yeah, it was my understanding, the
8 transmission costs were just -- the total transmission
9 costs, it was, you know, basically the analysis was cost
10 and benefits. And the transmission costs were applied,
11 you know, the costs for transmission was applied, you
12 know, to the cost of the portfolio. So, you know, the
13 SO model selected a number of two different portfolios,
14 and then, you know, those portfolios were evaluated
15 through PaR. So transmission was applied overall, not
16 individually to each project.

17 Q. (By Mr. Russell) Well, yeah. And I wasn't
18 suggesting that the transmission costs were imposed on
19 each project, on a project-by-project basis. But what I
20 think you just said was that the SO model assumed the
21 cost of the \$700 million transmission project regardless
22 of whether the bids that were being evaluated required
23 that project to interconnect, correct.

24 A. There's my understanding, yes.

25 Q. Okay. I want to ask a different set of

1 questions now. One of the projects as we discussed is
2 the Cedar Springs project, right?

3 A. Correct.

4 Q. And that, I -- as I gather in the final short
5 list, is a -- is a combined BTA and PPA project, yes?

6 A. That's correct.

7 Q. How -- how was that evaluated? Was it
8 evaluated as a single project or two separate projects?
9 Because those are different formats and I'm curious as
10 to how -- how you evaluated that -- that project.

11 A. Well, it was -- several different options
12 there. One was, the project was offered as a separate,
13 like you said, 200 megawatt BTA and 200 megawatt PPA,
14 and those were evaluated separately based on the type
15 of -- you know, the how PPA was evaluated with its costs
16 and benefits, and how BTA was evaluated with its costs
17 and benefits and then combined.

18 And the second option was it was basically
19 399, 400 megawatt PPA, and that was evaluated as a PPA.
20 The BTA, PPA option was the one that was included in
21 the -- as -- in the final -- the final short list.

22 Q. Yeah, and the question I am trying to ask, is
23 it -- was that evaluated as two separate projects?
24 Really one approximately 200 megawatt BTA, and then one
25 approximately 200 megawatt PPA?

1 A. No. You, I guess, the question -- I don't
2 know if I can ask the question back. But are you
3 referring to the initial short list or the final short
4 list?

5 **Q. The final.**

6 A. Well, the final short list, it was -- it was a
7 combined project basically as a 200 megawatt PPA and a
8 200 megawatt BTA.

9 **Q. Yeah, I understand that. I'm just trying to**
10 **figure out how -- how you could evaluate that as a**
11 **single project, when it does have two different formats.**
12 **And I'll tell you why I am asking.**

13 **There's a considerable amount of time in you,**
14 **you know, space spent in your report discussing the**
15 **different evaluations of BTA projects versus PPA**
16 **projects. And I think the Cedar Springs may give us a**
17 **sense of how you went about ensuring that those were**
18 **evaluated on a level basis.**

19 A. Well, you know, the projects were evaluated as
20 they were offered. So the PP -- you know, again, it
21 was -- it was a portfolio. But that portfolio does have
22 different -- would have different line items, I guess,
23 for lack of a better term. And the 200 megawatt PPA was
24 evaluated as a PPA, and the 200 megawatt BTA was
25 evaluated as a BTA option.

1 So it would be -- the company would eventually
2 own that project, and it would be included in the rate
3 base and evaluated like any other rate base project
4 would be.

5 **Q. Okay. Let's talk about PPA projects and BTA**
6 **projects more generally. Your understanding is that the**
7 **first model run -- say you got all the bids in, you have**
8 **got some PPAs and some BTAs. The first model run would**
9 **be -- would go through the company's system optimizer**
10 **model, right?**

11 A. Well, the bids come in -- the first run is
12 basically based on a spreadsheet model. That would
13 include different cost -- cost and benefit items
14 depending on the type of resource. And that's basically
15 just a spreadsheet model. So, and you know, it would
16 basically project out over time depending on how many
17 years.

18 So if it's a BTA, it would be -- you know,
19 have revenue requirements associated with it, you know,
20 primary cost components. If it's a PPA, then it's the
21 bid price, times the generation. So it would be an
22 annual cost. And that that would be, you know, you
23 would model that depending on that cost structure.

24 **Q. Sure. And what length of time would you study**
25 **those projects?**

1 A. The PPA was over the term of the bid, whether
2 it was the 20 years plus. You know, the bidders had an
3 option of offering an extension. That was one of the
4 issues that we suggested earlier on to put the BTA and
5 the PPA options on an equal footing. And the BTA
6 options were evaluated over 30 years.

7 **Q. Okay. So you know, in an effort to put the**
8 **BTA and the PPAs on an equal footing, you actually**
9 **evaluated them based on the length of the project and**
10 **not cut off at some time, some year?**

11 A. No. We're talking about now, again, the
12 initial evaluation, the short list evaluation that was
13 based on the term of the project.

14 **Q. Sorry. I missed that last part. The initial**
15 **was based on the term of the projects?**

16 A. The term bid, yes.

17 **Q. And that could be different for each bid?**

18 A. That's correct.

19 **Q. Okay.**

20 A. One thing to keep in mind, just to follow up,
21 is that it's cost and benefits. So there's really not
22 a -- I don't look at it as being a bias there, because
23 the cost and the benefit side is, you know, equally
24 accounted for, whether it's 20 years or 30 years.
25 It's -- you know, you are evaluating the costs and the

1 benefits of those resources over the time period that
2 they had -- that they are bid at basically.

3 Q. But in order to capture all of those costs and
4 benefits of each project, you carried the analysis out
5 to the term of each bid, right?

6 A. Correct.

7 Q. Okay. I want to ask you some questions that
8 touch on some of the questions that Ms. McDowell posed
9 to you, and that relates to your statements. You know,
10 I'll point to it here.

11 A. Okay.

12 Q. I think it's on page 71. It's my page 71,
13 anyway. This is your table 20.

14 A. Okay.

15 Q. And you look at the second bullet point under
16 general requirements there. Do you have that?

17 A. Okay. Yes, I do.

18 Q. Okay. And on the left-hand side you cite the
19 commission rule stating the solicitation process must be
20 designed to lead to the acquisition of electricity at
21 the lowest reasonable cost, and I actually want to focus
22 on your statement on the right-hand side.

23 The very last sentence there states, "However,
24 it is not possible to determine if the wind only
25 resources offer the lowest reasonable cost without an

1 integrated resource procurement and evaluation process
2 that also includes solar and potentially other
3 resources."

4 And I guess the question I have is, is it your
5 belief that in order to determine whether a resource
6 selected is the least cost, we need to test it against
7 the whole market? Is that the idea here?

8 A. Well, like I said, as I mentioned before, I
9 mean, I think -- there are different ways of designing a
10 solicitation. In some cases it's tested against the
11 entire market. In other cases it's, you know, defined
12 based on, you know, what type of product you are looking
13 to fill.

14 If it's a resource need for firm capacity, you
15 know, as opposed to just a, you know, an intimate
16 resource, for example, you know, you could have
17 different -- different types of solicitations.

18 But what I was saying here, the point I was
19 trying to make here is that I couldn't, as you know,
20 based on the information that I had -- I couldn't make
21 that determination, because I didn't, as I mentioned
22 before -- what we had at the end of the period when the
23 report was completed was a parallel evaluation for the
24 solar bids and the bids, and that was it.

25 You know, how much, what the total of, you

1 know, the benefits were from solar versus wind and, you
 2 know, some discussion about how, if you add both of them
 3 together, it would still be additional benefits, you
 4 know, incremental benefits. But that was it. It was
 5 no, you know, assessment of how the -- you know, how the
 6 bids stack up. Like, was it two wind bids and then
 7 three solar bids or what? I mean, we had no idea how
 8 that -- how they were integrated.

9 Q. Do you recall testifying in a separate docket
 10 in this -- in this matter -- actually not in this
 11 matter. It's a separate docket -- in this commission,
 12 regarding the solicitation process itself?

13 A. In this solicitation process?

14 Q. Yeah. So there was -- there was the docket
 15 that related to what the solicitation process would look
 16 like.

17 A. Right, right. Okay.

18 Q. And now we have done the RFP, or we're
 19 finalizing the RFP I guess?

20 A. Right.

21 Q. And we, you know, proposed to select some
 22 resources. What I want to ask you about is the initial
 23 scope of your work related to the solicitation process.
 24 Do you remember testifying in that docket?

25 A. Yes, I do.

1 Q. Okay. I have got some of your testimony I
2 want to ask you some questions about. It will take me a
3 second to hand it out here.

4 For purposes of the record, I will note that I
5 have handed out Mr. Oliver's September 13th, 2017,
6 rebuttal testimony -- prefiled rebuttal testimony in
7 docket 17-035-23 that we will mark as UAE Cross Exhibit
8 2, and I'll ask you to take a look at it and see if you
9 recognize it.

10 (UAE Cross Exhibit No. 2 was marked.)

11 A. Yes, I do recognize this testimony.

12 Q. (Mr. Russell) And was this the testimony that
13 you submitted in that docket?

14 A. Yes, it was.

15 Q. Okay. Let's turn to the next to last page,
16 and it's line 258. And on that line you begin a
17 sentence that states, "Whether the RFP will most likely
18 result in the acquisition, production and delivery of
19 electricity at the lowest reasonable cost to retail
20 customers, the potential benefits to customers, and the
21 ability of the process to meet public interest
22 requirements will not be known at the time of issuance
23 of the RFP."

24 Can you tell me, and I know we're going back a
25 little bit, what was -- what was your thinking with

1 **respect to that particular statement?**

2 A. Well, I mean, this is a -- I look at this is a
3 results oriented issue, that you really -- you know,
4 that's one of the issues that we opine on at the end of
5 the process once the process takes place. But it's not
6 known and knowable at the time the RFP is issued.

7 Q. So you are saying just because you are at the
8 front of the process, you don't know the answer?

9 A. Correct.

10 Q. Is what you are telling me now?

11 A. Exactly.

12 Q. And we just read some -- going back to your
13 testimony in, excuse me, your final report, in this
14 docket, you have just said that looking at the wind and
15 solar on parallel tracks, you can't say whether the wind
16 projects selected here are the least cost, right?

17 A. From the information that we have, we can't.

18 Q. And I want to direct your attention to page
19 80 -- it's my page 84 of your report. It's in your list
20 of conclusions.

21 A. Okay.

22 Q. There's a bullet point in that list of
23 conclusions that starts, "one of the primary issues."
24 Do you see that?

25 A. Yes, I do.

1 Q. Okay. There's -- I want to talk to you about
2 a sentence maybe two thirds of the way down that starts,
3 "Since PacifiCorp's solicitation." Do you see that?

4 A. Right.

5 Q. Okay. "Since Pacific Corp's solicitation is
6 based solely on the solicitation for system wind
7 resources, it is not possible to determine if other
8 resources would have been included in the final
9 least-cost, least-risk system portfolio, potentially
10 displacing one or more wind resources."

11 And so you testified that your testimony at
12 the front end on the solicitation process was results
13 oriented, and now that you have seen the results, your
14 conclusion is that you still can't tell whether this is
15 the least cost, right?

16 A. That's correct. And I -- as I understand
17 also, that the process has changed a bit. As we've gone
18 along we're -- you know, initially the discussion was
19 about, you know, taking advantage of a unique
20 opportunity as an intermittent resource, and now we are
21 talking about filling a resource need. So there's a
22 difference there.

23 And that's why it's very hard to make a
24 determination at the end of the day whether or not this
25 solicitation process, you know, meets the provisions

1 listed here.

2 Q. Okay. Let's switch gears to another of the
3 public interest factors, which is whether there was a
4 robust response.

5 A. Okay.

6 Q. I'll ask you to turn to, it's back to page 71.
7 It's that table 20 we were looking at earlier.

8 A. Okay.

9 Q. And it's the fourth bullet point from the top
10 in the general requirements.

11 A. Okay.

12 Q. And on the left do you see that you've got
13 the -- you cite the commission rule and state, "Be
14 designed to solicit a robust set of bids." And you --
15 your testimony and your report indicated there was a
16 robust set of bids, right?

17 A. Correct.

18 Q. Okay. You also have a statement in -- in
19 response to this element of the public interest factors
20 that says, and I am going to read it. I'll help you get
21 there. There's a sentence that starts in, you know,
22 that middle that says, "While there was a robust
23 response." Do you see that?

24 A. Yes.

25 Q. Okay. "While there was a robust response, it

1 became obvious later in the process that based on the
2 interconnection queue, bidders who had only initiated
3 project development had little or no chance to compete."

4 Do you see that?

5 A. Yes.

6 Q. How does the fact that there were very few of
7 the bidders could compete, while there were a number of
8 bidders, how does that affect your evaluation as to
9 whether the response was robust?

10 A. Well, the response itself was robust. You
11 know, there were a number of bid -- we received a number
12 of bids and a number of different types of bids, you
13 know, PPAs and BTAs. So from -- you know, that's how I
14 would define a robust response is the initial -- initial
15 response from the bidder. So the bidders at that point,
16 you know, felt confident that they, you know, they had
17 good projects they were willing to, you know, offer
18 those projects into the solicitation.

19 Q. Does the robustness -- pardon me. Does the
20 robustness of the response -- in your determination of
21 whether a response is robust, do you consider whether
22 those -- whether the bids can provide competition for
23 the benchmark resources?

24 A. When we look at a robust response -- when we
25 look at response to bids, we were looking at basically,

1 initially at this point, when I say robust, it really
2 just gets into how many bids did you receive, what types
3 of bids. Were they, you know, all of one type or
4 different types?

5 And we also look at what -- how many megawatts
6 are offered relative to how much the company is looking
7 for. And in this case we -- you know, there was much
8 more than the company was looking for. So that's how I
9 would define robust.

10 Q. Okay. All right. That's fair. I'm going
11 to -- let's go back to this. It's your rebuttal
12 testimony in the prior docket.

13 A. Okay.

14 Q. And I'll point you to that same page. It's
15 actually the very next sentence, starting on line 261.
16 Do you have that?

17 A. Yes, I do.

18 Q. Okay. You say, "However, the IE believes that
19 there are several off-ramps which are inherently
20 included in the solicitation process in schedule that
21 can lead either to termination of the solicitation by
22 PacifiCorp, or an opinion by the commission, IE or other
23 parties to suggest the solicitation process not
24 continue, if it appears that the public interest
25 standards will not be met."

1 And does this -- does this kind of go back to
2 your statement about your -- the sentence that we read
3 previously that you were kind of at the front end of the
4 process and you don't know how it's going to turn out?
5 You are focused on the result, right?

6 A. Right. Like for example here, if there were
7 only four bids or three bids or very -- only the
8 benchmark bids were offered, then maybe it's, you know,
9 you know, the IE may conclude or commission may conclude
10 that it's really not a robust process. There's no
11 competition. You know, do you even go forward with it?

12 So it's that type of thing, I mean, that you
13 could -- that's why I was talking about off-ramps.
14 There'd be different points in time that you would have
15 an idea whether or not at least it's going to be a
16 competitive process where, you know, bidders have the
17 opportunity to compete.

18 Q. Sure. And let's -- I'm going to talk about
19 this idea of the off-ramps, because, again, you are at
20 the front end of this process. You are kind of looking
21 into the future, and if the process doesn't yield
22 competition or several other factors, you are saying,
23 you know, we can -- we can decide not to go forward. We
24 can terminate it, right?

25 A. Right.

1 Q. Okay. And let's look at this -- the next
2 question and answer actually asks you to describe those
3 off-ramps, or at least some of them. And I want to read
4 the first two. You indicate that there are five.

5 A. Yeah.

6 Q. You state in your answer here on line 269, you
7 say, "There are five off-ramps or key decision points in
8 the solicitation process that could result in a go or no
9 go decision for the solicitation process." And I'll
10 just read the first two here.

11 You state, "The first off-ramp is the response
12 of bidders. If there is not a robust response from
13 bidders, resulting in little or no competition for the
14 benchmark option, this could be one basis for
15 terminating the solicitation process." I'll stop there
16 for a second.

17 You indicate that if the -- if the bids do not
18 result in competition for the benchmark resources, that
19 this could be an off-ramp, right?

20 A. Correct.

21 Q. Right. And we've talked a little bit about --
22 there was -- there was a lot of response from bidders,
23 but you indicated in your report that that response
24 didn't necessarily result in a lot of competition for
25 the benchmark resources, right?

1 A. Sorry. Could you repeat that, please?

2 Q. Yeah. When we were looking at the table 20 in
3 your report, you indicated that while there was a robust
4 response, that robust response didn't necessarily yield
5 a lot of competition for the benchmark resources, right?

6 A. Well, in the initial -- when the bids were
7 initially submitted, it did. There were a number of
8 different -- you know, there were a number of PPA bids
9 and benchmark and BTA bids that were submitted.

10 Q. Yeah. But as you indicate in your discussion
11 of the interconnection queue, a lot of those were not
12 viable as a result of that -- the interconnection
13 process, right?

14 A. Yeah. As we found out at the end of the day,
15 right. That's correct.

16 Q. Yeah. So I am kind of drawing a distinction
17 between the initial response from bids and whether those
18 bids could have provided competition and whether they
19 did. And your indication, I think from your report, and
20 correct me if I'm wrong, is that at the end of the day,
21 while we got a lot of bids, they didn't provide a lot of
22 competition for the benchmark resources, right?

23 A. At the end of the day, it -- they didn't. But
24 we didn't know that -- I didn't know that at the time.

25 Q. No. Understood. Yeah, yeah. So let's talk

1 about the second off-ramp. So we're at line 73 of your
2 prior testimony. "The second off-ramp will occur at the
3 time of the initial short list selection. Bidders
4 selected for the initial short list will be required to
5 provide a system impact study. If competition is
6 affected because bidders are not able to secure an SIS,
7 this could also signal lack of competition and
8 jeopardize the process going forward, particularly since
9 PacifiCorp transmission will likely undertake the
10 studies."

11 Now, I don't have a specific question about
12 the SIS, but, again, this is your concern that even if
13 we get a lot of bids, something could happen during the
14 process that results in those bids not providing
15 competition for the benchmark resources, right?

16 A. That's correct, yeah.

17 MR. RUSSELL: Okay. I don't have any further
18 questions for Mr. Oliver.

19 CHAIRMAN LEVAR: Okay. Thank you,
20 Mr. Russell. Mr. Baker.

21 MR. BAKER: Thank you.

22 EXAMINATION

23 BY MR. BAKER:

24 Q. Good morning, Mr. Oliver.

25 A. Good morning.

1 Q. My name is Chad Baker. I represent an
2 intervention coalition known as the Utah Industrial
3 Energy Consumers. I just have a couple of follow-up
4 questions for you.

5 In the -- well, one, I believe in your report,
6 or in your testimony here today, you have alluded to
7 PPAs being less risky from a customer perspective; is
8 that correct?

9 A. Yeah, that's correct.

10 Q. In the selection of the resources of a BTA
11 versus a PPA, and how you try to put them on equal
12 footing, did that evaluation consider the risks to
13 customers of these different vehicles?

14 A. In doing the overall evaluation or --

15 Q. Yes.

16 A. Well, it -- we tried to account for that as
17 part of the -- as reviewing the quantitative evaluation,
18 you know, at that point. Basically, as I mentioned, you
19 know, the list selection process, ensuring that, you
20 know, that all the costs and benefits for each of --
21 each of the options was, you know, was carefully looked
22 at and that type of thing.

23 So we looked at it from a quantitative
24 perspective. We didn't put any adders on or anything
25 for, you know, for qualitative.

1 Q. So the -- if I understand correctly, there was
2 no quantitative assignment of the reduced -- of the
3 reduction in risk that a PPA may provide?

4 A. No. There was not at that -- not at that
5 stage in the process.

6 Q. And --

7 A. And by the way, we did actually -- based on
8 our design report, we did scrutinize the contracts
9 pretty closely as well, to identify those issues.

10 Q. When you say you "scrutinized the contracts,"
11 did you scrutinize the final contracts or the exemplar
12 contracts that were submitted in the bid package?

13 A. The pro forma contracts, were included in the
14 bid package.

15 Q. When -- when you were discussing the -- the
16 queue position and its impact on some of the bidders, I
17 can't recall, do those become nonviable because either
18 the transmission costs necessary to connect them to the
19 system had to be imposed and that sent it off, or were
20 they actually imposed and that made them nonviable?

21 A. No. My recollection was that -- when we get
22 to that point and I think we -- I mention in my report
23 that I was, you know, surprised by, you know,
24 disappointed by the, you know, that result.

25 That -- what happened at that point, for those

1 projects to be connected they would -- they would -- the
2 company would have to build out Gateway South and
3 Gateway West as I recall, and the costs associated with
4 those would be substantial. But it was never -- it was
5 never quantified in the evaluation.

6 Q. Thanks for that clarification. Is
7 guaranteeing the -- having the company guarantee the
8 costs and capacity factors one way to address your
9 concerns about project actuals equaling forecast?

10 A. I had -- say it --

11 Q. We had had a discussion earlier about your
12 concern. I believe there's, you talked about cost
13 overruns?

14 A. Right.

15 Q. I also believe you talk about capacity
16 factors, and actuals not generally being below forecast.
17 And so would hard guarantees on costs and capacity
18 factors be one way to address that concern?

19 A. I think costs can be, you know, subject to --
20 you know, again, you know, I want to make policy, don't
21 try to suggest policy. But you know, certain -- you
22 know, close scrutiny of the cost is one thing as I, you
23 know, have talked about before, and I think that's
24 reasonable.

25 The capacity factors is somewhat difficult

1 because it is subject to, you know, to the wind and that
2 type of thing and the forecasts and of, you know, of
3 generation profiles that are submitted. But, you know,
4 the I -- I think, you know, how -- if the company is
5 required to, or any company is required to meet the, you
6 know, generation level to similar to how PPA would have
7 to meet those levels, I think that would be one way of,
8 you know, handling that.

9 So PPA is basically committed to, you know, to
10 meeting the, you know, within some limits of meeting
11 those levels. I think that type of provision could be
12 applied to any resource.

13 Q. If we focus on cost for a moment then. So
14 guarantee on the costs would be one mechanism to address
15 your concern of actuals not equaling forecasts, correct?

16 A. Yeah. I think a cap on the costs or something
17 along those lines.

18 Q. Would -- would a cost cap provide better rate
19 payer protection than a prudence review of cost overruns
20 once the concrete's already been poured?

21 A. I am not sure. I don't know if I can answer
22 that question.

23 Q. Okay. That's fine. I think the record has
24 established that, so I will leave it at that. And with
25 that, I have no further questions for you today. Thank

1 **you.**

2 A. Thank you.

3 CHAIRMAN LEVAR: Okay. Thank you, Mr. Baker.

4 I think what we're going to do after a short break is,
5 since we don't really have an opportunity for redirect
6 for Mr. Oliver, I think the fairest way is to give
7 everyone one more shot if they have follow-up questions.
8 So after a short break, I will ask everyone whether you
9 intend to do any follow-up questions, and if there are,
10 for those who do, we will go in generally the same
11 order. So we will break until about 10:45. Thank you.

12 (Recess from 10:33 a.m. to 10:47 a.m.)

13 CHAIRMAN LEVAR: Okay. I think we're ready to
14 go back on the record. We apologize that so many of our
15 hearing breaks happen when one or the other of the
16 restrooms are being cleaned. We were discussing options
17 other than just not getting them clean, which I don't
18 think is the best option. We'll continue to -- we might
19 make some of our morning breaks a little bit longer just
20 to accommodate, if people are taking the elevator down
21 to the first floor.

22 With that, I think we will just go in the same
23 order that we previously had questions. So I'll first
24 go to Ms. Hickey. Do you have any follow-up questions
25 for Mr. Oliver?

1 MS. HICKEY: No, sir. Thank you.

2 CHAIRMAN LEVAR: Okay. Thank you.

3 Mr. Holman.

4 MR. HOLMAN: I have no questions. Thank you.

5 CHAIRMAN LEVAR: Ms. Hayes.

6 MS. HAYES: Yeah, just really briefly. Thank
7 you.

8 EXAMINATION

9 BY MS. HAYES:

10 Q. My name is Sophie Hayes. I'm representing
11 Western Resource Advocates. You have testified a bit
12 about how some of the evaluation criteria includes
13 looking at IRP models. Is that correct?

14 A. Yeah. The quantitative evaluation criteria is
15 based on the IRP modeling approach.

16 Q. And you have also been asked a bit about
17 whether an all-source RFP would give you a
18 representation of sort of the full range of resources
19 able to meet -- cost effectively meet end capacity need;
20 is that correct?

21 A. I was asked that question, yes.

22 Q. Is it your understanding that in the -- in the
23 lead-up to this RFP, that the IRP itself selected wind
24 resources?

25 A. That's my understanding. I mean, I think that

1 was what initiated the solicitation process.

2 Q. Okay. Thank you.

3 MS. HAYES: No questions. No other questions.

4 CHAIRMAN LEVAR: Ms. McDowell.

5 FURTHER EXAMINATION

6 BY MS. MCDOWELL:

7 Q. Thank you. So Mr. Oliver, I just have a
8 couple of questions for you. Beginning with your -- the
9 testimony that you were handed, UAE Cross Exhibit 2. Do
10 you have that?

11 A. Yes.

12 Q. So can you turn to page 9 of that testimony.
13 I want to direct your attention to your testimony at
14 line 1 -- beginning on line 185, where you state, "While
15 I did not specifically state a recommendation for
16 resource eligibility, I believe that a targeted
17 solicitation is reasonable given the unique
18 circumstances associated with the potential value to
19 customers of procuring additional wind resources at this
20 time to take advantage of the PTC benefits."

21 So what I wanted to ask you about that
22 testimony is, is I recall from reading the transcript
23 that you testified that an all-source RFP would
24 potentially take quite a bit longer than a targeted RFP;
25 is that correct?

1 A. I -- subject to check, that's correct.

2 **Q. So in your experience, generally, an**
3 **all-source RFP is a more complex and protracted process**
4 **than a targeted RFP?**

5 A. Yes. And at the time that I submitted this,
6 as I recall, the company was looking at more of an
7 intermittent type, you know, to meet a specific need to
8 take advantages of the PTCs. And as I understand now,
9 the solicitation or the justification has changed to be
10 more of a resource need.

11 So that's why -- that was the gist here was
12 basically, you know, a tighter solicitation is generally
13 more applicable or can be more applicable for an
14 intermittent-type resource as opposed to a, you know, a
15 capacity-type resource where you are looking for -- you
16 know, or an all-source may be more applicable.

17 **Q. So you could have a resource need that would**
18 **be both, correct? Where you would be both seeking an**
19 **economic opportunity and looking to meet capacity need,**
20 **correct?**

21 A. That's correct, yes.

22 **Q. So I also wanted to ask you a question about**
23 **the issues on the assigning of transmission costs. I**
24 **was concerned the record might have gotten a little**
25 **confused. So just to take it back, because I think some**

1 of the questions were about Uinta. Could the model
2 here, or could the RFP have chosen Uinta without any
3 other bid, if it was the lowest-cost resource?

4 A. The model was basically designed to establish
5 the least-cost portfolio as a resource, so it could have
6 selected Uinta without, you know, without the
7 transmission.

8 Q. In that -- is it your understanding in that
9 case that the costs of the Aeolus-to-Bridger line would
10 not have been assigned to the Uinta bid?

11 A. Well, that's correct, yes. I never expected
12 it, you know what I mean. From all we knew that the
13 Uinta was basically a, you know, didn't need the
14 Aeolus-to-Bridger/Anticline line to, you know, to become
15 part of the portfolio.

16 Q. So the last question I have for you was on the
17 interconnection issues you discussed. So you indicated
18 that the short list was compiled before any of these
19 transmission issues, interconnection issues became --
20 surfaced, became known; is that correct?

21 A. That's correct.

22 Q. And can you turn to page 84 of your -- of your
23 report. I wanted to ask you a little bit about the last
24 bullet on that page. So there you talk a little bit
25 about the interconnection issue, and before I ask you

1 about your report, can you confirm that ultimately
2 between the initial short list and the final short list
3 there was only one resource that changed?

4 A. The -- in the -- in the portfolios, that was
5 correct. However, you know, as I mentioned before,
6 there was one PPA that both IEs had suggested that be
7 included. In our recommendation on this final short
8 list, we had suggested that a PPA be included on that
9 list.

10 Q. And that PPA did not -- was not able to
11 interconnect; is that correct?

12 A. It was further down in the queue, that's
13 correct.

14 Q. And ultimately on page 84, you concluded, and
15 this is the -- I think the second line from the bottom
16 of the page, "While the IE had concerns over the basis
17 of this constraint, these projects were the lowest-cost
18 options available." So were you referring to the final
19 short list there?

20 A. Yes. The final short list that was selected
21 were the lowest-cost projects, without constraints on
22 the transmission. You know, with the, you know, as I
23 mentioned, I think there were -- the PPA was close, at
24 least in the initial evaluation, based on different
25 sensitivities. But I think overall these four projects,

1 you know, based on the methodology were the, you know,
2 were the least cost projects.

3 MS. MCDOWELL: That's all I have, thank you.

4 CHAIRMAN LEVAR: Okay. Thank you,
5 Ms. McDowell. Mr. Jetter.

6 FURTHER EXAMINATION

7 BY MR. JETTER:

8 Q. Thank you. I have just a few very brief
9 follow-up questions. Just to clarify for the record,
10 when you were discussing the final short list that you
11 recommended being the lowest-cost option, is it your
12 understanding that that is the same project being
13 proposed in this docket today by Rocky Mountain Power?

14 A. I'm not sure. Could you repeat that please or
15 clarify that?

16 Q. So the final short list that you recommended
17 as being the least cost option, did that include the
18 Uinta project?

19 A. Well, the -- we sort of looked at the Uinta
20 project as being a separate project, because of the --
21 you know, I mean, it was part of the portfolio that was
22 included. But, you know, our focus was really, you
23 know, I say more on the projects that were competing for
24 interconnection on the Aeolus-to-Bridger/Anticline line.

25 Q. Okay. Would it be fair to say that in your

1 analysis, the three projects, plus Uinta, offered more
2 benefits to customers than the three projects without
3 Uinta?

4 A. As I recall, the Uinta project offered
5 positive benefits. So that would be the case, yes.

6 Q. Okay. And so the option, the final short list
7 that you had recommended may have been better for
8 customers than the final short list being presented
9 today?

10 A. If Uinta -- if Uinta was on the final short
11 list, it would have added some positive benefits.

12 Q. Okay. Thank you. And changing gears just
13 very briefly. This is on page 86 of my version, which
14 is, the one I am looking at is the redacted version, and
15 what I am looking at is the header that says B,
16 recommendations.

17 A. Okay.

18 Q. And you had some discussions about what was
19 known by who about this and at what times about the
20 transmission constraints. Would you just read the first
21 sentence of the first bullet point there?

22 A. "Merrimack Energy recommended that PacifiCorp
23 hold a transmission workshop for bidders," is that the
24 one?

25 Q. Yes.

1 A. "Transmission workshop for bidders as they
2 have for previous solicitations."

3 **Q. Okay. And do you know if PacifiCorp in fact**
4 **held the recommended workshop for that?**

5 A. In my view they didn't.

6 **Q. Okay.**

7 A. It was one slide in the -- the bidders'
8 conference presentation that talked about transmission
9 issues, but it really didn't get into interconnection.
10 So, you know, I don't -- I don't think that was
11 sufficient to what I was thinking of, but, you know, I
12 didn't push it either.

13 I mean, I guess -- and I, again, I mean, we
14 did have calls, the IEs did have calls with PacifiCorp's
15 transmission group to, you know, during the process.
16 One I think on the end of October, I think was the last
17 one, the end of October.

18 **Q. Okay. And do you know if any of the bidders**
19 **were privy to the information that you gained through**
20 **those phone calls?**

21 A. No, not that I am aware of. I don't -- but I
22 don't know what the bidders knew.

23 **Q. Okay --**

24 A. I mean, you know, I sort of look at this very
25 sophisticated bidders, that, -you know, bidding

1 throughout the industry and the whole process as well.
2 So you know, I -- I would assume they were pretty, you
3 know, they would have been somewhat knowledgeable about
4 the process. But I don't know for a fact.

5 MR. JETTER: Okay. Thank you. Those are all
6 my questions. Thank you.

7 CHAIRMAN LEVAR: Okay. Thank you. Mr. Moore.

8 MR. MOORE: No questions. Thank you.

9 CHAIRMAN LEVAR: Thanks. Mr. Russell.

10 MR. RUSSELL: I don't have any further
11 questions for the witness, but I would like to take the
12 opportunity to move for the admission of UAE Cross
13 Exhibit 2.

14 CHAIRMAN LEVAR: If any party objects to that
15 motion, please indicate to me. I am not seeing any
16 objection, so the motion is granted. Thank you.
17 Mr. Baker, do you have any further questions?

18 MR. BAKER: Just a couple follow-up. Thank
19 you.

20 FURTHER EXAMINATION

21 BY MR. BAKER:

22 Q. So in some of the conversation about your
23 understanding of the initial RFP and what it was for,
24 can you clarify, am I correct that it was your
25 understanding it was premised on an economic opportunity

1 for PTCs?

2 A. Yeah, yes.

3 Q. And so would you say that an RFP for
4 intermittent resources would help you identify the
5 lowest-cost resource for a firm resource need?

6 A. No, not necessarily.

7 MR. BAKER: Thank you. No further questions.

8 CHAIRMAN LEVAR: Okay. Thank you, Mr. Baker.

9 EXAMINATION

10 BY CHAIRMAN LEVAR:

11 Q. I have just one follow-up to an answer you
12 gave to Mr. Jetter during his first round of
13 questioning, and he was talking about the restrictions
14 that came later in the process with respect to
15 transmission queue position. And I believe I heard your
16 answer to one of his questions to say, I don't know if a
17 bidder or potential bidder could have improved their
18 queue position if they had known that information
19 earlier.

20 I'd like to ask you to follow up a little bit
21 on that. Are you saying it would have been difficult
22 for a potential bidder or bidder to improve their queue
23 position if they had known the information earlier, or
24 was that something impossible?

25 A. I mean, I guess, bidders could -- you know,

1 queue is public information. So they can always look at
 2 that and apply as soon as they can in terms of, you
 3 know, once they -- there is indication the RFP is coming
 4 out, they can, you know, submit their application, you
 5 know, immediately. That would be one way, I guess, of
 6 improving the queue position.

7 But if others are already in there, then, you
 8 know, they are going to be behind other projects that
 9 are ahead of them, because the queue is a serial queue
 10 and whoever is in first.

11 Now, the one thing I always looked at, and I
 12 believe Mr. Link mentioned in one of his -- and I don't
 13 recall what round of testimony it was, that bidders
 14 could always, you know, could move up in the queue if
 15 someone withdraws from the queue or perhaps is not
 16 selected in an RFP and decides that, you know, they are
 17 going to withdraw their project or not pay the fees.
 18 That's another way the bidders could move up, if someone
 19 else drops out.

20 CHAIRMAN LEVAR: Okay. Thank you. I
 21 appreciate that clarification. Commissioner Clark, do
 22 you have any questions for him?

23 COMMISSIONER CLARK: Yes. Yes. Thank you.

24 EXAMINATION

25 BY COMMISSIONER CLARK:

1 Q. I'd like to begin with the way transmission
2 interconnection requirements were addressed, and I think
3 I became a little confused about that during the -- your
4 earlier examination as well. So I am going to -- I may
5 be going over some very routine areas, but as I
6 understand it, I think you told us that the
7 Aeolus-to-Bridger/Anticline transmission upgrade costs
8 were -- were basically treated as though they -- they
9 were -- would be encountered regardless of any of the
10 projects under consideration. Is that -- is that an
11 accurate characterization?

12 A. Well, the Bridger -- those costs were included
13 in the final evaluation. But they -- you know, they
14 weren't allocated to any projects. They were just, you
15 know, the projects that were selected would be -- would
16 have to connect to that line. So those costs were just,
17 you know, overall part of the, you know, the cost
18 evaluation that was applied to the projects, you know,
19 that were going to be connecting to the Bridger
20 Anticline line.

21 Q. So initially at least there were wind bids
22 from projects that wouldn't have interconnected with
23 that line, right?

24 A. That's correct.

25 Q. And so when they were evaluated, how were the

1 costs of the transmission upgrades treated with respect
2 to them?

3 A. Well, the initial evaluation, the short list
4 evaluation, they were -- none of the bids were allocated
5 any costs to that line. So all the bids were evaluated
6 the same without any of those costs. They were only
7 included -- the only costs included were their specific
8 interconnection costs.

9 So short list was selected, and then the SO
10 model was then used to select the portfolios. And there
11 were two portfolios selected, which resulted -- as I
12 recall, two bids that weren't -- that wouldn't connect
13 to the -- two small bids that wouldn't connect to the
14 Aeolus-to-Bridger/Anticline line.

15 And one of the portfolios was selected then
16 for the PaR analysis, and the PaR analysis picked that
17 portfolio where -- was it three projects were, as I
18 recall, three projects I believe were -- would
19 transport -- would connect to that line, and then the
20 other project was the Uinta project that provided
21 benefits but didn't -- didn't connect to that line.

22 Q. Thank you. With regard to queue position and
23 its effect on the ultimate selections, if parties had
24 known, or bidders had known that their queue position --
25 position would be so influential in the ultimate

1 outcome, and I think you suggested that it would have
2 been desirable for them to learn that through a workshop
3 earlier on in the process, because maybe they wouldn't
4 have bid if they had known that, is that -- am I
5 characterizing your report accurately to that point?

6 A. Yes. I think the more information they would
7 have known, it would have been beneficial to them one
8 way or another. You know, whether they decided to bid
9 or, you know, decide, you know, different location or
10 something. I don't know what they could have done
11 differently. But, you know, they were sophisticated
12 bidders, I guess that's the one thing. The majority of
13 them were -- were very sophisticated.

14 Q. Just hypothetically, if they had understood
15 that, had then chosen not to participate in the process
16 because it -- for whatever reason, would you have
17 considered the participation of just the three bidders
18 that remained to be a robust response to the -- to the
19 RFP?

20 A. Probably not. Because it would -- it would
21 have been probably less than the total capacity of the
22 trans -- you know, the company was looking for, but it
23 doesn't mean that, you know, that the RFP should be
24 canceled.

25 I guess at that point it would -- you know, we

1 would have brought it to the, you know, commission's
2 attention that there's not a big response here, but
3 that, you know, that maybe there's a different way of
4 proceeding with this process. And I think that's what
5 the outcome might have been if no one bid.

6 Q. In other words we would have been at the
7 position of exercising one of the options that you have
8 described would have been available to us when you gave
9 your testimony in the RFP proceeding, right?

10 A. One of the off-ramps, right.

11 Q. One of the off-ramps?

12 A. Right.

13 Q. Looking at UAE Cross Exhibit 2, and that
14 testimony on page 9 about targeted solicitation.

15 A. Yes, I have it. Yes, I have it here.

16 Q. So knowing what you know now about the
17 objectives of the solicitation process, if you had -- if
18 you had known -- had that same knowledge when you gave
19 this testimony, would you have felt different about
20 limiting the resources that could respond to just wind
21 resources?

22 A. And that knowledge would be that this is now
23 more of a resource capacity need type?

24 Q. However you understand it to be now. I mean,
25 I'm going to ask you to explain that in some detail in a

1 **minute so...**

2 A. If -- if it's a capacity need or resource need
3 that's -- that is being looked at here, I would have
4 suggested something different, yes.

5 Q. So can you take us through sort of what you
6 understood the nature of your assignment to be in
7 relation to the objective at the outset of your
8 engagement, and then how that evolved over time to the
9 issuance of your final report, and sort of when it --
10 when you became aware of the changing nature, and how
11 you became aware of the changing nature of your
12 assignment as -- or the objectives of the RFP process as
13 you understood them?

14 A. Well, I think when we started the process, I
15 had -- you know, as I recall, the whole objective was,
16 this was a unique opportunity to take advantage of the
17 PTC benefits. And the company was going to issue an RFP
18 to solicit bids for wind resources that would be, you
19 know, targeted to that ben -- to taking advantage of
20 that benefit, and that would be, you know, that would
21 basically require transmission upgrade to meet those
22 requirements in Wyoming.

23 When we were -- shortly after we were
24 retained, we actually submitted a number of questions,
25 probably 30, 40 questions, to the company to try and get

1 a better understanding of the whole nature of the
2 process and the company, because I really wasn't sure at
3 that time whether, you know, even on interconnection on
4 what would the allowance be.

5 You know, are you interconnecting just to that
6 Aeolus-to-Bridger/Anticline line? You know, that type
7 of thing. So the company provided, you know, pretty
8 detailed responses back, which provided our better, you
9 know, knowledge of what -- what the solicitation process
10 was, which is then reflected here.

11 You know, I understood the process at that
12 point to be a unique opportunity, and that's why I
13 thought, you know, I said, you know, my view was
14 probably should be issued to see if there are very
15 positive benefits that are out there.

16 **Q. And the unique opportunity would have been the**
17 **potential to build wind resources with the benefits of**
18 **the production tax credits, correct?**

19 A. Correct. And I don't recall when -- when I
20 knew when -- or when I heard that the company's, I don't
21 know if its objectives or what's the right word here,
22 but that the -- that it became more of a resource need
23 as opposed to, you know, just, you know, energy
24 procurement need to, you know, or energy procurement
25 requirement to maximize the PTC benefits.

1 I don't recall the date. But it seems like it
2 has shifted over time, and I -- at least that's the
3 impression I get. But our involvement, like I said,
4 really terminated or didn't continue once we filed the
5 report in mid February.

6 We have been involved a little bit in
7 negotiations, but in terms of the testimony and the
8 proceeding and who is -- you know, you know, who is
9 testifying to what, I haven't been following that on a
10 constant basis.

11 Q. Those conclude my questions. Thanks very
12 much, Mr. Oliver, for your assistance to the commission.

13 A. Thank you.

14 CHAIRMAN LEVAR: Okay. Thank you.
15 Commissioner White.

16 EXAMINATION

17 BY COMMISSIONER WHITE:

18 Q. Good morning.

19 A. Good morning.

20 Q. Just following up on a couple questions from
21 Commissioner Clark. Was there ever a question in your
22 mind that the purpose of the RFP was to take advantage
23 of an opportunity with respect to wind and the
24 associated DBCs to fill a need, meaning a capacity
25 that's now a capacity that's now being fulfilled by

1 front office transactions?

2 In other words, I mean, is it in your mind, is
3 there a question that they were not pursuing an economic
4 opportunity to pursue a generation resource to not
5 supply load? I mean to fill a load requirement?

6 A. I guess in my view, initially, I was under the
7 impression it was mostly an energy procurement as
8 opposed to a capacity -- to capacity procurement.

9 Q. Well, yeah, and I apologize. Energy capacity,
10 mostly energy?

11 A. Right.

12 Q. Okay. Well, let me ask you a question
13 about -- you mentioned something -- you keep referring
14 to sophisticated bidders with respect to the
15 transmission issue. Understanding that the transmission
16 information is publicly available on Oasis, et cetera,
17 is there something that you would recommend specifically
18 that, you know, if we go back in time to specifically
19 the company would have conveyed through a workshop to
20 these bidders?

21 A. Well, as I mentioned, I think, you know, some
22 of the previous solicitations that we have been IE for
23 PacifiCorp, we did have -- we did require -- suggest the
24 company have a workshop for bidders and they did. And
25 that workshop generally included just the overall

1 assessment, overall description of the system, what some
2 of the planned additions were to the system, how to get
3 into the queue, you know, to apply for, you know,
4 interconnection service, that type of thing.

5 So I didn't see that as a major effort, but I
6 thought it was something that could be, you know, put
7 together fairly quickly and would at least, you know,
8 something -- that would have provided some value to
9 bidders. Even though they were sophisticated bidders,
10 there may have been some information that they weren't
11 -- they would at least have the opportunity to ask
12 questions, you know.

13 And I know they did in other forums but, you
14 know, through the, you know, the Q and A process, but
15 they could have directly asked questions to the
16 PacifiCorp transmission folks.

17 COMMISSIONER WHITE: Thank you. I have no
18 further questions.

19 CHAIRMAN LEVAR: Thank you, Mr. Oliver. We
20 appreciate your participation in this docket and your
21 testimony today. Let me just ask both commissioners and
22 colleagues if there's any reason not to excuse
23 Mr. Oliver, or if anyone sees a potential need for
24 recall. If you see a problem or a need for potential
25 recall, please indicate to me. I am not seeing any

1 indication from anyone in the room. So thank you,
2 Mr. Oliver.

3 THE WITNESS: Thank you very much.

4 CHAIRMAN LEVAR: Before we go back to Rocky
5 Mountain Power's next witness, Ms. Hickey, is your
6 witness here yet?

7 MS. HICKEY: He is in town on his way over.

8 CHAIRMAN LEVAR: Well, maybe we'll try to get
9 that witness in this afternoon or in the morning. Would
10 either of those work?

11 MS. HICKEY: Yes, sir. Perhaps we could
12 revisit later this afternoon a break or something.

13 CHAIRMAN LEVAR: Okay. Thank you.

14 MS. HAYES: Mr. Chair, I apologize for
15 interrupting. While we're discussing that, I am
16 wondering if I could ask what you are considering in
17 terms of the general order of witnesses. Are you
18 planning to go in the same order that you have been
19 calling on attorneys? I am just trying to get a sense
20 of when my witness may come up.

21 CHAIRMAN LEVAR: Sure. Well, not necessarily.
22 I have been trying to do cross-examination trying to
23 group similar positions together.

24 MS. HAYES: Sure.

25 CHAIRMAN LEVAR: That's not necessarily -- I

1 hadn't thought about who I would go it to next after --

2 MS. HAYES: Okay.

3 CHAIRMAN LEVAR: Typically we go to the
4 division and the office next, but where we have some
5 parties with positions more similar to the utility than
6 the division and the office, it might make sense to go
7 to -- in the order we have been doing cross-examination.
8 As I think about your question right now, I'm probably
9 inclined to do that.

10 MS. HAYES: Okay.

11 CHAIRMAN LEVAR: Obviously, we have one timing
12 need. But other than that, I think that's probably
13 where you are going, is to go -- I assume Utah Clean
14 Energy and Western Resource Advocates before we go to
15 the division and the office, if there's no objection to
16 that. If anyone does have an objection, let me know
17 now.

18 MR. RUSSELL: Chair LeVar, I don't have a
19 specific objection to that. That does put my witness
20 going last, and we may have some travel requirements.
21 I'll discuss that with him during the lunch break and
22 see if there's not. I don't know that it's an issue,
23 but it may be.

24 CHAIRMAN LEVAR: Okay. You know, I think the
25 parties in these proceedings have generally been

1 flexible to try to meet travel needs of witnesses. The
2 order we go in typically doesn't have too much
3 substantive impact, but we want to be open about it. So
4 thank you.

5 MR. LOWNEY: The company's next witness is
6 Rick Vail.

7 CHAIRMAN LEVAR: Okay. Mr. Vail, do you swear
8 to tell the truth?

9 THE WITNESS: I do.

10 CHAIRMAN LEVAR: Thank you.

11 RICK VAIL,
12 was called as a witness, and having been first duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. LOWNEY:

16 Q. Mr. Vail, could you please state and spell
17 your name for the record?

18 A. Yes. It's Rick Vail. It's R-I-C-K, V-A-I-L.

19 Q. Okay. Mr. Vail, how are you employed?

20 A. I am the vice president of transmission for
21 PacifiCorp.

22 Q. And in that capacity, did you file direct
23 testimony, supplemental direct and rebuttal testimony,
24 second supplemental direct testimony and surrebuttal
25 testimony in this case?

1 A. Yes, I did.

2 **Q. And Mr. Vail, do you have any corrections or**
3 **changes to that testimony today?**

4 A. I do have one correction. It's on my
5 surrebuttal testimony. That correction is on page 21.
6 It's on line 461. And I need to add the words "segment
7 D-1" after "energy Gateway West."

8 **Q. I'll just give everyone a moment to reflect**
9 **that change before we go one.**

10 CHAIRMAN LEVAR: Could I ask you just to
11 repeat that change.

12 THE WITNESS: Yes. So it's surrebuttal
13 testimony, page 21, lines 461. Following the words
14 "Gateway West," we need to add "Segment D-1."

15 **Q. (By Mr. Lowney) Mr. Vail, with that change, if**
16 **I were to ask you the same questions today that are**
17 **included in your prefiled testimony, would your answers**
18 **be the same?**

19 A. Yes, they would.

20 MR. LOWNEY: I would move to admit Mr. Veil's
21 testimony as it was in the record.

22 CHAIRMAN LEVAR: Okay. If any party objects
23 to that motion, please indicate to me. I am not seeing
24 any objection in the room, so the motion is granted.
25 Thank you.

1 MR. LOWNEY: Mr. Vail is available for
2 cross-examination and commissioner questions.

3 CHAIRMAN LEVAR: Do you want to put in a
4 summary?

5 MR. LOWNEY: I'm sorry.

6 Q. (By Mr. Lowney) Mr. Vail, have you prepared a
7 summary today?

8 A. I have.

9 Q. All right. Please proceed.

10 A. You bet. I have to check, is it still
11 morning? So good morning, Commission Chair LeVar,
12 Commissioner Clark and Commissioner White. I oversee
13 the transmission system planning, the administration of
14 the company's open access transmission tariff or OATT,
15 the customer generation interconnection requests and the
16 regional transmission planning initiatives for
17 PacifiCorp.

18 My testimony describes substantial and
19 immediate customer benefits resulting from the
20 construction of the transmission projects. The
21 centerpiece of the transmission projects is the proposed
22 140 mile, 500 KV Aeolus-to-Bridger/Anticline
23 transmission line also known as segment D-2 of the
24 energy -- of the company's energy gateway transmission
25 expansion projects.

1 This transmission line has been in development
2 since 2007 and is part of the long-term transmission
3 plan designed to strengthen the company's and the
4 region's transmission system to better serve customers.
5 The unprecedented opportunity before the commission
6 today allows the company to construct this line with
7 minimal customer rate impact.

8 So first, I'm going to address the need for
9 the Aeolus-to-Bridger/Anticline transmission line. The
10 end -- the Aeolus-to-Bridger/Anticline transmission line
11 is needed today. The transmission system in southeast
12 Wyoming is currently constrained with generation
13 capacity behind the TOT 4A cut plane exceeding
14 transmission capacity.

15 From a transmission planning perspective,
16 there is no reasonable basis to conclude that the
17 company will not need to construct the
18 Aeolus-to-Bridger/Anticline line in the relatively near
19 future. Although the company has been able to defer
20 construction of this line by upgrading the existing
21 transmission system and implementing alternative
22 transmission technologies, the upgrades that we have
23 made are not a long-term solution for this line.

24 Given the existing constraints on the Wyoming
25 transmission system, the addition of the new

1 transmission capacity is the only long-term feasible
2 solution. It is not a question of if
3 Aeolus-to-Bridger/Anticline line will be constructed.
4 It is a question of when.

5 This means that the real question presented by
6 this case is whether it is in the public interest to
7 construct the Aeolus-to-Bridger/Anticline line in 2020,
8 when it is subsidized by the PTCs, or after 2020, when
9 it is not.

10 Foregoing today's opportunities presents
11 substantial downside risk for customers. Current plans
12 call for the construction of this line by 2024. But
13 even that date is not certain. A small change in the
14 generation resources or a change in load could require
15 the line to be built without the benefit of the federal
16 production tax credits as an offset to the costs as
17 provided for in the company's open access transmission
18 tariff.

19 It is possible that an interconnection or
20 transmission customer could also trigger the need to
21 construct the Aeolus-to-Bridger/Anticline line before
22 2024, and the cost to accelerate that construction would
23 ultimately be borne by the -- and paid for by the retail
24 customers.

25 The sheer volume of new wind projects that are

1 being developed in the transmission constrained area,
2 southeastern Wyoming, indicates that there is a very
3 real risk the company could be forced to construct this
4 line through one of those old mechanisms. This means
5 the retail customers would bear the full cost of 697
6 million dollars, with only the revenue from third party
7 transmission customers as an offset. This is not an
8 insubstantial or speculative risk.

9 I want to talk a little bit about the benefits
10 of the Aeolus-to-Bridger/Anticline line. First the
11 Aeolus-to-Bridger/Anticline line will increase the east
12 to west transmission capacity by approximately 951
13 megawatts. It will also enable the company to more
14 efficiently utilize existing generation resources in
15 Wyoming that serve loads in Wyoming, Idaho, Utah, and
16 the Pacific Northwest.

17 Second, with the transmission projects, the
18 company will also be able to interconnect up to a total
19 of 1,510 megawatts of resources in the prime region --
20 prime wind region in southeastern Wyoming, including the
21 three wind projects selected in the 2017R RFP.

22 The third benefit is that the transmission
23 projects will improve system reliability. Currently the
24 company operates its system to ensure that we meet
25 and/or exceed all acceptable reliability and performance

1 standards. Due to the long lead time required to
2 construct high voltage transmission lines, however, the
3 company must be proactive to ensure that it remains in
4 position to effectively meet its obligations in the face
5 of future uncertainty or changing circumstances.

6 In particular, the North American Reliability
7 Corporation, NERC, has established system planning
8 requirements intended to ensure that the bulk electric
9 system will operate reliably over a broad spectrum of
10 system conditions and following a wide range of probable
11 contingencies.

12 The Aeolus-to-Bridger/Anticline line has been
13 included in a required annual reliability assessment as
14 part of the company's short-term and long-term plans to
15 dependably meet both NERC and WECC reliability
16 requirements. The company has thoroughly and
17 comprehensively studied the transmission projects to
18 verify that the expected benefits will materialize.

19 Most importantly, the company has obtained its
20 final phase 3 path rating from WECC. This WECC approval
21 is critical, because it allows the company to
22 interconnect this transmission line into the wider
23 transmission system in the entire area and reliably
24 operate the project at its approved rating.

25 The company has also completed all of the

1 interconnection studies required for the wind projects
2 and completed the Aeolus west transmission path transfer
3 capability assessments.

4 The results of the final transfer capabilities
5 assessments demonstrate that the company's initial
6 assessments were conservative, and confirm that the
7 transmission projects will increase transmission
8 capability by approximately 200 megawatts more than what
9 was originally anticipated or is factored into the
10 benefit calculation.

11 More detailed studies of the wind projects
12 that were selected in the 2017R RFP, also increase the
13 interconnection capabilities from -- it was originally
14 1,270 megawatts, up to 1,510 megawatts.

15 The company is confident that the remaining
16 studies confirm that the estimated costs and benefits of
17 the transmission projects, also as addressed in my
18 testimony, the risk of the transmission projects have
19 continued to decrease over the course of this case, and
20 the costs have become more certain.

21 There is now greater cost certainty for the
22 transmission projects because of the competitive market
23 solicitations that have occurred during this case. The
24 company's bid solicitation process for EPC contractors
25 for the Aeolus-to-Bridger/Anticline line have confirmed

1 the company's initial cost estimates. Because the line
2 represents approximately 85 percent of the total cost of
3 the transmission projects, cost certainty for that
4 portion of the project has increased. The company is
5 ready to build and confident that we can deliver the
6 project on budget.

7 The risk of delay beyond 2020 has also
8 decreased over the course of the case as project
9 implementation has continued. The company has extensive
10 past experience implementing projects comparable in
11 scope to the transmission projects and on similar
12 construction schedules.

13 Like past projects, the company intends to use
14 contracting provisions to provide greater price
15 certainty and to ensure, through all available means,
16 the contractors meet the deadlines required for the
17 transmission projects to become operational by the end
18 of 2020.

19 Finally, the company did not mismanage its
20 generation interconnection queue, or attempt to use the
21 generator interconnection queue to bias the outcome of
22 the 2017 request for proposals. The company's treatment
23 of all projects in its generation interconnection queue,
24 whether bidders or not, was consistent with the terms
25 and conditions of its open access transmission tariff.

1 The facts that the full build-out of Gateway
2 South was triggered as queue position number 708 has been
3 public knowledge. It was public knowledge prior to the
4 issuance of the 2017R RFP, and it has been public
5 knowledge and out on Oasis since 2015.

6 The interconnection restudies which change the
7 assumption of the inservice date for the bridge --
8 sorry, Aeolus-to-Bridger/Anticline line resulted in
9 increasing the interconnection capability, prior to that
10 study. And Gateway South went from being triggered at
11 queue position 708, down to queue position 713.

12 So the final restudy of that generation
13 interconnection queue actually included more projects
14 that would be available to interconnect with the
15 addition of the segment D-2 line than were originally
16 assumed prior to the completion of those studies.

17 In summary, this case does really present us
18 an unprecedented opportunity to obtain the numerous
19 benefits that the transmission projects provide with
20 little customer rate impacts, primarily because of the
21 PTCs generated by the wind projects. This is a unique
22 time-limited opportunity to build a much needed
23 transmission line and actually save customers money by
24 doing so.

25 If the company delays the construction of the

1 Aeolus-to-Bridger/Anticline line until PTCs are no
2 longer available, the customer rate impact will be
3 significantly greater when the line is required to be
4 built. Thank you.

5 **Q. Mr. Vail, does that conclude your summary?**

6 A. Yes, it does.

7 MR. LOWNEY: And now Mr. Vail is available for
8 cross-examination and commissioner questions.

9 CHAIRMAN LEVAR: Okay. Thank you, Mr. Lowney.
10 Ms. Hickey, do you have any questions for Mr. Vail?

11 MS. HICKEY: No. Thank you, sir.

12 CHAIRMAN LEVAR: Okay. Thank you.
13 Mr. Holman.

14 MR. HOLMAN: I have no questions. Thank you.

15 CHAIRMAN LEVAR: Okay. Ms. Hayes.

16 MS. HAYES: No questions. Thank you.

17 CHAIRMAN LEVAR: Thank you. Mr. Jetter.

18 MR. JETTER: I do have a few questions.

19 CROSS-EXAMINATION

20 BY MR. JETTER:

21 **Q. Good morning.**

22 A. Good morning.

23 **Q. Do you have your direct testimony in front of**
24 **you?**

25 A. Yes, I do.

1 Q. Would you please turn to -- this is page 19,
2 and there is a question beginning on line 429, and the
3 answer concludes on line 433. Would you please read
4 that question and answer?

5 A. Starting on 429?

6 Q. Yes, please.

7 A. Okay. "Will the transmission projects also
8 enhance the company's ability to meet the reliability
9 standards applicable to its transmission system? Yes,
10 although the company currently meets or exceeds the
11 applicable reliability standards and criteria, the
12 addition of the transmission projects will allow the
13 company to more efficiently meet or exceed those
14 standards and criteria."

15 Q. Thank you. And is that an accurate statement
16 that the current transmission in that area currently
17 meets or exceeds the applicable reliability standards
18 and criteria?

19 A. Yes, that's an accurate statement.

20 Q. Thank you.

21 MR. JETTER: I am going to -- if I may
22 approach? I would like to present a cross-examination
23 exhibit.

24 CHAIRMAN LEVAR: Yes.

25 MR. JETTER: Limited copies of this. I only

1 have one extra copy of it.

2 Q. (By Mr. Jetter) Would you please identify
3 what the cover page of this document is?

4 A. The cover page states that this is the 2017
5 integrated resource plan before the Public Utility
6 Commission of Oregon.

7 Q. Okay. And does this on the, I guess the
8 right-hand side of that first page, the final -- or
9 excuse me, it says "staff final comments." Is that
10 correct?

11 A. Yeah, that's what the cover page states. I
12 don't see anything on the next page to verify. But,
13 yeah, it looks like it's that document.

14 Q. Okay. Thank you. And turning to the second
15 page of this document, I haven't reproduced the entire
16 document here, would you start -- there's a header that
17 is a No. 3. And would you read that header along with
18 the rest of this document down to the end of that
19 paragraph before the next header that starts with the
20 No. 3?

21 A. You would like me to read that whole section?

22 Q. Yes, please.

23 A. "PacifiCorp concedes that its proposed
24 transmission line is not needed to address short-term
25 reliability concerns on a stand-alone basis. In the

1 absence of a new wind acquisition, PacifiCorp would not
2 construct or acquire the new transmission line.
3 Representatives of PacifiCorp have repeatedly
4 acknowledged this fact.

5 "Staff: Quote, Without the 100 -- I'm sorry,
6 1,100 megawatts of wind would PacifiCorp build this
7 transmission line?

8 "PacifiCorp: No. In essence that's what
9 we're trying to demonstrate, this transmission line paid
10 for by the benefits of the wind.

11 "Staff: So there is no reliability need to
12 put this transmission in place at some point; is that
13 correct?

14 "Right. We are currently compliant with the
15 NERC reliability standards and expect to be going
16 forward."

17 Q. And I could actually just stop you there. I
18 think we can skip that next paragraph to speed things up
19 a little. Is it accurate that at the bottom of those --
20 that transcript portion that you have just read, there
21 is a footnote notation for No. 26?

22 A. Yes.

23 Q. And if you go down to footnote 26, does that
24 read, "Approximately 2 hours 20 minutes to 2 hours 30
25 minutes of the September 14th, 2017, LC67 special public

1 **meeting"?**

2 A. Yes, it does.

3 **Q. Do you have any reason to believe that that is**
 4 **an incorrect transcription of that public meeting?**

5 A. No. I don't believe that is incorrect. As I
 6 noted in my summary, I think I have been very clear in
 7 testimony all along, PacifiCorp is currently in
 8 compliance with the NERC reliability standards in
 9 southeastern Wyoming. But I would also add that any
 10 small change in circumstance could change that, and one
 11 of the primary tools we have is our long-term
 12 transmission planning in order to make sure that we're
 13 ready to address those needs when that time does come.

14 **Q. And you described this morning your opinion is**
 15 **that if -- or let me actually ask you that. Is it your**
 16 **opinion that if a third party generator in that area**
 17 **were to require network upgrades on that transmission**
 18 **line, that Utah rate payers would pay for those costs?**

19 A. Can you clarify on which transmission line and
 20 when you are speaking of network upgrades what you are
 21 referring to?

22 **Q. Okay.**

23 A. So I can be specific. Are you talking
 24 generation interconnection network upgrades?

25 **Q. So I am speaking to, yes, interconnection**

1 network upgrades that would be required to interconnect
2 a third party generator, anywhere, I believe it's north
3 or northeast, depending on how you look at the map, of
4 the cut plane that you have described where the
5 congestion is.

6 A. And just so I can be responsive to the
7 question, are these network upgrades part of the
8 company's long-term transmission plan?

9 Q. No.

10 A. Okay. And so what was the question?

11 Q. So the question is, is if a third party
12 generator seeks an interconnection agreement for a
13 long-term generation interconnection -- excuse me. A
14 long-term interconnection for a large generator in that
15 area, and it requires network upgrades, is it your
16 testimony today that rate payers of Rocky Mountain Power
17 would pay for those upgrades?

18 A. Yes. Let me just clarify to be clear here.
19 What we're talking about is a FERC jurisdictional
20 generation interconnection request. In that case the
21 network upgrades, the way FERC looks at those network
22 upgrades is that they benefit all users of the
23 transmission system so they would be rolled into the
24 formula rates.

25 And then at the same time, PacifiCorp would

1 come in for recovery on those network upgrades, and then
2 basically the -- the transmission so, again, you have to
3 be careful here. We went from interconnection being
4 FERC jurisdictional. They would also have to come in
5 for a transmission service request.

6 When they enter into that transmission service
7 request, they pay transmission service, and that
8 transmission service that is collected would then be
9 credited back to the individual states.

10 **Q. And are you aware of an instance where --**
11 **maybe describe to me the most recent two or three**
12 **instances briefly where a third party generation**
13 **interconnection that are not approved PPAs between -- by**
14 **any of the six states that PacifiCorp serves, have**
15 **interconnected required network transmission upgrades**
16 **and that those upgrades have been paid for by customers,**
17 **in those six states.**

18 A. I'm sorry. I followed most of that. So,
19 again, I just want to clarify. Are we talking a FERC
20 jurisdictional interconnection? So you have a FERC
21 jurisdictional generation interconnection request.

22 **Q. I would actually say, a FERC jurisdictional**
23 **interconnection request.**

24 A. Well, the answer is different, and it's
25 different depending on the state. And that's why I am

1 asking for clarification.

2 Q. So what I am asking you to describe is a
3 situation where a third party generation provider
4 interconnected and Utah rate payers were responsible for
5 the cost of any network upgrade that was required as a
6 result of that interconnection.

7 A. So off the top of my head, I don't have a
8 specific example. I will say this. Almost all FERC
9 jurisdictional interconnection requests that have a
10 network upgrade requirement would then roll into the
11 retail rates. They would be part of the capital
12 addition that the company would have.

13 Q. Okay. I'd like permission to approach the
14 witness again. Again, provide a document.

15 I have handed you -- is this accurate that
16 what I've handed you is a cover page that identifies
17 this document as a 7th Circuit United States Court of
18 Appeals order, citation 798 F.3rd 603? And it's Pioneer
19 Trail Wind Farm LLC versus FERC?

20 A. This -- that's what it reads. Yeah.

21 Q. Okay. And I have highlighted a portion of
22 that on page 3 of that document.

23 MR. LOWNEY: I'm going to object, before we
24 get too far down this path. I don't think there's been
25 any basis established for Mr. Vail to be testifying

1 about a 7th Circuit case, particularly one that doesn't
2 involve PacifiCorp, Rocky Mountain Power. It involves
3 difference generators. It involves different utilities.
4 It involves an RTO. It's in the 7th Circuit.

5 MR. JETTER: I think this is perfectly within
6 the scope of his testimony that Utah customers would be
7 paying for upgrades to this transmission line. And
8 rather than print out the roughly 2 or 3,000 pages that
9 are PERC orders 2003 A, B, C, and I think it's D, as
10 well as there's a new FERC order 845 that also addresses
11 this, I thought it might be easier to summarize those
12 from a federal Court of Appeals to ask the witness if
13 his understanding matches the understanding of what the
14 federal court who wrote this opinion is on who would pay
15 for those upgrades.

16 CHAIRMAN LEVAR: I will note we didn't get a
17 copy of it. So I'm at a little disadvantage on dealing
18 with the objection. But it might be premature to rule
19 on the objection until we hear what kind of questions he
20 asks. I don't know that I am ready to prohibit any
21 questions about this order, but it might depend on the
22 specific questions.

23 MR. JETTER: Maybe it would be easier if I
24 read it, and then ask if this is consistent with his
25 understanding. Would that --

1 MR. LOWNEY: Well, I guess I would -- if I
2 could ask one question. (Mumbling.)

3 COURT REPORTER: Is your mic on?

4 MS. MCDOWELL: Yeah. Mr. Vail, have you ever
5 seen this order before?

6 THE WITNESS: No, I have not.

7 MS. LOWNEY: Are you familiar with the facts
8 of this case?

9 THE WITNESS: Not at all.

10 MR. LOWNEY: Are you familiar with MISO's
11 interconnection rules?

12 THE WITNESS: No, I am not.

13 MR. LOWNEY: And it appears MISO is the party
14 that the RTO that is whose interconnection issues are at
15 stake in this case.

16 THE WITNESS: Correct.

17 MR. LOWNEY: I would just offer that in
18 support of the objection.

19 CHAIRMAN LEVAR: Let me just ask you this
20 question, Mr. Lowney. Considering the testimony that
21 Mr. Vail just gave about interconnection costs, what
22 would you propose is the right forum for Mr. Jetter to
23 present this, I guess, rebuttal position?

24 MR. LOWNEY: Well, I think there -- you know,
25 there's the company's open access transition tariff.

1 There's potentially orders that maybe involved
2 PacifiCorp that Mr. Vail may be familiar with. You
3 know, I have no problem with him perhaps asking
4 questions here. I just don't want Mr. Vail to testify
5 about what the 7th Circuit did or didn't decide relative
6 to a tariff that is not the company's tariff.

7 CHAIRMAN LEVAR: I think again, subject to
8 objections, if you have any further as we go on, I think
9 I'm going to allow Mr. Jetter to do as he described, to
10 let him read this excerpt from this case and then ask
11 Mr. Vail, to the extent of whatever knowledge Mr. Vail
12 might or might not have, and we'll see where we go from
13 that point forward.

14 MR. BAKER: Commissioner LeVar, I apologize
15 for the quick interruption. But Mr. Jetter, could you
16 please recite the case cite for us since we don't have a
17 copy?

18 MR. JETTER: Yes. It's 798 F.3rd 603.

19 I believe we're at the point, is that correct,
20 we can go ahead?

21 CHAIRMAN LEVAR: Yes. Yes.

22 **Q. (By Mr. Jetter) Would you please go ahead and**
23 **read that highlighted portion.**

24 A. It states, "In 2003, FERC standardized the
25 generation interconnection process to which we

1 reluctantly refer to as the GIP, following the industry
2 jargon. Under the GIP the interconnection customers,
3 such as Pioneer and Settlers, submit requests to the
4 grid operator, in this case MISO. MISO then produces
5 studies to assess the impact of the projects on the
6 grid.

7 "These studies identify what additional
8 upgrades are needed to ensure that those additional
9 connections do not adversely affect the grid. These
10 studies also inform interconnection customers what the
11 costs of the upgrades will be. The step is supposed to
12 enable the customers to decide if in fact they want to
13 be connected to the grid or perhaps even build the
14 plants at all. The interconnection customers cover the
15 cost of MISO's studies."

16 **Q. Thank you. Now, was your understanding that**
17 **PacifiCorp's OATT, do you believe that PacifiCorp's**
18 **process is different from what has been described that**
19 **have you just read?**

20 A. The process -- so you gave me a highlighted
21 portion. I just note if you go to the next paragraph
22 down, it starts getting more specific about the
23 different studies and titles of studies that are
24 performed. So I think we would probably need to -- I
25 would need to understand a little bit more.

1 One other thing, and I'll be very clear on
2 this, because FERC is really specific with the language
3 that they utilize, and so when the circuit court here
4 says these studies also inform interconnection customers
5 what costs the upgrades will be, they are not being
6 specific.

7 And I, as we got to spend some time together a
8 while back on interconnection terminology and FERC, the
9 language of FERC is very -- is very specific. And in
10 this case, you know, it doesn't say generation
11 interconnection network upgrades. It just says
12 upgrades, which in my mind could be either just the --
13 what we would call a direct assign charge to the
14 customer, just to be able to plug into the system. Or
15 it could include network upgrades.

16 I don't know. So it's hard for me to -- I
17 just think there's some ambiguity in the language that
18 the circuit court chose to use in that statement.

19 **Q. Thank you for that explanation. But you are**
20 **not aware of any instance that you can identify where**
21 **it's actually happened that a third party**
22 **interconnection customer required a network upgrade and**
23 **Utah rate payers were burdened with that cost?**

24 A. Again, I don't have a specific example off the
25 top of my mind. I'd be happy to come back with, you

1 know, 40 or 50 examples, because that's very common
2 within the interconnection process. I just -- I don't
3 have one off the top of my head.

4 Q. And isn't it true that in your standard power
5 purchase agreements that you have for third party
6 generators, specifically typical qualifying facilities,
7 that it requires those facilities to pay for all network
8 upgrades?

9 A. So I am on the transmission side of the
10 business. I do not negotiate or see the power purchase
11 agreements. I cannot answer that question.

12 Q. Okay. Are you aware of any qualifying
13 facility having interconnection that required a network
14 upgrade that would have not been paid for by the
15 interconnecting qualifying facility?

16 A. Okay. So again, just to be clear, we're
17 talking about a QF here, which is a state jurisdiction.
18 So I am not sure which state you're referring to. But
19 depending on the state, primarily the qualified
20 facilities would be paying for the network upgrades
21 themselves. My answers up to this time have been
22 focused on FERC jurisdictional, which is a different
23 answer.

24 Q. Thank you. And I am looking at the map on
25 page 6 which is RAV-1SR. Could please turn to that

1 **page?**

2 CHAIRMAN LEVAR: Which testimony is this from?

3 MR. JETTER: This is the surrebuttal testimony
4 of Mr. Rick Vail, and it's --

5 A. Sorry, one SR?

6 Q. **(By Mr. Jetter) RAV-1SR, and this is page 6**
7 **of 6.**

8 A. Okay. I am there.

9 Q. **Are you aware of anywhere that would be on**
10 **this map, or in the vicinity of this map, that Rocky**
11 **Mountain Power intends to construct generation other**
12 **than these wind projects that would then connect to this**
13 **line?**

14 A. I am not aware.

15 Q. **Thank you.**

16 MR. JETTER: I have no further questions.
17 Thank you, Mr. Vail.

18 CHAIRMAN LEVAR: Thank you, Mr. Jetter.
19 Mr. Moore.

20 MR. MOORE: Mr. Snarr will be handling the
21 questions.

22 CHAIRMAN LEVAR: Did you have an exhibit to
23 enter into evidence?

24 MR. JETTER: Oh, I do. And I don't remember
25 what number I was at.

1 CHAIRMAN LEVAR: Just the staff comments.

2 MR. JETTER: Yeah. We could call it DPU Cross
3 Exhibit probably at five. I think five is --

4 CHAIRMAN LEVAR: Yeah, I don't know. Do you
5 want to call it five?

6 MR. JETTER: Yes. I think the court reporter
7 actually --

8 (Discussion off the record.)

9 CHAIRMAN LEVAR: Is there any objection to the
10 motion to enter that into evidence? I am not seeing
11 any. So the motion is granted.

12 (DPU Cross Exhibit No. 5 was marked.)

13 MR. JETTER: Okay. Thank you.

14 CHAIRMAN LEVAR: Okay, Mr. Snarr.

15 MR. SNARR: Thank you.

16 CROSS-EXAMINATION

17 BY MR. SNARR:

18 Q. Mr. Vail, I'd like to touch on two or three
19 areas. Should be brief though.

20 A. Okay.

21 Q. First, in your surrebuttal testimony filed in
22 May of 2018, at line 445, you indicate that because
23 the -- of the wind interconnection requirements, the
24 date for the completion of the transmission facilities
25 was moved up from 2024 to 2020; is that correct?

1 A. I am sorry. I didn't hear your exact wording
2 on that. I would just note, yeah, from a long-term
3 transmission plan standpoint, we moved the segment D-2
4 line to be in service in 2020 instead of 2024.

5 Q. And that's because of the new wind that you
6 are planning to service there, right?

7 A. Yeah. It's to take advantages of the time
8 limited opportunities of the BTCs, correct.

9 Q. Okay. Now, if the 2 -- if the 2024 date
10 represents the company's best estimates of an inservice
11 date associated with the need for new transmission
12 facilities, but for those deadlines related to wind and
13 PTCs, then why wasn't the 2024 date used in the base
14 assumptions for the modeling analysis that took place
15 concerning the transmission facilities?

16 A. Which modeling assumptions?

17 Q. The modeling that took place to analyze the
18 benefits and to determine whether the project should go
19 forward.

20 A. So I'll just probably clarify. My guess is
21 what we're talking about is the IRP, and then what came
22 out of the preferred portfolio of the IRP?

23 Q. It's the RFP and the portfolio of wind and
24 transmission that we're looking at today in this
25 proceeding.

1 A. And --

2 **Q. Mr. Link's analysis. Why wasn't the 2024 date**
3 **used as a basis to bring those transmission facilities**
4 **into the analysis instead of the 2020 date?**

5 MR. LOWNEY: Objection. The RFP modeling is
6 in the purview of Mr. Link's testimony. He is the one
7 that testified on this issue. He testified both in
8 prefiled testimony as well as here during his live
9 presentation. So I think this question was -- should
10 have been, and I think was, directed to Mr. Link in
11 several different respects during his testimony in the
12 hearing.

13 CHAIRMAN LEVAR: Mr. Snarr, do you want to
14 respond to the objection? And I think your microphone
15 is not on.

16 MR. SNARR: I'll bring it closer. I think
17 it's on. Mr. Vail testifies about the change of the
18 date from 2024 to 2020. He indicates that it's
19 appropriate to build the transmission facilities in 2020
20 because they are intertwined or codependent with the
21 wind facilities.

22 And I am just asking if that's the case, then
23 looking at the question of whether we should build or
24 not build should have started with the assumption that
25 the 2024 facility should have been modeled as 2024

1 facilities. If he knows an answer to that question,
2 that's fine. If he doesn't know or want to refer to
3 back to Link, I understand.

4 CHAIRMAN LEVAR: I think that's an appropriate
5 way to go forward. Mr. Vail, do you -- if you have --
6 if you can answer that question, do so. Just indicate
7 whether you can't.

8 THE WITNESS: Yeah, I don't know that I can
9 answer that question.

10 Q. (By Mr. Snarr) Okay.

11 A. I would just kind of repeat my answer though.
12 Because I don't want to not be responsive. You know,
13 again, what we did is took that 2024 date, and in order
14 to be able to capture those PTC benefits, moved the line
15 into 2020. So in my mind if you were going to do any
16 kind of modeling that captures the PTC benefits, you
17 would need to have the 2020 date of the transmission
18 line as the basis for that modeling.

19 Q. Let me just check my notes here. Referring to
20 your testimony, in your surrebuttal testimony, I am
21 looking now at page 9, I believe it is. In any event --
22 in any event lines 238 to 240. If you could --

23 A. So in my surrebuttal I am seeing that as page
24 11.

25 Q. I am sorry. Thank you.

1 A. Okay. I am there.

2 Q. You address there -- you indicate that if the
3 solar projects were built instead of wind projects, that
4 the transmission facilities would still be needed but
5 the construction would more likely be moved back to
6 2024; is that correct?

7 A. That is correct.

8 Q. Now, in response to questions that were
9 proposed by division counsel, you -- you were
10 described -- you were asked to address whether or not
11 the transmission projects were actually needed to
12 improve the standards of your transmission system or
13 whether or not they would -- your transmission system
14 was currently in compliance with reliability standards,
15 right?

16 A. Yes, I was asked those questions.

17 Q. Okay. And is it your testimony that your
18 system would be able to maintain the sort of reliability
19 through 2024, but for the opportunity to construct these
20 facilities earlier?

21 A. Yeah. I think my testimony is pretty clear.
22 I mean, right now the company's best estimated time
23 frame to build the Aeolus-to-Bridger/Anticline line is
24 2024. And again, I want to be very clear and on the
25 record that we are currently compliant with NERC

1 reliability standards.

2 As I mentioned in my summary, though, it can
3 take a pretty small shift in load or a small shift in
4 the generation resources that would trigger the
5 immediate need to build this line for a reliability
6 standard reason. And it's a little bit
7 counterintuitive, and I do want to kind of get this
8 point across.

9 In Wyoming one of the biggest challenges we
10 face in meeting the NERC reliability standards is not
11 additional load. It's actually a low load period when
12 you have the wind all of a sudden comes up and you have
13 a lot of wind generation in that area, as the thermal
14 fleet is also generating. So there's been some
15 discussions around load forecast declining and stuff
16 like that, but one of the real difficult or challenges
17 that we face in eastern Wyoming area is actually a low
18 load period with high wind. So it's a little bit
19 counterintuitive to some of the discussions we've had.

20 Q. Following up on that, Mr. Vail, under your
21 current proposal, my understanding is that the company
22 will be adding significant megawatts of new wind
23 capacity; is that correct?

24 A. Yes, that's correct.

25 Q. And what's the amount of that new wind

1 capacity?

2 A. I believe it's 1,150 megawatts.

3 Q. Okay. And at page 24 of your surrebuttal, at
4 line 519, you indicate that the company would be adding
5 951 megawatts of transfer capability; is that correct?

6 A. Yes, that is correct.

7 Q. Now, you also indicated that earlier something
8 about the capacity behind the TOT 4A cut plane. Here is
9 the question I have. If you are adding more wind
10 capacity than transmission capacity, won't that add to
11 the problem that you already mentioned in which the
12 transmission system in eastern Wyoming is currently
13 constrained with generation capacity behind that TOT 4A
14 cut plane?

15 A. No. That's actually not the case. We will
16 actually be relieving the constraint here pretty
17 significantly. We're talking about 1,150 megawatts of
18 load -- excuse me, 1,150 megawatts of wind being added
19 to the system. Certainly the wind doesn't blow all the
20 time. When we have that 950 megawatts of transfer
21 capability, we're going to not only be able to harness
22 all the new wind and the existing wind that is there,
23 but during significant periods throughout the year,
24 we'll also be able to harness additional generation out
25 of the DJ and the Wyodak plants, that are behind that

1 constraint.

2 So it comes down to a little bit of a matter
3 of how much the wind is blowing and when it's blowing.
4 But for the majority, or for significant hours
5 throughout the year, we will actually be able to get our
6 existing resources out of Wyoming more effectively than
7 we do today.

8 **Q. Thank you. Now, going back to the basic**
9 **driver for this, the transmission projects. I note in**
10 **your direct testimony of June 2017, I am looking at page**
11 **13. You mention at line 298, you have described the**
12 **transmission projects and wind projects as codependent.**

13 **Now, isn't it true that the codependence of**
14 **these projects and their combined economics is the**
15 **primary driver for proposing the current construction of**
16 **your transmission project?**

17 **A. Again, if what you are referring to is the**
18 **construction time line to get it in service by 2020, the**
19 **idea is to be able to build this transmission line and**
20 **take advantage of the PTCs, yes.**

21 **Q. Thank you. Do you recall when the possible**
22 **construction of this transmission segment or line was**
23 **first contemplated or put into plans for the company?**

24 **A. The projects, I'll call it, you know, was**
25 **first thought about or from a concept standpoint was**

1 2007, I believe. And active work on the project began
2 in 2008, I believe.

3 Q. And I did review your 2008 IRP which listed
4 the line and described its justification. May I read
5 that for you? Or I can provide you a copy.

6 A. Yeah. A copy would be fantastic.

7 Q. I have additional copies, but I think my
8 question's going to be limited. Let me know if someone
9 else needs one.

10 Mr. Vail, I have highlighted a few lines there
11 that are talking about the, as I believe the D-2 segment
12 of the line that is at issue today. Do you see that
13 area highlighted in blue?

14 A. I do.

15 Q. Would you please read that for us?

16 A. It says that -- sorry. "The last section will
17 connect the new annex substation located near Bridger
18 substation to the Populus substation that is being
19 constructed as part of the Populus to Terminal segment.
20 When completed in 2014, the entire segment will move
21 wind or other resources from eastern Wyoming to a
22 critical hub Populus, located near Downey, Idaho.

23 Q. Now, that's the same one we're talking about
24 as part of the Aeolus-to-Bridger line you are proposing
25 to construct; is that right?

1 A. Well, what this segment actually refers to
2 here is going from Bridger substation to Populus. And
3 so it's actually the segment D-3. And again, just for a
4 little bit of clarification, the Gateway West was broken
5 down into two segments initially. We had segment D,
6 which went from Windstar all the way over to Populus.
7 And then we had segment E that went from Populus over to
8 Hemmingway.

9 Later, I believe it was in the 2013 IRP, we
10 broke the segments apart into D-1, D-2 and D-3. And so
11 the segment referenced here, Bridger to Populous, is
12 actually D-3 and not segment D-2. D-2 is the segment
13 that we're discussing here today.

14 **Q. Okay. With respect to the segments that are**
15 **part of this Aeolus-to-Bridger Gateway project, this**
16 **indicates that at least some aspects of that -- that**
17 **project were being contemplated to meet the needs of**
18 **wind and other resources to move it from eastern Wyoming**
19 **to the west; is that right?**

20 A. That is correct.

21 **Q. And isn't that what you are contemplating by**
22 **the transmission project that is the subject of these**
23 **proceedings?**

24 A. Yes. This is a subsegment to move basically
25 from southeast Wyoming to the Bridger hub.

1 Q. So as early as 2008 in your IRPs, you are
2 discussing this potential project, even though the
3 inservice date has obviously slipped, but you are
4 discussing this kind of transmission project to really
5 aid the addition of new resources to move out onto the
6 system and to move westward; isn't that correct?

7 A. So just to clarify, you know, I was not part
8 of the 2008 IRP process. I just want to kind of frame
9 that up. When the Energy Gateway projects were first
10 conceptualized, there was, you know, forecasted
11 significant load growth along the Wasatch Front. There
12 was plans to build significant resources in Wyoming and
13 in other places throughout the territory.

14 So, you know, I would just say that if you
15 kind of go back to 2008, the world was very different,
16 and we had this economic crisis that relate -- you know,
17 significantly changed, I think, everybody's plans. And
18 so you know, again, back then, just to kind of be clear,
19 it was to add additional renewables and then try to
20 serve the significant load growth that at that time was
21 anticipated along the Wasatch Front.

22 Q. All right. Just one last area of questioning
23 here. In your surrebuttal testimony filed in May of
24 2018, I am looking at pages 35 and 36, you discuss the
25 company's assumption that 12 percent of the revenue

1 requirement for the transmission projects will be
2 recovered from third party transmission customers
3 through FERC rates or FERC established OATT rates; is
4 that correct?

5 A. Yeah. It is. Can I just ask the line
6 reference again? I'm sorry.

7 Q. Lines 35, 36.

8 A. So I am on page 35 and 36. Just the lines.

9 Q. Okay, excuse me. I missed the line reference.
10 I'm sorry. It's at page 35, 36, and I didn't have the
11 line reference noted here.

12 MS. SCHMID: 750?

13 MR. SNARR: Counsel suggests 750.

14 A. Okay.

15 Q. (By Mr. Snarr) But the --

16 A. Here what -- basically what you are talking
17 about is the 12 percent assumption of third party
18 transmission.

19 Q. That's right.

20 A. Thank you. I'm there.

21 Q. Does that reflect basically the current
22 allocation in terms of cost recovery through the OATT
23 process?

24 A. Yes, it does. That's a, you know, basically
25 our best information today of what the third party

1 transmission revenues are on the system.

2 Q. Now, of course, that would leave then 88
3 percent to be recovered from retail rate payers?

4 A. Yes, that's correct.

5 Q. And just following on that, the next few lines
6 you discuss that the estimated third party revenues
7 should continue consistent with historical data, which
8 is -- to continue with historical data; is that correct?

9 A. Yeah, I do. And just to note, we also get,
10 you know, updated load and resource forecasts from
11 all -- all users of the transmission system. And so
12 what we've kind of seen recently is that a number of our
13 third party transmission customer load are actually
14 increasing a little bit, faster than PacifiCorp's load
15 forecast.

16 So, again, there's been quiet a bit of
17 discussion in this case on the load forecast here, and I
18 would just note that we're starting to see additional
19 load increases from our third party transmission
20 customers over and above what we're seeing from
21 PacifiCorp load standpoint.

22 Q. You also note, I believe, that the PacifiCorp
23 load is expected to decline. Isn't that correct?

24 A. I would just clarify that. I am not expecting
25 the load to decline. What we are talking about is the

1 load forecast continues to decline. When you -- when
2 you develop transmission, you actually have to develop
3 to peak load. And we are not seeing a decline in peak
4 load. What we're seeing is a decline in the forecast --
5 the forecasted growth of peak load.

6 Q. Okay. In light of the discussions as you have
7 explained it there, the company would not realistically
8 be put at risk if this commission were to determine that
9 retail customers should be protected by the
10 establishment of a cap at 88 percent for their revenue
11 responsibility for the transmission projects; isn't that
12 correct?

13 A. I am sorry. Could you repeat the question.

14 Q. I am really contemplating that this
15 commission, in order to protect retail rate payers,
16 might establish a cap, a cap of 88 percent maximum
17 recovery through Utah retail rates for anything that
18 would come through the use of this transmission project.
19 And I am suggesting to you that the company really
20 wouldn't be put at risk if that cap at 88 percent was
21 established by this commission; isn't that correct?

22 A. So prior to answering the question, you know,
23 I guess looking at it, would a cap protect rate payers
24 and lock PacifiCorp, the company at 88 percent? The
25 answer is yes. I would just add to it though, just like

1 anything that goes through a prudence review, you know,
2 this is -- this is, you know, based on the best
3 information that we have today.

4 If, for some reason, like a third party
5 transmission customer load were to be, you know, lost or
6 something like that, you know, I think I would go back
7 to, is it anything that the company has done at fault or
8 not, and try to determine then -- you know, would we
9 want to make, you know, that commitment. And I don't
10 know if I am in a position today to be able to say the
11 company would be willing to take on that commitment.

12 **Q. Two follow-ups to that. Excuse me. Two**
13 **follow-ups to that. Number one, I am really asking you**
14 **to comment on the factual presentation you made. And**
15 **that is, that historic data for third party transmission**
16 **customers seems to be steady or increasing?**

17 **A. Correct.**

18 **Q. And that your current forecast for PacifiCorp**
19 **load may decline?**

20 **A. Okay.**

21 **Q. As a factual matter.**

22 **A. Correct.**

23 **Q. All right. And then the other question, would**
24 **you --**

25 **A. Let me just clarify. Again, I am not saying**

1 that PacifiCorp's load would decline. I'm saying that
2 the ratio of third party load to PacifiCorp load could
3 change.

4 Q. All right.

5 A. I just want to be, for the record.

6 Q. It's more likely that the change would be
7 something that would move PacifiCorp's percentage a
8 smidgen below 88 percent as opposed to going above 88
9 percent, based upon the facts you have presented in your
10 testimony?

11 A. Correct.

12 Q. All right. And you indicated that you were
13 concerned about whether or not it would be appropriate
14 to allow for any kind of penalization of the company for
15 something that might be out of their control; is that
16 right?

17 A. I think I did make that statement, yes.

18 Q. And wouldn't it also be a concern for this
19 commission to determine whether or not some kind of cost
20 fly-up or result might be out of the control of rate
21 payers, and that the rate payers themselves might need
22 to have protections?

23 A. And I would say, I would look to the
24 commission, as it's probably a part of their
25 responsibility, yes.

1 **Q. All right. Thank you.**

2 MR. SNARR: I have no more questions.

3 CHAIRMAN LEVAR: Okay. Thank you, Mr. Snarr.

4 I think it's probably an appropriate time for a break.

5 So why don't we recess for one hour, and then we'll

6 continue with cross-examination of Mr. Vail. Thank you.

7 (Lunch recess from 12:13 p.m. to 1:14 p.m.)

8 CHAIRMAN LEVAR: Okay. Good afternoon. We're

9 back on the record, and we are continuing with the

10 cross-examination of Mr. Vail. You are still under oath

11 from this morning.

12 THE WITNESS: Okay.

13 CHAIRMAN LEVAR: And we'll go next to

14 Mr. Russell.

15 MR. RUSSELL: Thank you, Chair LeVar.

16 CROSS-EXAMINATION

17 BY MR. RUSSELL:

18 **Q. Mr. Vail, I want to ask you some questions,**

19 **but I'll have you turn in your surrebuttal testimony to**

20 **page 4.**

21 A. Okay. I'm there.

22 **Q. Okay. Thanks. I want to look at this**

23 **sentence on lines 78, which states, "In my previously**

24 **filed testimony, I explained that the**

25 **Aeolus-to-Bridger/Anticline line is necessary to relieve**

1 the existing congestion on the system, and that without
2 the new transmission line, the company's ability to
3 deliver resources to load will remain constrained."

4 And I want to get a better understanding what
5 is meant by transmission congestion, and whether that's
6 different than an a constraint, and if so, how.

7 A. No. It's -- I think those two terms are
8 fairly interchangeable. What I am trying to explain
9 here is, is that we currently have a situation where we
10 have more generation behind the TOT 4A cut plane than we
11 have transmission capability.

12 Q. And you are talking about current existing
13 generation or potential generation?

14 A. Existing generation.

15 Q. Okay. Are any of the -- is any of the -- any
16 of that existing generation behind that cut plane
17 scheduled to be retired in the coming years?

18 A. I don't know the exact retirement dates of
19 each of the different facilities. The Dave Johnson
20 plant does have a retirement life to it. I am not sure
21 of the date, though. It's within eight to ten years.

22 Q. Yeah. We can get it out if we need to. I'll
23 represent to you that I believe the 2017 IRP indicates
24 an expectation that the four units at Dave Johnson will
25 be retired by 2028. Does that sound --

1 A. That sounds about right.

2 **Q. Okay. What other generation resources behind**
3 **that cut plane are you aware of that are scheduled for**
4 **retirement in the coming years?**

5 A. Again, I am not the -- I don't have the exact
6 date. The Wyodak plant would also have a retirement
7 life to it. I'm not sure of that date.

8 **Q. And -- and I'm disadvantaged because I'm not**
9 **sure I totally understand what a cut plane is. So I'm**
10 **not sure what's behind it.**

11 A. Sorry. The Wyodak plant would be another one
12 that would be along that portion of the transmission
13 system that is constrained.

14 **Q. And would retirements at Jim Bridger assist in**
15 **this relief of congestion or no?**

16 A. No. This transmission line basically
17 terminates at the Jim Bridger plant. So what we're
18 trying to do here is take the existing transmission
19 system from eastern Wyoming and transport it over to the
20 Jim Bridger hub. So retirement to Jim Bridger would not
21 impact the existing constraint on the cut plane I
22 referred to.

23 **Q. Okay. Thanks. And then just to circle back,**
24 **those retirements will help alleviate some of the -- the**
25 **existing congestion on the system, correct?**

1 A. They will certainly help alleviate the
2 congestion. What it actually does is create some
3 additional reliability issues out in that area. If you
4 think in terms of a couple of these coal-fired plants,
5 they are very large spinning masses.

6 One of the things I have talked about is the
7 voltage support and reliability in that area. One of
8 the additional benefits of this transmission line is
9 getting that bigger pipe to help support the voltage and
10 stability out in that area. The retirement of those big
11 spinning mass units will actually create more of a
12 reliability issue, even though it would help alleviate
13 some of the constraint that's there.

14 **Q. Also in your testimony, you used the term**
15 **voltage support, and I'm not sure I totally understand**
16 **what voltage support is, and you indicate that the**
17 **transmission projects will help strengthen reliability**
18 **by adding voltage support. What are you referring to**
19 **there?**

20 A. So a couple of items on the voltage support.
21 One of the examples I gave a little bit earlier was,
22 when we have a pretty low load situation in eastern
23 Wyoming area, and the wind really starts to blow, the
24 voltage levels can get very high.

25 And then you can also have high wind

1 generation type of situation, and all of a sudden the
2 wind stops blowing. And then those generators come off
3 line or stop producing at the same amount, and then that
4 actually creates a low voltage situation.

5 So what we have is quite a bit of generation
6 out there that's on an existing 230 KV transmission
7 system, and by adding this 500 KV line, we're in essence
8 doubling the size of the pipe that connects those
9 generation resources to our loads.

10 Q. But by adding the wind projects you are also
11 adding more wind out there, correct?

12 A. Yeah, that's correct.

13 Q. There was a -- there's a statement in the
14 transfer capability assessment that's attached to your
15 testimony. I don't know that we need to go through it.
16 It refers to -- we can, I am not trying to prevent you
17 from doing that. It refers to a 230 KV substation at
18 the Latham substation and that that particular
19 substation requires voltage control. Maybe you can
20 speak to that a little bit.

21 A. Yeah. So one of the components of the energy
22 division 2020 transmission projects here is a voltage
23 control or voltage support device at the Latham
24 substation. We are still in the process of finalizing
25 the sizing of that particular device. We assumed what

1 I'll call worst case or very conservative, that we would
2 need a roughly 350 megabar synchronous -- I'm sorry,
3 static voltage controller there.

4 Currently we are at, from an internal studies
5 standpoint, we think it will be closer to 250 megabars,
6 and we're finalizing the dynamic studies right now with
7 an outside consultant that will finalize the size of
8 that device within the Latham substation.

9 **Q. All right. Thank you. And tell me why that**
10 **particular voltage control substation, or why voltage**
11 **control is required at that substation.**

12 A. So again, I talked a little bit about
13 current -- the current situation out in southeastern
14 Wyoming, and, you know, we are going to add this 500 KV
15 line, which helps us support. But we are also adding
16 1,150 megawatts of wind, and so that device is, you
17 know -- one of the key factors as I talked about the
18 voltage going up or down, that device is a very fast
19 acting voltage control device. It will help control the
20 voltages out in that area.

21 **Q. Would a device like that installed on the**
22 **existing transmission system assist with the existing**
23 **voltage issues?**

24 A. Yeah. It certainly would assist, not to the
25 same degree. So again, I talked a little bit about that

1 2 -- the 230 KV lines out there. When we add this 500
2 KV line, it's going to be a lot lower resistance line,
3 and it basically doubles the size of the pipe.

4 So right now we've got basically three 230 KV
5 lines out there. When we add this one 500 KV line, it's
6 going to basically be double the size of the wire going
7 out there. So this device can be much more effective
8 with a 500 KV line in service versus the 230 -- having
9 it on 230 system and not that 500 KV line there.

10 Q. Okay. Thank you. I am going to switch gears
11 to your testimony that relates to the NTTG, or Northern
12 Tier Transmission Group. My specific questions relate
13 to your testimony starting at line 225 in your
14 surrebuttal testimony.

15 A. Okay. I am there.

16 Q. Okay. You state on line 225 that "NTTG
17 concluded that the NTTG area would be reliably served in
18 the year 2026 only by including several proposed
19 transmission projects, including the
20 Aeolus-to-Bridger/Anticline line."

21 I want to talk a little bit about what the
22 NTTG area is. That's not just PacifiCorp rate payers or
23 PacifiCorp concerns, correct?

24 A. No. There are additional members of the
25 Northern Tier Transmission Group, and a number of those

1 are interconnected to PacifiCorp's transmission system.

2 Q. And the reference here that you quote in that
3 line that I just read comes from the regional
4 transmission plan, correct?

5 A. Correct.

6 Q. And in creating that regional transmission
7 plan, there was an assumption that the wind projects
8 here would be interconnected, correct?

9 A. Yes, that is correct.

10 Q. And also that there would be other
11 transmission projects built, separate and apart from
12 this one as well, correct?

13 A. Correct.

14 Q. And the regional transmission plan is not a
15 construction plan; is that right?

16 A. No, it's not. You know, again, from a
17 transmission planning standpoint, we are required by
18 FERC order 1,000 to participate in regional transmission
19 planning, and it is what it is, is a long-term
20 transmission plan of the entities that make up each of
21 the different regional planning organizations.

22 Q. And in creating that regional transmission
23 plan, the process does not consider redispatch or
24 reoptimization of generation resources, correct?

25 A. I'm sorry. I am pausing. I honest -- I do

1 not know that I know the answer to that question.

2 Q. I've got a copy of the regional transmission
3 plan -- excuse me. I've got a copy of that plan. If I
4 showed it to you, would that help?

5 A. Yeah, definitely.

6 Q. While the witness reviews the document, I have
7 handed him a copy of the Northern Tier Transmission
8 Group 2016, 2017 regional transmission plan. I've got
9 copies here if anybody else wants one. I'm mostly just
10 trying to refresh his recollection. It is -- Mr. Vail,
11 when you're ready. Sorry.

12 A. No, you are fine. You are correct. I mean,
13 it states right in here. "Does not consider the
14 redispach of reoptimization of resource assumptions."

15 Q. Okay. Thank you. Is it your understanding
16 that the process of creating this plan permits
17 stakeholders to request studies be done after the plan
18 is -- has been formulated?

19 A. Yeah. So again, there is a -- it's a very
20 public process. There are stakeholders that can request
21 different studies based on, you know, different
22 scenarios. Primarily they tend to be policy-driven-type
23 scenarios that -- of policies that may or may not have
24 been enacted yet.

25 Q. And are you aware of a request for a study to

1 be performed in which Wyoming coal plants are
2 redispached down when Wyoming wind is assumed to be
3 high?

4 A. So I'll clarify -- I'll clarify just a little
5 bit. You know, my understanding is that some of the
6 stakeholders of the Northern Tier Transmission Group
7 submitted a policy study recommendation into the 2019,
8 2020 planning cycle to NTTG. I am not familiar with all
9 of the details of what that request is.

10 Q. Okay. I get that you may not be familiar with
11 all the details. Do you understand that it includes a
12 request to study the plan with reduced generation from
13 coal resources when Wyoming wind generation is high?

14 A. Subject to check, I think that was the basic
15 idea of that study request.

16 Q. And you indicated that there is -- this is a
17 study request. Is there a process to grant those types
18 of requests?

19 A. Yeah, so the NTTG has a number of different
20 committees. They have a steering committee, and they
21 also have a planning committee. Those requests are
22 submitted to the planning committee, and then eventually
23 a recommendation goes to the steering committee, and
24 they either approve or not approve the request for the
25 study to move forward.

1 **Q. And this particular study that we have been**
 2 **talking about, do you know whether that -- where that is**
 3 **in the process?**

4 A. Again, subject to check, it was just within
 5 the last couple of weeks, I believe, that NTTG made some
 6 modifications to the study request. And based on those
 7 modifications, they have agreed that they will study
 8 that policy consideration.

9 **Q. And so that -- that policy consideration will**
 10 **be studied in the next regional training commission plan**
 11 **or what?**

12 A. Yes. So right now the process is, we start
 13 gathering what base cases will be utilized. Each of the
 14 member utilities submit their different integrated
 15 resource plans, along with their long-term transmission
 16 plans, and then any public policy or stakeholder studies
 17 that are requested. And so that study process will be
 18 kicking off here shortly.

19 **Q. And it will conclude when roughly?**

20 A. Roughly, it will be about one year study time.
 21 A draft -- draft study reports come out. Then there's
 22 stakeholder meetings to review those draft studies, and
 23 there's a final report that is generated, approved by
 24 the steering committee, and then issued -- or my best
 25 guess is, we're probably about 18 months from having

1 that study finalized and issued.

2 Q. Okay. Thank you.

3 MR. RUSSELL: I don't have any further
4 questions.

5 CHAIRMAN LEVAR: Okay. Thank you. Mr. Baker.

6 MR. BAKER: Thank you, Chairman LeVar.

7 CROSS-EXAMINATION

8 BY MR. BAKER:

9 Q. Good afternoon, Mr. Vail. Can I direct you to
10 your surrebuttal testimony on page 15, lines 312 through
11 313?

12 A. Okay. I am there.

13 Q. In that you state that the tower technology is
14 neither new nor undeveloped; is that correct?

15 A. That is correct.

16 Q. Can I refer you to your supplemental testimony
17 on page 6?

18 A. Supplemental direct and rebuttal.

19 Q. Direct -- yes. Say your February testimony.
20 On page 6, lines 115?

21 A. I am sorry. I am not --

22 Q. Still getting there.

23 A. -- there yet. I apologize. So we're at
24 second supplemental direct.

25 Q. Sorry, no. I was correct first. January. I

1 apologize.

2 A. So supplemental --

3 Q. Supplemental direct and rebuttal.

4 A. And I'm sorry. What was the page number?

5 Q. Page 6.

6 A. Okay. I'm there.

7 Q. Lines 115 through 116.

8 A. Okay.

9 Q. And starting towards the end of line 115, "The
10 company decided it could use a new tower design." Is
11 that correct?

12 A. Yes.

13 Q. On lines 118 through 119 you describe that the
14 company is in the process of developing and taking -- or
15 and testing these revised structures; is that correct?

16 A. That is correct.

17 Q. Can we please go to your exhibit RAV-2. Now,
18 RAV-2 is in the initial application.

19 A. Okay. I am there.

20 Q. That -- that drawing has, I read three
21 different dates on it; is that correct?

22 A. Yes. It looks like there's an original and
23 then two revisions.

24 Q. And what's the date of the last revision?

25 A. January 23rd of 2015.

1 **Q. Is this the drawing of the new design that was**
2 **referenced in your supplemental direct testimony?**

3 A. No. This is, you know, indicative design of
4 what the transmission towers are going to look like. We
5 will be utilizing the same kind of L-shaped members.
6 This is not the final design, just to be clear. Also,
7 there's six different, you know, tower designs that will
8 be utilized on this project.

9 **Q. And the -- this -- this design for the 500 KV**
10 **is -- towers, is this the major tower design associated**
11 **with the -- I believe you said the Anticline portion was**
12 **85 percent of the cost of the transmission project?**

13 A. Yeah. So this is the main, what you call
14 tangent tower, that will be utilized on the project. So
15 we talked about the towers being 85 percent -- I'm
16 sorry. The cost of the Aeolus-to-Bridger/Anticline line
17 was about 85 percent of the overall project cost. Out
18 of the towers that will be utilized for the 140 miles of
19 this, about 80 percent of them will be this particular
20 tower.

21 I just note this was -- this is a preliminary
22 design, and throughout this case and throughout the
23 process, we have been finalizing the design, and we're
24 currently in testing on the final tower designs.

25 **Q. Can I return you to your supplemental direct,**

1 lines 148 through 151?

2 A. I am there.

3 Q. You testified then that the company was still
4 in the competitive selection process for an EPC
5 contractor for the Aeolus-to-Bridger/Anticline line; is
6 that correct?

7 A. Correct.

8 Q. At the time that those bids went out, did you
9 have the final drawing of these towers that are going to
10 comprise 80 percent of the 140 mile line?

11 A. I do not know the answer to that.

12 Q. Did the EPC contractors bid on the final tower
13 design?

14 A. To the best of my knowledge, yes. I am not
15 the -- I am not exactly sure, though, what -- what date
16 we sent them, you know, the updated drawings. I would
17 have to verify that date.

18 Q. On page 6, actually, earlier we testified that
19 during your supplemental direct testimony you indicated
20 that the company was still developing and testing the
21 structures, correct?

22 A. We're in final testing of -- of the final
23 three structures. We've now had three of the structures
24 pass final tests, and we're in testing on the final
25 three.

1 Q. Yes. So now you have -- you have completed
2 that, but in January of 16th, you said you were still
3 developing and testing, and I believe it said the design
4 was not yet complete.

5 A. If you could just direct me so I can, you
6 know, verify that that's my testimony. It sounds
7 correct. If you could just give me the line numbers,
8 I'd appreciate it.

9 Q. Yes. Again, so we -- we're discussing on line
10 118 and 119, is it says, you are developing and testing
11 revised structures?

12 A. There, you go, yep. Thank you.

13 Q. And so in January, as you were still
14 designing, revising and testing, and you were still in
15 the bid process, I don't -- I am having trouble
16 understanding how they could have had the final design
17 in their bid package.

18 A. So just to be clear, one of the key elements
19 when you bid on a transmission line is having,
20 obviously, where those sites are going to be located,
21 what the terrain is like, but getting a good idea of
22 what the steel cost is going to be on those towers.

23 So the design is new to the company, this is
24 not a new transmission design out in this the world. I
25 mean, this -- these particular transmission towers have

1 been, you know, utilized all over the world to build
2 transmission lines.

3 So while it's a new design to the company, the
4 number of members, the weights of the members, the tower
5 heights are well known. There's a lot of standard
6 industry estimating that you can pull in order to get a
7 very accurate cost estimate of what it would take to,
8 you know, build towers like this.

9 So I would just submit that, you know, again,
10 I would need to check the date that they had the final
11 design. If they did not have it prior to going out for
12 that initial contract bid, then, you know, as soon as we
13 have that final design, which is a key element before
14 you enter into final negotiation with the contractor to
15 bid on this, you would want to, you know, be able to
16 hand that off.

17 But from a cost estimate standpoint, we're
18 very comfortable that there is plenty of data out there,
19 or again accurate cost estimate of the weights and what
20 it would cost to erect these towers.

21 **Q. And I think earlier you also testified that**
22 **your contracts are going to provide mitigation measures**
23 **from potentially cost overruns, for example, associated**
24 **with, you know, the bidding on the project, and I am**
25 **adding that example. I think you had said though that**

1 the contract had -- would include mitigation measures on
2 cost and schedule; is that correct?

3 A. So just to be clear on the answer there, the
4 way I would answer that is, you know, we enter into
5 engineering procurement and construction contracts, and
6 those are fixed price contracts that also have, you
7 know, clearly identified performance targets for the
8 contractors to meet. And I am not trying to be evasive
9 on the answer. I just -- I want to be clear on what I
10 am answering.

11 Q. No, I appreciate that. You answered my
12 question on that. Now, those performance targets and
13 some of the other terms, those were subject to
14 negotiation during your bid selection process, correct?

15 A. So to be clear, we've gone out to bid and we
16 selected a contractor. We have not, you know, signed
17 the final contract, and we have not provided even a
18 limited notice to proceed at this time. We certainly,
19 with the transmission line being part of the critical
20 path here, we need to have clear understanding of where
21 we are through the regulatory process prior to
22 committing, you know, dollars to the construction of
23 this line.

24 Q. So the final contract hasn't been signed, but
25 you have a final contract that is ready to be signed?

1 **Subject to approval by the commission?**

2 A. I don't believe we have the -- the final
3 numbers. Let me back up. I would say, I am not a
4 hundred percent sure of where we are as far as the
5 contract being ready to sign or not sign. I know
6 there's a number of terms and conditions. What we have
7 is the firm price, you know, fixed bids from the
8 contractors, and we will finalize the negotiation on
9 those contracts once we understand what the regulatory
10 environment looks like.

11 **Q. And so just so I understand, there are still**
12 **terms and conditions associated with the contract that**
13 **have not been finalized?**

14 A. Again, I would answer, I do not know exactly
15 where we are at on that final contract. So I would -- I
16 would have to go back to the delivery team and ask that
17 question. I don't have that exact detail.

18 I know we're in the final stages of getting
19 that contract completed, but I don't know exactly where
20 we are at today.

21 **Q. So is it fair to say that there is not in this**
22 **record a final contract that is representative of the**
23 **exact deal you hope to strike with your PC contractor?**

24 A. Again, we don't have a contract signed today.
25 So I think the answer would be, you're correct.

1 MR. BAKER: Thank you. No further questions.

2 CHAIRMAN LEVAR: Okay. Mr. Lowney, any
3 redirect?

4 MR. LOWNEY: Yes. We just have a few
5 questions.

6 REDIRECT EXAMINATION

7 BY MR. LOWNEY:

8 Q. Mr. Vail, do you recall when you were being
9 asked questions about the fact that the
10 Aeolus-to-Bridger/Anticline transmission line is
11 included in the company's long-term transmission plan,
12 and as part of that plan will be constructed in 2024, if
13 not constructed in 2020. Do you recall those lines of
14 questions?

15 A. Yes, I do.

16 Q. And has the company -- and let me preface one
17 more question. You were asked specifically about
18 whether or not or how the company accounted for that
19 fact in its RFP modeling. Do you recall those
20 questions?

21 A. Yes.

22 Q. And has the company quantified the impact of
23 including that transmission line in the base case
24 modeling?

25 A. Yes, we have. If we looked at Mr. Link's

1 testimony, had we included the modification or the cost
2 of the transmission line in that base case,
3 conservatively it would have added an additional \$300
4 million worth of benefits to customers, I think in --
5 across all of the policy cases.

6 Q. And Mr. Vail, you were also asked a series of
7 questions about the company's current compliance with
8 all of the applicable reliability standards. Do you
9 recall those questions?

10 A. Yes, I do.

11 Q. And just because the company is compliant
12 today, does that necessarily mean that the company will
13 be compliant in the future?

14 A. No, it doesn't. And, you know, the long-term
15 transmission plan is one of the key tools to ensure that
16 we will be compliant going forward. If I were to answer
17 today that we were not compliant, that would have --
18 that would be a pretty bad miss on my part.

19 So what we have to do is continue, and we do
20 every year, we analyze the reliability of the system.
21 As I mentioned, any small changes out in the eastern
22 Wyoming area, in particular, you know, load in that area
23 or load along the Wasatch Front, could easily, you know,
24 generate the need for that line in the very near future.

25 So the long-term transmission planning really

1 is the key tool to monitor and ensure that we're
2 compliant with our reliability standards prior to the
3 point where we're not, because failure is a million
4 dollars per day, per incident fine from NERC.

5 Q. Mr. Vail, you were also asked a series of
6 questions related to the company's assumed third party
7 transmission revenue. Do you recall those questions?

8 A. I do.

9 Q. And just to be clear, because the record got a
10 little muddled, at least from my perspective, the
11 company has not agreed to guarantee the third party
12 transmission revenue in this case, has it?

13 A. No. The company has not guaranteed that.

14 Q. Okay. One more question. I think it will be
15 my last. Do you recall when you were being asked
16 questions regarding the voltage support benefits of the
17 new transmission line?

18 A. Yes.

19 Q. Now, would you agree that adding the new --
20 the new wind projects does not compromise the voltage
21 support benefits that are assumed for that transmission
22 line?

23 A. Yes. That's correct. I -- when I was trying
24 to explain the existing 230 KV transmission line system
25 and then adding 500 KV line, that 500 KV line basically

1 doubles the size of the wire that's going into that
2 area. It's also a lower impedance line. So with that
3 line there, it provides significant voltage support.
4 And then, again, when you add in that additional
5 reactive device, having that 500 KV line in there is a
6 large benefit to the voltage support that we need in
7 that area.

8 MR. LOWNEY: Thank you. I have no further
9 questions.

10 CHAIRMAN LEVAR: Okay. Thank you. Please
11 indicate if Mr. Lowney's questions on redirect prompt
12 any recross. My Snarr? Anyone else for recross? Just
13 so we'll know. Okay. Mr. Snarr.

14 RECROSS-EXAMINATION

15 BY MR. SNARR:

16 Q. Thank you. Mr. Vail, the questions that were
17 just asked prompt me just to ask a question or two for
18 clarification.

19 A. Okay.

20 Q. In connection with the OATT process
21 establishing rates, we talked about third party
22 transportation revenues.

23 A. Yes, we did.

24 Q. And we also talked about the percentage ratio
25 that I'll just say leftover for PacifiCorp to cover

1 **because of its load; is that right?**

2 A. Yeah. So we talked about the PacifiCorp's
3 share of the transmission system is roughly 88 percent,
4 with third party being 12 percent.

5 Q. And you recall that my question was aimed at
6 whether or not this commission might consider some sort
7 of cap on the amount of revenues that would flow through
8 PacifiCorp to the retail rates of the Utah jurisdiction;
9 is that right?

10 A. I believe that that is what you said, yes.

11 Q. And we did not address in our questioning any
12 limits or magnitude of what might be happening with the
13 third party transportation rates; is that correct?

14 A. To the best of my knowledge, that is correct.

15 Q. Those clarifications are fine. Thank you.

16 CHAIRMAN LEVAR: Okay. Thank you, Mr. Snarr.
17 Commissioner Clark, do you have any questions for
18 Mr. Vail?

19 COMMISSIONER CLARK: Yes.

20 EXAMINATION

21 BY COMMISSIONER CLARK:

22 Q. I'd like to understand better the implications
23 of the planned retirement, I think I can call it planned
24 retirement, or at least the assumed retirement Of the
25 Dave Johnson units in 2028. The capacity of those units

1 is roughly what in the aggregate?

2 A. Best guess in the 700 megawatt range.

3 Q. I know one of them is 220, so it's going to be
4 7 or 800 or something like that roughly?

5 A. Yeah, subject to check. I apologize. I
6 should know that off the top of my head.

7 Q. So that's going to be a significant reduction
8 in the load that that transmission line is currently
9 called upon to address; isn't that true?

10 A. Yeah. I would just say that I would just kind
11 of reverse it. Obviously, there would be less
12 generation on the system when that coal unit retires.
13 One of the, you know, difficult aspects from a
14 transmission planning standpoint is understanding where
15 the replacement resource is going to come from.

16 At the request at one of our other state's
17 proceedings, you know, we were asked to do a study of
18 what it would take to -- if we did not build the
19 Aeolus-to-Bridger/Anticline line and you retire DJ and
20 you want to stick additional replacement resources back
21 there, and the cost of that alternative was actually a
22 little bit more expensive than the Aeolus-to-Bridger
23 transmission line, primarily because in order to
24 basically get the same benefits, you have to put a whole
25 bunch more 230 KV transmission lines in the area to keep

1 the stability.

2 So it's not a simple question to answer. You
3 know, I would say that certainly when that resource
4 retires, there will be replacement resources. Now,
5 where exactly they are going to be located or what types
6 of resources they are eventually going to be, I don't
7 know the answer to that.

8 Q. Sure. Just assume then, since we don't know
9 that, the replacement resources are not interconnected
10 with that line. They are somewhere else. If you were
11 to -- and the plant that's under consideration in this
12 application is not built for whatever reason. So we
13 come to 2024, or at least we approach it, and we look at
14 that retirement of Dave Johnson generation.

15 How would you address whatever reliability
16 concerns, voltage support concerns you might have,
17 frequency control concerns, whatever they are, that
18 result from the retirement of that plant? How -- what
19 are your options to address those?

20 A. There are a couple of different options. So
21 we talked about the large spinning mass. You can put --
22 certainly put additional synchronous condensers out in
23 that area. I will say the company has not had the
24 opportunity to fully study and understand from a
25 frequency response standpoint. That's a relatively new

1 NERC reliability standard.

2 And one of the largest concerns, is having
3 these large spinning masses taken out of the system
4 because they do provide very effective frequency
5 response. So one of the alternatives obviously could be
6 one synchronous condenser. It could be a number of
7 synchronous condensers out in that area. It could also
8 be, you know, additional transmission build. So again,
9 a lot of it will depend on the kind of assumptions
10 that -- or what the system is like when that day
11 happens.

12 I will say though, even with the retirement of
13 the Dave Johnson plant, when this transmission line, the
14 existing wind resources that are out in that area, the,
15 you know, again, assuming that you add new resources,
16 and with the repowering effort as well, there is an
17 opportunity to basically keep that pipe, the new pipe
18 pretty full with the resources that would be out there.

19 So again, the answer is going to be -- it
20 depends a little bit, but certainly large synchronous
21 condensers, capacitor banks and potentially additional
22 transmission into the area to provide that voltage
23 support when DJ retires.

24 **Q. Roughly what's one large synchronous condenser**
25 **cost to install?**

1 A. So a modest sized synchronous condenser, we
2 did the standpipe synchronous condenser in Wyoming. I
3 think it was in the neighborhood of \$36 million, \$40
4 million for the total project.

5 **Q. Is it also possible to spin the generator and**
6 **create the inertia, but not generate power, and is that**
7 **a technique that at least people are examining these**
8 **days in order to provide the inertia in areas where**
9 **there are a lot of renewable or variable generation**
10 **resources that are being installed and there's a need**
11 **for the inertia?**

12 A. Yeah. So from PacifiCorp's standpoint, I
13 don't believe we -- we certainly haven't attached any
14 cost to that or done an evaluation on it. It's
15 certainly being looked at and talked about in the
16 industry itself.

17 To your point the larger integration of
18 renewables into the system and then retiring of the
19 spinning mass is creating a big concern. So yes, those
20 are some of the alternatives that are being evaluated.
21 I don't know of any specific examples where they are
22 being utilized today.

23 And then just to give you one more option,
24 certainly it would be a conversion to, let's say,
25 natural gas of the existing plant, which would

1 accomplish similar to, you know, the idea you are
2 talking about.

3 CHAIRMAN CLARK: Thank you very much. Those
4 are my questions.

5 CHAIRMAN LEVAR: Okay. Thank you.
6 Commissioner White.

7 EXAMINATION

8 BY COMMISSIONER WHITE:

9 Q. Good afternoon. We may be retreading some old
10 ground, but I just want to make sure I'm clear, because
11 I know there's been some back and forth in terms of
12 cross today. It's left a few issues at least in my mind
13 confused.

14 Bring me back to why -- what was driving the
15 need for this project that was set to go in place in
16 2024, and maybe talk a little bit more about the NTTG or
17 the long-term transition planning process.

18 A. Sure. So a number of drivers. You know, one
19 of the things that we have been able to do over the last
20 several years is take what I'll call incremental or
21 smaller steps to improve the reliability out in that --
22 in the southeastern Wyoming area.

23 You know, we have added dynamic line ratings
24 to the system out there. We added the synchronous
25 condenser as well. We have also done some voltage

1 control type of activity as well. And so again, one of
2 the main drivers of that line is a combination of many
3 things. It is the existing congestion.

4 Without going into too much detail, there is a
5 nomogram, and the path that we're talking about here,
6 the TOT 4A path, is heavily impacted by another path
7 that is the TOT 4B path. So that interaction can
8 extreme -- can limit the transfer capabilities that you
9 get out of the system.

10 So we evaluated 23 different system elements
11 at the 230 KV level that when they are taken out of
12 service, it has an impact on that nomogram, which then
13 has a direct impact on the capacity of the TOT 4A. And
14 that can be a pretty limiting constraint out in that
15 area.

16 The second thing is, trying to find windows of
17 opportunity to take those different segments out of
18 service for maintenance activities. I am not answering
19 your question.

20 Q. Well, yeah. Maybe I bring it down even
21 further level. What is the suspect here? Is this wind?
22 What is causing the need? What is the congestion being
23 caused by?

24 Because I guess what I am trying to get at --
25 let me get to the point here, is what input is the NTTG

1 process utilizing to get to the point where they are
2 saying, yes, we think that there is a need here? Is it
3 being called by planned future projections for wind in
4 that area? Is it -- I guess, I am just trying to figure
5 out what is the --

6 A. Okay. Fair enough. I think I understand
7 where you are going. So from an NTTG perspective, all
8 of the segment D energy Gateway West has been part of
9 each of the planning cycles for a number of years now.
10 Certainly the NTTG organization takes the input from
11 each of the different member utilities.

12 I will note, though, and this is one of the
13 reasons why PacifiCorp decided to sub segment, segment D
14 into D-1, D-2, and D-3. During the previous NTTG
15 planning cycle, PacifiCorp submitted the entire segment
16 D, and the NTTG did their study. This was prior to any
17 new wind generation even being contemplated, or the
18 combined projects being considered.

19 The NTTG plan could not -- and they wanted an
20 example to do cost allocation from, and they made a
21 generic project from Aeolus to Jim Bridger area, and
22 that project was needed in that plan in order for it to
23 be able to solve just the power flow studies in the 2026
24 time frame.

25 So there is a lot of value to this particular

1 segment, and what's contributing to that, certainly it's
2 a combination of a couple of things. It's the fairly
3 weak 230 KV transmission system. It's the fact that we
4 have a lot of generation that is a long way from
5 basically the load center. And then it is also the
6 variability of the wind resources that are behind that
7 constraint.

8 And so based on the inputs that NTTG was
9 given, they identified what is in essence this exact
10 Aeolus-to-Bridger/Anticline project as needed by 2026 in
11 order to solve their case in the previous planning
12 cycle.

13 **Q. That's helpful. So is it safe to assume then**
14 **that, you know, putting aside who gave input, but the**
15 **solution is driven by an assumption there will be wind**
16 **causing issues in that area?**

17 A. So in that -- in that particular study cycle,
18 there was no additional new wind. It was based on the
19 existing resources, and then any of the resources in the
20 member companies' IRPs that were identified, and I
21 don't -- from a PacifiCorp standpoint, Mr. Link could
22 speak to what was in there, but I believe it was only a
23 couple hundred megawatts of wind that were required.

24 But again, in order to solve that, there was
25 no -- none of this new wind in the combined projects

1 assumed, and the line was still found to be necessary.

2 Q. So you know, I want to -- I want to circle
3 back to a couple questions that Mr. Jetter was asking in
4 terms of who -- who pays for what. This project that,
5 you know -- let's just, you know, assume, you know, that
6 NTTG's plan is, you know -- you know, ultimately the
7 solution requires -- by NERC. It's got to happen in
8 2024.

9 Now, who again pays for that in 2024, absent
10 the potential opportunity to offset it with the benefits
11 from the PTCs? Who pays for that then?

12 A. It would be the PacifiCorp retail customers,
13 and then there would be the revenue credit back from
14 third party transmission customers. So the line would
15 go into service.

16 Those costs -- I am assuming PacifiCorp would
17 come to the states for some kind of regulatory recovery,
18 and at the same time, the year following that asset
19 going into service, it would be included in the FERC
20 formula rate. And then that 12 percent revenue, credit
21 assumption, would flow back to the states as a credit.

22 Q. And that's based upon PacifiCorp's current
23 OATT? I mean, putting aside case law, et cetera, that's
24 based upon -- that construct for cost allocation is
25 based upon PacifiCorp's current OATT?

1 A. Yes. And I would just -- I mean, significant
2 for precedent, certainly that it's, you know, considered
3 a network transmission asset. Yes.

4 COMMISSIONER WHITE: That's all the questions
5 I have. Thank you.

6 CHAIRMAN LEVAR: Okay. Thank you. I don't
7 have anything to add to that. So thank you for your
8 testimony, Mr. Vail.

9 THE WITNESS: Thank you.

10 CHAIRMAN LEVAR: Would this be an appropriate
11 time to go out of order and get Mr. Jenner from
12 Interwest Energy Alliance on the stand? Are there any
13 objections?

14 MR. LONGSON: Chairman, we would prefer that
15 Mr. Teply go first from the company.

16 (Discussion off the record.)

17 MR. LONGSON: We would prefer that Mr. Teply
18 go first. I think that might make more sense before
19 Mr. Jenner.

20 MR. JETTER: And since we're discussing this,
21 I'd like to bring up a brief discussion that some of the
22 parties have had during the lunch break today, which
23 was -- would be that we have -- all the -- I guess the
24 intervening parties have agreed that, excluding
25 Interwest going at this point, that the division would

1 follow the company's witnesses, then followed by the
2 Office of Consumer Services, and the intervenors after
3 that, generally, possibly making some readjustments in
4 there for certain witnesses that may have to leave town,
5 if that's okay with the Commission.

6 I think everyone else is either not objected
7 or agreed that that would be a way to go forward.

8 CHAIRMAN LEVAR: Okay. Assuming there's no
9 objection from any other the parties, we'll plan to
10 proceed that way.

11 MR. JETTER: Thank you.

12 CHAIRMAN LEVAR: Okay. So PacifiCorp's next
13 witness.

14 MR. LOWNEY: Company calls Nikki Kobliha.

15 CHAIRMAN LEVAR: Ms. Kobliha, do you swear to
16 tell the truth?

17 THE WITNESS: Yes.

18 CHAIRMAN LEVAR: Thank you.

19 NIKKI KOBLIHA,
20 was called as a witness, and having been first duly
21 sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. LOWNEY:

24 Q. Ms. Kobliha, could please state and spell your
25 name for the record.

1 A. Nikki Kobliha. N-I-K-K-I, K-O-B-L-I-H-A.

2 Q. And how are you employed?

3 A. I am vice president, chief financial officer
4 and treasurer of PacifiCorp.

5 Q. And in that capacity, did you file
6 supplemental, direct and rebuttal testimony in this
7 case?

8 A. Yes, I did.

9 Q. And do you have any corrections or changes to
10 that testimony today?

11 A. No, I do not.

12 Q. And if I were to ask you the same questions
13 that are posed in that testimony, would your answers be
14 the same?

15 A. Yes, they would.

16 MR. LOWNEY: I would move to admit
17 Ms. Kobliha's supplemental, direct and rebuttal
18 testimony into the record.

19 CHAIRMAN LEVAR: Okay. If any party objects
20 to that motion, please indicate to me. I am not seeing
21 any objection, so the motion is granted.

22 Q. (By Mr. Lowney) Ms. Kobliha, did you prepare
23 a summary for the commission today?

24 A. Yes, I did.

25 Q. Please proceed.

1 A. Thank you. So good afternoon, Commissioner
2 Chair LeVar, Commissioners Clark and White. I am
3 pleased to be here today to discuss with you my
4 testimony in this matter.

5 My testimony -- in my testimony I discuss the
6 relevant provisions of the federal tax code that the
7 company relies on to obtain the benefits of the federal
8 wind production tax credits or PTCs, which provide
9 significant value to the projects. I also outline the
10 relevant provisions of the federal income tax reform
11 that was enacted in December of 2017 and confirm that
12 there are no changes in the federal income tax law as it
13 relates to PTCs.

14 The internal revenue code provides that a wind
15 facility can generate a PTC equal to an inflation
16 adjusted 1.5 cents per kilowatt hour of electricity that
17 is produced and sold to a third party for a period of 10
18 years beginning on the date that the facility is placed
19 in service.

20 PTCs, however, are being phased out. A wind
21 facility is eligible for 100 percent of the PTCs. So as
22 long as the construction began prior to January 1st,
23 2017. A taxpayer can demonstrate that construction
24 began by incurring more than 5 percent of the eventual
25 total cost of the facility.

1 The company is relying on this 5 percent safe
2 harbor in order to demonstrate that it has met the
3 construction of each -- sorry. We're relying on the
4 safe harbor to demonstrate that construction of each one
5 of the wind facilities selected in 2017 RFP, began
6 construction prior to that January 1st, 2017, date and
7 are therefore eligible for 100 percent of the PTC.

8 In addition to the 5 percent safe harbor
9 requirement, the wind facility must satisfy the
10 continuity of construction requirement. The company
11 intends to meet this requirement through the four year
12 calendar year safe harbor, which in our case means that
13 the facilities must be placed in service no later than
14 December 31st, 2020. The company plans to have the wind
15 projects placed in service by that December 31st, 2020,
16 date in order to qualify for the 100 percent of the
17 PTCs.

18 In December of 2017, congress passed and the
19 president signed HR1, more commonly referred to as the
20 tax act. The passage of the tax act resulted in several
21 changes that impacted the company, most notably the
22 reduction of the federal tax rate from 35 percent to 21
23 percent, and the modification of the bonus depreciation
24 rules related to public utility property.

25 The tax act, however, does not make any

1 modifications to the federal income tax code or any
 2 Internal Revenue Service guidance related to the value
 3 of the PTCs, or of the methods by which the company
 4 intends for the wind projects to qualify for 100 percent
 5 of the PTCs. The enactment of the tax act therefore
 6 resolved the uncertainty that existed in late 2017,
 7 because the impacts are now known as incorporated into
 8 the company's analysis. That concludes my summary.

9 MR. DOWNEY: Thank you. Ms. Kobliha is
 10 available for cross-examination and commissioner
 11 questions.

12 CHAIRMAN LEVAR: Okay. Thank you.
 13 Mr. Longson, do you have any questions?

14 MR. LONGSON: No questions. Thank you.

15 CHAIRMAN LEVAR: Thank you. Mr. Holman.

16 MR. HOLMAN: I have no questions. Thank you.

17 CHAIRMAN LEVAR: Ms. Hayes.

18 MS. HAYES: No, thank you.

19 CHAIRMAN LEVAR: Thank you. Mr. Jetter.

20 MR. JETTER: No questions. Thank you.

21 CHAIRMAN LEVAR: Mr. Moore.

22 MR. MOORE: Just one quick question.

23 CROSS-EXAMINATION

24 BY MR. MOORE:

25 Q. You mentioned that they have to be in service

1 by 2020 to get a hundred percent of PTCs?

2 A. Correct.

3 Q. It's true, isn't it, that if they miss that by
4 one day, they get zero percent of the PTCs?

5 A. Not necessarily. So it's not going to be an
6 all for nothing provision where the entire project has
7 to be placed in service. Of course, the project has to
8 be generating electricity and getting somehow onto the
9 grid. But I wouldn't say it's going to be, it's a one
10 or none type of situation.

11 Q. Are you talking about turbines, or are you
12 talking about the projects? You mentioned that they
13 were phasing them out. They are not phasing them out in
14 the last years, are they? I mean, if you miss by one --
15 if a project misses by one day, they don't go down to 80
16 percent. They go down to -- all the wind turbines that
17 are not functioning go down to zero percent; is that
18 correct?

19 A. So yeah. I think that's what I meant in terms
20 of components of the project. So we intend, of course,
21 to have everything complete and in service by that date,
22 and I think we have guaranteed that qualification
23 position. But if you were to look at, let's say, you
24 know, 9 out of 10 towers was in service. Then you would
25 receive PTCs so long as they are generating and putting

1 electricity onto the grid.

2 So in that scenario, that might be one tower
3 that wouldn't qualify for PTCs, unless you can say that
4 there is an allocation of the 5 percent safe harbor
5 dollars that you could say maybe it qualified for 80
6 percent, and you have one more year to place that
7 particular tower in service. So it kind of depends.

8 MR. MOORE: I have no further questions.

9 CHAIRMAN LEVAR: Okay. Thank you, Mr. Moore.
10 Mr. Russell?

11 MR. RUSSELL: No questions, Chair. Thank you.

12 CHAIRMAN LEVAR: Mr. Baker.

13 MR. BAKER: No questions. Thank you.

14 CHAIRMAN LEVAR: Commissioner White?

15 COMMISSIONER WHITE: I just have one question.

16 EXAMINATION

17 BY COMMISSIONER WHITE:

18 Q. You know, the statute that we were looking at
19 in terms of standards, you know, asks us to determine
20 the public interest based upon, you know, factors
21 including these costs, risk, liability.

22 But the one I haven't heard a lot on, and
23 wondered if you have any thoughts on, is the financial
24 impacts on the effective electric facility and
25 whether -- and I know that's not necessarily in your

1 testimony, but if that's something you have an opinion
2 as to -- as to whether this project affects it, and how
3 it affects it?

4 A. Sure. So we report on the business plan
5 process every year, and in our last planning cycle, we
6 did include the projects that we are proposing here, at
7 least some subset, you know. As you know, they have
8 continued to evolve. And through that we were able to
9 assess our, you know, financial needs, where going out
10 to the bond market or modifying our dividend payments,
11 for example, or using cash from operation.

12 So all those things combined in our analysis
13 would lend me to conclude that, yes, we have the ability
14 to fund and finance all these projects through our
15 access to the markets would be the main source of
16 funding.

17 Q. The Oregon commission issued an order where
18 they have not acknowledged the short list. Has there
19 been any nonconfidential information from the market as
20 to whether or not that would potentially affect the
21 potential, you know, lending or borrowing for those
22 projects?

23 A. So we actually don't borrow on a
24 project-by-project basis. It's more of a big picture,
25 here is the entire needs of the company. So we would

1 have never looked at, when we go out to market, this
2 particular project, you know, isn't being acknowledged.
3 Therefore, maybe there isn't a cash flow that you would
4 expect.

5 That would never come into our conversations.
6 It's definitely more big picture as to what's happening
7 with the company.

8 COMMISSIONER WHITE: Thanks. That's all the
9 questions I have.

10 CHAIRMAN LEVAR: Okay. Thank you. Before we
11 go to Commissioner Clark, I failed to ask Mr. Lowney if
12 he had any redirect based on Mr. Moore's cross.

13 MR. LOWNEY: I do not.

14 CHAIRMAN LEVAR: Okay. Thank you.
15 Commissioner Clark.

16 COMMISSIONER CLARK: I'm desperately trying to
17 find something in the --

18 THE WITNESS: Taxes are my favorite subject.

19 EXAMINATION

20 BY COMMISSIONER CLARK:

21 Q. So I'm just going to ask you to help me rather
22 than try to find it in the IE report. But I guess I am
23 following up on what Mr. Moore was asking you about. Do
24 you have general familiarity with the investment tax
25 credits that apply to solar projects?

1 A. Yes, I do.

2 Q. So as I understand it, at some point, and I
3 can't remember if it's the end of 2020 or 2021, those
4 tax credits start to glide away. But the glide path is
5 like a reduction from a hundred percent one year to 80
6 percent, to 55 or 60 or something like that. In other
7 words, it steps down over a period of years. Is that
8 true with respect to ITCs?

9 A. Yes. So the investment tax credit is on a
10 phase-down plan. So if construction begins prior to the
11 end of 2019, or you could say January 1st, 2020, then
12 the project would still be eligible for the 30 percent
13 investment tax credit.

14 The next year, so calendar year 2020, it goes
15 down to 26 percent. And then it steps down to 22
16 percent in the next year. And then it steps down to 10
17 percent for projects that begin after 2020. And then
18 projects where construction starts after 2027 is zero
19 percent.

20 Q. Okay. And with respect to the PTCs that apply
21 to wind, we're not in a similar type of step-down
22 transition at the end of 2020. Am I -- is that accurate
23 generally?

24 A. There is also the phase down with the PTCs,
25 where construction has to begin prior to 2017 to get a

1 hundred percent. 2018 was 80 percent. 2019 was 60
2 percent, 40 percent, and then it goes to zero.

3 Q. So it would harken back to the time that
4 construction began, rather than it going into service,
5 2021, or 2022 or 2023?

6 A. Yeah. In terms of the PTCs, that's where that
7 four year calendar safe harbor comes in in terms of
8 completing the projects. The ITCs are a little bit
9 different in there actually isn't any guidance out there
10 for what does the beginning of construction mean. Like
11 our 5 percent safe harbor we have for PTCs.

12 And there also isn't any guidance about that
13 four year calendar safe harbor at this point from the
14 IRS. Parties have asked for that guidance to know what
15 does it actually mean that you began construction for a
16 solar facility.

17 COMMISSIONER CLARK: Thanks very much. That
18 helps me.

19 CHAIRMAN LEVAR: Thank you. I don't have any
20 further questions. So thank you for your testimony
21 today.

22 THE WITNESS: Thank you.

23 MS. LOWNEY: The company's next witness is
24 Chad Teply.

25 CHAIRMAN LEVAR: Good afternoon, Mr. Teply.

1 Do you swear to tell the truths?

2 THE WITNESS: Raise my hand?

3 CHAIRMAN LEVAR: You can raise it or not. Do
4 you swear to tell the truth?

5 THE WITNESS: I do.

6 CHAIRMAN LEVAR: Okay.

7 CHAD TEPLY,
8 was called as a witness, and having been first duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. LOWNEY:

12 Q. Mr. Teply, would you please state and spell
13 your name for the record.

14 A. Sure. My name is Chad -- my name is Chad
15 Teply. That is spelled C-H-A-D, T-E-P-L-Y.

16 Q. And how are you employed, Mr. Teply?

17 A. I am employed as the senior vice president of
18 strategy and development for Rocky Mountain Power.

19 Q. And in that capacity, did you file direct
20 testimony, supplemental direct testimony, second
21 supplemental direct testimony, and surrebuttal testimony
22 in this case?

23 A. I did.

24 Q. And do you have any changes or corrections to
25 that testimony today?

1 A. I do not.

2 Q. And if I were to ask you the same questions,
3 would your answers be the same?

4 A. Yes, they would.

5 MR. LOWNEY: I would move for the admission of
6 Mr. Teply's testimony and accompanying exhibits, and I
7 would just note before we -- in support of that motion,
8 in the exhibit list that we provided, we will not be
9 moving for the admission of certain exhibits that are
10 struck through.

11 And those consist of several highly
12 confidential documents that have been superseded by
13 subsequent -- either subsequent exhibits or, for
14 example, several of the exhibits relating to the
15 McFadden Ridge project. And that's no longer part of
16 the case. So I can walk through those exhibits. That
17 would be CAT1-1. CAT1-7.

18 CHAIRMAN LEVAR: If everyone has this list, it
19 may not be necessary to walk through. Does everyone
20 have the list that shows the strikethroughs?

21 MR. DOWNEY: I did distribute it, and I have
22 more copies for everybody.

23 CHAIRMAN LEVAR: Okay. I don't think it's
24 necessary for you to walk through all the ones you have
25 stricken through it. Is there any objection to entering

1 these into the record, with the exception of the ones
2 that are stricken through on the exhibit list?
3 Mr. Russell.

4 MR. RUSSELL: No objection from UAE, although
5 I would like clarification. Some of these exhibits
6 remain marked highly confidential. I am just curious
7 whether that designation remains on the exhibits. And I
8 ask that question partly because some of these were
9 marked a number of months ago. So I don't know whether
10 they remain highly confidential or not.

11 MR. LOWNEY: The ones that are marked highly
12 confidential remain highly confidential.

13 MR. RUSSELL: Okay. Thanks.

14 CHAIRMAN LEVAR: With that clarification, is
15 there any objection to the motion? I am not seeing any
16 objection, so the motion is granted. Thank you.

17 Q. (By Mr. Lowney) Mr. Teply, have you prepared
18 a summary?

19 A. I have.

20 Q. Would you please proceed.

21 A. Sure. Good afternoon, Chair LeVar, Commission
22 Clark, Commissioner White. My testimony in this
23 proceeding describes the wind projects that were
24 initially submitted as proxies in the company's
25 application in this docket, and those that were

1 ultimately selected via 2017R RFP for which we seek
2 approval of the significant energy resource decision.

3 Two of the three originally submitted
4 benchmark projects remain in the final short list, when
5 considering TB Flats 1 and 2 as a single project at this
6 point.

7 As discussed by Mr. Link, the company's 2017
8 IRP or integrated resource plan, filed in April of 2017,
9 identified a time-limited opportunity to procure wind
10 resources and needed transmission and to -- which
11 allowed interconnection and decongestion, if you will,
12 of the transmission in the north and southeastern
13 Wyoming.

14 To support the subsequent 2017 RFP that
15 followed the IRP, the company engaged the competitive
16 market, including project developers with preferred
17 interconnection queue positions that I have described in
18 my direct testimony. As discussed in that testimony, we
19 negotiated contingent development transfer agreements.

20 Having identified through the public process,
21 and through our engagement with the developers in the
22 integrated resource planning process, these projects, we
23 entered into the development transfer agreement with the
24 focus on, one, ensuring that the company could submit
25 benchmark resources, not only in this application, but

1 ultimately in the 2017R RFP that ensured the company at
2 a minimum would have an offering there for which the
3 various regulatory parties could assess the economics of
4 the combined winds and transmission.

5 A key component to the development transfer
6 agreements that we negotiated is the fact that the
7 developer that held those key interconnection queue
8 positions and the development asset rights was also
9 in -- retains the ability to bid into that same 2017R
10 RFP.

11 The company ultimately submitted three
12 projects into the 2017R RFP, those three projects being
13 the TB Flats 1 and 2 project that I have just described,
14 which is a 500 megawatt project located immediately
15 adjacent to our Dunlap wind farm that has been in
16 operation since 2010; the Ekola Flats wind project.
17 It's a 250 megawatt project that is located immediately
18 in between Seven Mile Hill and the Dunlap wind farm that
19 were both constructed in the 2008 through 2010 time
20 frame; and ultimately our McFadden Ridge 2 project,
21 which is 109 megawatt project located near and adjacent
22 to our High Plains in McFadden Ridge 1 project.

23 Each of our initial submittals and each of our
24 benchmarks was selected to the initial short list in the
25 2017R RFP, and requested to submit best and final offers

1 in November of 2017.

2 In the company's January 2018 filing in this
3 proceeding, the final short list and the preliminary
4 final short list of the 2017 RFP results were reported.
5 Those results included the TB Flats 1 and 2 project and
6 the McFadden Ridge 2 benchmark projects.

7 In addition, as we had described in direct
8 testimony in the application, the RFP also resulted in
9 two market offerings; the Cedar Springs project that you
10 have heard about today, which is a 400 megawatt project
11 bifurcated into two parts effectively, a 200 watt -- 200
12 megawatt field transfer agreement, and a 200 megawatt
13 power purchase agreement. The fourth project that was
14 selected and reported in January was the Uinta project
15 that we talked about today.

16 Following the interconnection restudies that
17 you have heard about in testimony from Mr. Vail and
18 Mr. Link earlier in this proceeding, the McFadden Ridge
19 project that I just described, was removed from the
20 final shot list selection in February and replaced with
21 the company's Ekola Flats benchmark project, the 250
22 megawatt project, which was larger and more economic
23 than the McFadden Ridge 2 project, but was facilitated
24 and enabled by the interconnection restudy.

25 And as you heard in testimony from Mr. Vail,

1 the change in the queue positions with the change from
2 the cut-off for the Gateway South, if you will, going
3 from the interconnection queue position 708 down to, I
4 believe he requested -- or he quoted 713. So that
5 facilitated the Ekola Flats addition, as well as the
6 additional transfer capability that Mr. Vail has
7 described earlier today.

8 We found that the 2017R RFP was a -- provided
9 a good response. We have heard about the robustness of
10 the response from the market. But from a commercial --
11 commercial structures perspective, I think it's worth
12 talking a little bit about the different types of
13 commercial structures that were included and are
14 included today, following the 2017R RFP.

15 We have our benchmark projects, the TB Flats 1
16 and 2 projects and the Ekola Flats projects that
17 effectively are structured to be contracted under an
18 engineer procure construct contract, one for each
19 project, and turbine supply agreements, separate for
20 each project. Those agreements would be directly
21 between Pacific Corp and those -- and those contractors
22 and turbine supply providers.

23 The build transfer agreements, the pro forma
24 which is included in the exhibits in my testimony, would
25 now apply to the next era 200 megawatt project. So

1 there's a build transfer agreement.

2 And I think it's important to point out from a
3 commercial perspective, the build transfer agreement is
4 basically an arm's length commercial structure, wherein
5 there is a contract between PacifiCorp and the developer
6 of that project. The developer of that project then
7 goes to the market for construction and turbine supply.
8 So an arm's length between PacifiCorp and say the
9 contractors and turbine supply agreements.

10 Also recognizing that under a build transfer
11 agreement, care, custody and control of the asset
12 typically transfers on a closing date following
13 commercial operation of the asset. So different
14 commercial structure than an EPC, such as the benchmark.

15 And then ultimately the power purchase
16 agreement, therein, again, a contract between PacifiCorp
17 and the developer of the individual project with the
18 developer there again having the responsibility to get
19 the project built, deliver it and meet certain
20 obligations for delivery.

21 During the regulatory review process, we have
22 addressed this earlier in the proceeding, the company
23 has stipulated with parties in Wyoming and Idaho as to
24 the removal of the Uinta project, so leaving three
25 projects, TB Flats 1 and 2, Ekola Flats, all of which

1 were originally included in the application, and now
2 plus the Cedar Springs 400 megawatt BTA PPA.

3 The project remains well positioned to provide
4 the customer benefits incorporated into the case. The
5 timelines and off-ramps for the projects are being
6 effectively developed and maintained in parallel to the
7 ongoing regulatory proceedings like this one, the
8 ongoing procurement activities, permitting at both the
9 state and federal level, and actually -- and also
10 right-of-way acquisition, not only for the wind farms
11 but also for the transmission line.

12 Procurement timelines have been adjusted along
13 the way, primarily to adjust and accommodate the
14 changing regulatory schedules, not only here in Utah,
15 but in our other states. We've worked closely with the
16 project developers, the contractors and turbine
17 suppliers, as we discussed a little bit earlier today,
18 with respect to the criticality of those dates, bid
19 validity periods, et cetera. We have been effective in
20 maintaining that schedule alignment to date.

21 Our focus in that review was to maintain the
22 firm fixed pricing, to begin our negotiations, such that
23 we would have near final major agreements such as the
24 EPC, the turbine supply agreements, the build transfer
25 agreements, et cetera. But to have the results of our

1 regulatory reviews prior to entering into binding
2 agreements.

3 We have done that intentionally. The company
4 is positioned to execute binding agreements in June of
5 2018, following regulatory approvals, assuming we get
6 them, for the wind projects, and in particular the
7 benchmarks, and in July, early July of 2018, with the
8 current schedule with our build transfer supplier, BTA
9 supplier for Cedar Springs.

10 Project costs and delivery risks continue to
11 be reduced, through the successful competitive market
12 engagement that I described earlier. We have -- we have
13 demonstrated and provided in our testimony significant
14 capital cost reductions, particularly for the wind
15 projects since the time of our application.

16 For the benchmark projects in particular, that
17 was an item that was discussed earlier today from the
18 stand. It's important to note that for the benchmark
19 project, the key driver to the capital cost differences
20 there is that as we engage the competitive market,
21 we selected bids from a wide variety of Tier 1 wind
22 turbine suppliers.

23 The benchmark projects were ultimately based
24 on a large wind turbine generator design, large meaning
25 4.2 megawatt machines. As compared to other bids, if

1 you were to look through the details, anywhere from I'd
2 say one and a half to, say, 3.2 megawatt machines, so in
3 effect, getting the same megawatt output with less
4 infrastructure; i.e., less capital cost to construct.
5 So a very key driver to the reason the benchmark project
6 costs were much lower comparatively to the market for
7 installation costs.

8 The other reason that we hang our hat on with
9 respect to the benchmark project competitiveness is the
10 fact that we did go to the competitive market prior to
11 submitting our benchmark proposals in October of 2017,
12 not only for the turbine supply agreements, but also for
13 construction of contracts, EPC contracts. So we had
14 begun negotiations -- sorry. We had received proposals,
15 begun negotiations and based our proposals on that
16 status at the time.

17 So I can't speak for the other bidders as to
18 what level of effort they went into to support their
19 proposals in the 2017 RFP, but I did think that was
20 worth flagging for the commission.

21 We have been effective at maintaining our
22 off-ramps from a commercial perspective throughout the
23 process, I think in particular, with respect to the
24 major contracts for engineer procure and construct.

25 On the wind farms, we have incorporated what

1 we consider -- what is traditionally termed a limited
2 notice to proceed contract -- concept. The limited
3 notice to proceed concept allows your counterparty to
4 begin key critical path activities, such as engineering,
5 preliminary procurement, permitting, mobilizations of
6 personnel, et cetera, early, before you have made that
7 final commitment to actually begin spending major
8 capital on equipment procurement, material supply, site
9 work.

10 The way we have incorporated that into the
11 benchmarks in particular is an LNTP concept that would
12 begin, assuming we sign contracts and binding agreements
13 in June time frame of this year, and ultimately carrying
14 through to a full notice to proceed concept at the
15 beginning of next year for the wind farms. So in other
16 words, I would say the April 2019 time frame.

17 The key driver for that limited notice to
18 proceed concept with respect to the wind farms is, we
19 want to make sure that the transmission project, in the
20 event we receive approvals, has time to acquire the
21 rights-of-way. The rights-of-way acquisition leading
22 into the construction cycle for transmission is the
23 critical path for the overall combined projects.

24 The rights-of-way acquisition cycle and
25 process effectively has already begun, but waiting on

1 regulatory approvals and the proceedings and outcomes in
2 our various dockets, we have not yet signed final
3 binding agreements. So we have worked with and had
4 negotiations with all of the parties along the
5 transmission corridor, but we have a lot of work to do
6 there.

7 We -- if you -- if you take a look at the
8 transmission corridor in particular, and if you were
9 following the Wyoming proceedings, we had upwards of six
10 intervenors, landowners, particularly in that
11 proceeding, all of which we engaged, five of which we
12 engaged successfully, one of which we did not.

13 But we have reached agreements with those
14 parties that effectively allowed them to withdraw from
15 the Wyoming CPCN proceedings. The Wyoming CPCNs that we
16 received for each project are conditioned on final
17 receipt of all right-of-way, particularly for the
18 transmission. That becomes the tie back to my wind
19 projects, if you will.

20 So we're managing through the right-of-way
21 process, with those landowners that I just mentioned
22 that we have, I'll say agreements in principal with, and
23 then if I include the federal -- the federal
24 checkerboard lands, that are included in transmission
25 right-of-way, as well as the state lands that we're

1 working to finalize agreements on, that equates to over
2 50 percent of our corridor for the 500 KV transmission
3 line. So making good progress there, but work
4 remaining.

5 We built into our schedule in the event we had
6 had to revert to the approach of last resort, which
7 would be eminent domain -- we have incorporated those
8 schedules in the time frame for eminent domain into the
9 project critical path schedule. That ultimately leads
10 you to the April 1 time frame of 2019.

11 As you heard from Mr. Vail, two construction
12 cycles or two seasons of construction, the summer of
13 2019 and the summer of 2020, are critical to the
14 transmission line, without having to invoke work-arounds
15 and accelerated plans.

16 Equally as important as to the commercial
17 agreements that we have incorporated and are working to
18 finalize with our contractors is that we remain
19 committed to return to the commission should material
20 issues arise, not only during this predevelopment phase,
21 the remainder of 2018, but ultimately during the
22 implementation phases that would proceed through 2019
23 and ultimately 2020.

24 We also are planning to maintain our
25 contracting off-ramps and manage those appropriately.

1 Each of our projects will qualify for the production tax
2 credit safe harbor that you just heard described by
3 Ms. Kobliha.

4 We have entered into the opportunity as we
5 started to look at projects in the 2017 -- heading into
6 the 2017 RFP, particularly from a benchmark perspective,
7 looking for projects that could demonstrate and validate
8 their ability to qualify, not only for the hundred
9 percent PTC but ultimately ideally under the safe harbor
10 provision, because the safe harbor provision is viewed
11 as a more, I will call it a bright line test, with --
12 from the IRS's perspective.

13 We'll get -- we have validated the three
14 projects that you have before you today, TB Flat 1 and
15 2, Ekola Flats and NextEra -- no, I mean, I'm sorry, and
16 Cedar Springs as being eligible under the safe harbor
17 provisions.

18 The company's direct engagement on the EPC
19 front with respect to its benchmarks helps to mitigate
20 risk with respect to the PTC eligibility and ultimate
21 delivery of the projects by 2020. I would say with each
22 commercial structure that I have described earlier, I've
23 become a little bit more arm's length with respect to my
24 ability to ensure that that -- those dates are achieved.

25 Nonetheless, we have worked with respect to

1 the terms and pro forma contracts that I have included
2 in my exhibits for the power -- for the build transfer
3 agreement, as well as the EPC, to ensure that we have
4 the appropriate checkpoints in place; schedule
5 monitoring, guarantees from contractors and
6 counterparties, oversight with respect to quality
7 control, those types of issues that you would expect
8 from a significant contract like the ones we're talking
9 about today.

10 The projects will be operated consistently
11 with PacifiCorp over a decade of experience operating
12 similar projects. As we stated in our testimony, we
13 have guaranteed and will incorporate a 90 -- 97 percent
14 mechanical availability guarantee into our contracts.

15 In summary, the construction of the new wind
16 project and the transmission projects are in the public
17 interest. Projects provide an economically attractive
18 and environmentally responsible opportunity to serve our
19 customer load needs.

20 The projects have been validated as desirable
21 due to their location-specific attributes, particularly
22 with respect to wind performance. And that wind
23 performance has been assessed by an independent third
24 party to validate its -- the information we have used.

25 The project timelines and development plans,

1 as well as the commercial off-ramps have been maintained
2 to ensure that these wind projects become an essential
3 part of Rocky Mountain Power's diversified portfolio.
4 The commission's review of the company's prudence in
5 maintaining the costs and managing material changes,
6 should they occur, will be pursued. And the combined
7 projects will benefit the company's customers as a
8 whole.

9 The company appreciates the parties'
10 engagements in these proceedings and believes that the
11 combined projects will benefit from this rigorous
12 review. For all of those reasons, we urge you to
13 approve the significant energy resource decision that is
14 before you. Thank you.

15 MR. LOWNEY: Mr. Teply is available for
16 cross-examination and commissioner questions.

17 CHAIRMAN LEVAR: Thank you. Why don't we take
18 a short break and return in about 10 minutes and start
19 cross-examination. We'll be in brief recess.

20 (Recess from 2:39 p.m. to 2:51 p.m.)

21 CHAIRMAN LEVAR: Okay. We are back on the
22 record. Before we move to cross-examination of
23 Mr. Teply, I want to discuss one issue that I think we
24 should plan to maybe finalize tomorrow morning, and that
25 is the usefulness of closing arguments at the conclusion

1 of this hearing.

2 We do seem to be in a time frame where
3 posthearing briefs probably is a luxury we do not have
4 available to us, but maybe we could discuss. And of
5 course, this also -- I realize, you know, no one can
6 predict how much time the rest of the hearing is going
7 to take between now and Friday, and if we finish at 6:00
8 p.m. Friday, there may not be a lot of interest in
9 staying for a couple more hours.

10 But I am throwing the issue out there that
11 maybe first thing tomorrow morning we can have a
12 conversation about whether parties see a benefit to
13 closing arguments at the conclusion of the hearing. I
14 think we would want to cap them at no more than two
15 hours total.

16 We have about eight parties, and how that
17 would be divided up, we could discuss in the morning, if
18 there's interest. But I just want to throw the concept
19 out there so you can think about it and be prepared to
20 talk about it tomorrow morning before we start
21 testimony.

22 So unless there's any questions, I think
23 that's a conversation we'll have in the morning and just
24 give you some time to think about that. Obviously,
25 we're bringing it up because we might see some

1 usefulness to it, or otherwise we wouldn't be raising it
2 at this point.

3 So with that, we'll go to cross-examination of
4 Mr. Teply -- sorry. And we'll start with, did you have
5 something?

6 COMMISSIONER CLARK: Chair LeVar, did you
7 mention time frames, kind of what we are thinking?

8 CHAIRMAN LEVAR: Well, I said two hours at a
9 maximum for the entirety of it. I don't think we have
10 the luxury of more than that, you know. Unless we
11 finish everything Friday morning and we a little more
12 time on our hands, but I don't think we can plan on
13 that. So that's probably the time frame we ought to be
14 thinking about.

15 MR. MICHEL: Mr. Chairman.

16 CHAIRMAN LEVAR: Yes, Mr. Michel.

17 MR. MICHEL: You had mentioned yesterday the
18 possibility of going evenings if this doesn't go as
19 quickly as we had -- folks had anticipated. I was just
20 wondering if you had any more thoughts about either this
21 evening or tomorrow evening, or if it's still, if you --
22 just -- if you have any ideas on what -- where you think
23 that might be going.

24 CHAIRMAN LEVAR: Well, I'll say, anybody
25 else's guess in this room is as good as mine on what we

1 are looking at in terms of cross-examination for the
2 remaining witnesses. Everyone knows how many witnesses
3 we have. I can say we made better progress today than
4 we did yesterday.

5 In terms of today, you know, I think we'll see
6 where we get, and if there's a good stopping point that
7 seems like a convenient place to stop or -- I don't
8 envision us going much past 6:00 or 6:30 this evening,
9 but if we're at a point where it seems like pushing
10 until six or a little after six seems like we're --
11 might be -- if it seems like that might be a stopping
12 point, I'm not opposed to going a little bit late like
13 that this evening.

14 I am not sure there's much need to go past
15 that, and then reassess where we are this same time
16 tomorrow. So I mean that's how I am thinking about it,
17 but like I said, anybody else's guess is as good as mine
18 of what we are looking at on the remaining list of
19 witnesses and knowing what each other are thinking in
20 terms of your plans for cross-examination.

21 So with that, I'll just ask if there's any --
22 if there's any party who cannot stay at all past five
23 o'clock today, please let me know. But I am thinking we
24 might have some flexibility in just seeing what a
25 natural stopping point is going to be today, as we look

1 at approaching the next two days. Also considering that
2 we might want to reserve some time for closing
3 arguments.

4 That was a long answer that didn't really tell
5 you anything. Thankfully most of you are giving shorter
6 answers than that. Mr. Longson.

7 MR. LONGSON: Chair, I will just note that
8 Interwest will be happy to put Mr. Jenner on this
9 evening after Mr. Teply, depending on how long he goes.
10 So either this evening or tomorrow morning works great
11 for us.

12 CHAIRMAN LEVAR: I think I was going to let
13 PacifiCorp decide if they wanted to do their final
14 witness first. But I think we are in plenty of time to
15 get your witness within your time constraints either
16 today or tomorrow morning.

17 MR. LONGSON: Okay. Thank you.

18 CHAIRMAN LEVAR: Anything else before we go to
19 cross-examination? Okay. Thank you. Mr. Longson, do
20 you have any questions for Mr. Teply?

21 MR. LONGSON: No questions. Thank you.

22 CHAIRMAN LEVAR: Okay. Mr. Holman.

23 MR. HOLMAN: No questions. Thank you.

24 CHAIRMAN LEVAR: Mr. Michel.

25 MR. MICHEL: Just a couple questions.

1 CROSS-EXAMINATION

2 BY MR. MICHEL:

3 Q. Good afternoon, Mr. Teply.

4 A. Good afternoon.

5 Q. You have described the project that makes up
6 the combined project that the company is seeking
7 approval for in your testimony, right?

8 A. Yes, that's correct.

9 Q. And as part of your background, you did -- you
10 did work evaluating EPA's clean power plan?

11 A. I did.

12 Q. And if EPA's clean power plan were to be
13 revived in the future, would the projects or the
14 facilities that make up the combined project, exclusive
15 of the transmission facilities, would those be eligible
16 to receive emission reduction credits under that clean
17 power plan? Or would those have been eligible?

18 A. Yeah. I think the answer to -- if we are
19 basing the question on the originally prescribed clean
20 power plan, there were credits available for any
21 nonemitting resource. So I would say in that context
22 the -- obviously, the new wind farms, enough wind
23 projects as part of this combined project would qualify
24 under the originally contemplated clean power plan.

25 Q. And those credits under certain circumstances

1 **could be traded or sold much like renewable energy**
2 **credits?**

3 A. The concept of trading was one of the
4 considerations in the clean power plan as originally
5 proposed, yes.

6 MR. MICHEL: Okay. That's all I have. Thank
7 you.

8 CHAIRMAN LEVAR: Okay. Thank you.
9 Mr. Jetter.

10 CROSS-EXAMINATION

11 BY MR. JETTER:

12 Q. **Hi. Good afternoon.**

13 A. Good afternoon.

14 Q. **I'll try to keep this as brief as I can. You**
15 **mentioned that the company had purchased development**
16 **transfer agreements, which were a type of an option**
17 **agreements; is that correct?**

18 A. Yes. I did mention that we had entered into
19 development transfer agreements for the -- just to be
20 clear, the TB Flats 1 and 2, and the Ekola Flats
21 projects that I discussed earlier in testimony.

22 Q. **And as part of that, you received the**
23 **opportunity to bid a relatively favorable queue**
24 **position?**

25 A. So as we, as I described in my -- in my direct

1 testimony, we had reviewed the interconnection queue.
2 We had engagements with several developers, obviously
3 through the integrated resource plan, and integrated
4 resource planning process that ran through 2016, into
5 2017.

6 We get a lot of interest that -- in the
7 strategy and development group from the sophisticated
8 parties that you have heard a lot about today that
9 monitor the queue, develop wind projects, solar
10 projects, all types of projects.

11 So our interest, as we headed into the RFP
12 process here, was to ensure that we could, one, identify
13 whether or not there was an interested counterparty that
14 did have what I would call as a preferred
15 interconnection queue position, that would be willing to
16 let the company bid on that set of projects while
17 allowing them to bid on that set of projects as well.

18 **Q. Thank you. And so I understand that**
19 **correctly, you purchased those in sometime 2016?**

20 A. Actually, no. We engaged that party in the
21 spring of 2017, following the integrated resource plan
22 filing. We ultimately signed the development transfer
23 agreement.

24 And when you say purchased, I just want to be
25 clear. There is a limited payment stream associated

1 with the development activities that are ongoing for
2 those projects. Those agreements are contingent, as I
3 mentioned, upon receiving regulatory approvals across
4 our regulated states. They are also contingent upon
5 that developer completing permitting through the end of
6 this year.

7 And then ultimately they have a concept around
8 a closing, which is when we would actually inquire and
9 any interconnection queue positions as the agreements
10 would be assigned at that closing, which is anticipated,
11 assuming we continue to progress through the development
12 of the combined projects, late this year or early next
13 year.

14 Q. And so is it -- is it correct to say that for
15 the optionality you acquired with those options in --
16 in, it sounded like early 2017, that wasn't free, was
17 it?

18 A. No. Those -- those were not free agreements.
19 But they were very limited, from a cost exposure
20 perspective, as compared to say, acquisition of an
21 entire project.

22 Q. Okay. And your intention would be then for
23 those costs to be wrapped into the capital costs,
24 county-wise for these project; is that correct?

25 A. Yes. Those costs are contemplated as part of

1 our project estimates that were submitted in the 2017
2 RFP process.

3 Q. And did you offer to transfer any rights to
4 any of the other bidders who might have been in a lower
5 queue position to also bid in at that project level
6 if --

7 A. I didn't have -- as I just explained, I
8 didn't -- I don't have the right to transfer an
9 interconnection queue position that I have contingently
10 acquired as a development transfer agreement that has
11 not yet closed. So I don't have anything to transfer to
12 another bidder. The developer of the project retains
13 all of their original development assets today.

14 And as I mentioned, those are contingent
15 development transfer agreements, wherein, in the event
16 several conditions precedent throughout the course of
17 this year come to fruition, we would ultimately close on
18 a set of development assets, which would include the
19 interconnection queue agreements.

20 Q. In the event that the commission does not
21 approve this and the company decides not to go forward
22 with these projects, does the company still intend to
23 seek recovery for those dollars that were expended on
24 the development transfer agreement options?

25 A. I would presume that if the company did not --

1 well, if approvals were not received and the company did
2 not choose to go forward in any context with respect to
3 Utah, in that hypothetical, I would not assume that we
4 could recover those costs because they were -- would not
5 be used and useful.

6 MR. JETTER: Thank you. I have no further
7 questions.

8 CHAIRMAN LEVAR: Okay. Thank you. Mr. Moore.

9 CROSS-EXAMINATION

10 BY MR. MOORE:

11 Q. Hello, Mr. Teply.

12 A. Hello.

13 Q. May I direct your attention to lines 318 and
14 323 of your May 15th, 2018, surrebuttal testimony?

15 A. I'm there.

16 Q. You stated that you do not agree with the
17 office's witness, Commissioner Hayet's suggestions that
18 the commission place various conditions on preapproval
19 of the project, and categorize suggestions conditions as
20 unnecessary, unprecedented, unsupported and setting
21 positions that go well beyond the existing regulatory
22 compact.

23 Did I state your testimony correctly?

24 A. That's what I stated, yes.

25 Q. Do you want me to repeat that? Are you aware

1 that Utah code section 54-17-302(5)(b) provides the
2 commission has the option to approve the significant
3 energy resource decisions subject to conditions proposed
4 by the commission?

5 A. That sounds correct, subject to check.

6 Q. Now, may I direct you to your May 15th,
7 surrebuttal testimony, lines 88 and 99 -- 88 and 90.
8 I'm sorry.

9 A. One more time. Sorry, I lost you.

10 Q. Your May 15th, 2018, surrebuttal testimony,
11 lines 88 through 90.

12 A. I'm there.

13 Q. You stated that the company's condition --
14 "The company conditionally guarantees to provide PC
15 eligible wind projects to achieve -- to activities for
16 which the company can control, clearly noting exceptions
17 for force majeure and changes in law." Is that correct?

18 A. That's correct.

19 Q. Did you hear Ms. Crane's testimony yesterday
20 stating that that guarantee is also provided to your
21 contracting partners, for their failures to -- to -- a
22 failure that results in the loss of PATs that does not
23 constitute a force majeure -- force majeure or a change
24 in law?

25 A. I did hear Ms. Crane's testimony regarding

1 force majeure and contractor requirements.

2 Q. Would you agree with me that I correctly
3 summarized her testimony?

4 A. Subject to check, in general, I believe that
5 was the concept that Ms. Crane committed to.

6 Q. Now, may I direct your testimony to your
7 January 16th, 2018, supplemental direct and rebuttal
8 testimony, lines 363 to 365?

9 A. I'm there.

10 Q. This may be easier if I have you read those
11 two lines. Starting with the company anticipates that
12 substantial completion.

13 A. "The company anticipates that substantial
14 completion for the wind projects under normal
15 construction circumstances, weather conditions, labor
16 availability, materials delivery, will be achieved by
17 November 15th, 2020, or as otherwise updated during
18 detail negotiation of project contracts, schedules and
19 implementation plans, with each of the short-listed wind
20 project counterparties."

21 Q. Now, could look at your February 16th, 2018,
22 second supplemental redirect testimony?

23 A. Okay.

24 Q. Lines 193, 195. Again, you stated, "The
25 company anticipates a substantial completion for the

1 Ekola Flats project under again normal construction
2 circumstances, weather conditions and labor
3 availability, and materials will be achieved by November
4 15th, 2020." Is that correct?

5 A. That's correct.

6 Q. It's true, isn't it, that a number of
7 circumstances could arise that vary from normal
8 construction, weather and labor and material
9 availability conditions?

10 A. Yes, absolutely. And that's why when I
11 referred to those two excerpts as you noted, the dates
12 that I have provided are November 15th, versus the end
13 of the year, the intent of which really as we are
14 negotiating with our contracts is to provide some float
15 in the construction contracts, recognizing that on major
16 projects things like weather, delivery slips, those
17 types of things must be considered and accommodated
18 going into the contracting phase.

19 So that's why we established the dates that I
20 have and -- in testimony and we'll continue to finalize
21 those dates with our contractors.

22 Q. Is it your contention that a weather condition
23 or a material availability condition that deviates from
24 normal would be subject to the company's guarantee for
25 providing PTCs?

1 A. No. I think as we have testified, any -- any
2 activities that are within our control, other than force
3 majeure and change in law, would be the exclusions
4 there. I would say, when we define the term force
5 majeure as we have included in the pro forma contract,
6 for example, the EPC in my exhibits has a definition of
7 force majeure. Normal events are, you know, anything
8 that cannot otherwise be defined as force majeure, would
9 fall under the category company controlled and/or
10 contractor controlled events in that regard.

11 **Q. Thank you. Now, taking a different track now.**
12 **May I direct you to your January 16th, 2018,**
13 **supplemental and direct and rebuttal testimony?**

14 A. Okay.

15 **Q. Line 159 through 161.**

16 A. I am there.

17 **Q. You stated "That the company's targeted the**
18 **date of April 16th, 2018, for the execution of**
19 **definitive agreements regarding the TB Flats 1 and 2 and**
20 **the Cedar Springs projects." Is that your testimony as**
21 **of January 16th, 2018?**

22 A. Yes. That was the testimony at that time.
23 Obviously, we have updated those dates to align with the
24 regulatory schedules that we now have before us as I
25 discussed in my summary.

1 Q. I am going to walk us through these changes
2 for a second here. So you can bear with me please?

3 A. Sure.

4 Q. Thank you. Now, may I direct your attention
5 to your February 16th, 2018, second supplemental direct
6 testimony, lines 89, 93.

7 A. I am there.

8 Q. And again, you testified that your
9 negotiations to finalize the terms and conditions of the
10 target for executing definitive agreements for the --
11 I'm paraphrasing here, for the EPC and TSA -- and TSA
12 contracts by April 16th, again, to align with -- and
13 this time you mentioned to align with the ongoing
14 regulatory review process. Is that your testimony, as
15 of February 16th?

16 A. As of February 16th, yes.

17 Q. Directing your attention to your May 15th,
18 2018, surrebuttal testimony, lines 204, 220.

19 A. I am there.

20 Q. Your testimony is, well, April 16 has passed
21 without the execution of definitive agreements for DPTC
22 contracts for TB Flats 1 and 2, and Ekola Flats are now
23 scheduled for execution on May 31st, 2018. And the TSA
24 contracts are scheduled for execution June 15th, 2018.
25 That's your testimony as of May 15th, 2018, correct?

1 A. Yes. As I stated in my summary, we have
2 adjusted the schedules for targeted dates for contract
3 executions based on the changes that occurred from early
4 in the year to today, or to the May 15th filing, amongst
5 the various regulatory proceedings that ran across our
6 various states.

7 Q. My question to you is, what regulatory
8 proceeding was the commission unaware of at the time of
9 your February 16th testimony, when you stated -- when
10 you stated the April 16th, deadline for executing
11 definitive agreements aligned with ongoing regulatory
12 review proceedings that you became aware of after the
13 16th testimony after -- excuse me. I'm going to start
14 that over.

15 That you became aware of after your February
16 16th testimony before your May 15th testimony?

17 A. Yeah. So the procedural schedules in Wyoming,
18 I am trying to think back. I don't have the dates off
19 the top of my head with respect to when we adjusted
20 procedural schedules in Utah, with respect to hearing
21 dates and so forth and ultimately assumed order dates.

22 But early in the year, as we made our filings
23 in January and February, parties had requested in
24 certain instances more time to review certain
25 information. So we amended procedural schedules across,

1 I think all three of our states post-February, subject
2 to check on those dates.

3 And then we engaged our counterparties and
4 requested extensions of bid validity periods from that
5 April 16th time frame that we had originally prescribed,
6 not only in the 2017R RFP but also in our parallel path
7 commercial engagements, and requested extensions from
8 those counterparties to allow us to receive the results
9 of the R -- of the regulatory reviews.

10 And as I mentioned in my summary, so that we
11 could incorporate any outcomes into any definitive
12 binding agreements prior to their execution, and not to
13 preempt an assumed outcome from our regulators.

14 **Q. In your May 15th, 2018, surrebuttal, lines 193**
15 **to 196 -- oh, I just. I'm sorry. That's a bad quote.**
16 **Bad cite.**

17 **The -- I understand -- did I understand your**
18 **testimony that the definitive agreements are set for**
19 **June now?**

20 **A. Yes. With the testimony you were just**
21 **referring to, lines 204 through 220 in my May testimony,**
22 **I list the various dates for the various agreements by**
23 **project, as to what we are currently targeting. Here**
24 **again, as we discussed in response to some commission**
25 **questions earlier today, I believe it was today, we do**

1 have some remaining flexibility there.

2 In the event we don't receive all orders, we
3 are currently engaged with our counterparties to be
4 flexible, if we are talking about a few days one way or
5 the other. So I would say, you know, that testimony
6 could be changed and altered, depending on when orders
7 would ultimately be received as we communicated, I
8 believe, to the commission earlier today. I think that
9 was today.

10 MR. MOORE: Thank you. That's all I have.

11 CHAIRMAN LEVAR: Okay. Thank you, Mr. Moore.
12 Mr. Russell.

13 MR. RUSSELL: Thank you, Chair LeVar.

14 CROSS-EXAMINATION

15 BY MR. RUSSELL:

16 Q. I've got some questions that kind of piggyback
17 on what we were just talking about. I think it will
18 help if we focus on pages 9 and 10 of your surrebuttal
19 testimony.

20 A. Okay. I'm there.

21 Q. On pages 9 and 10 you discuss in this sort of
22 bullet pointed form the progress and anticipated dates
23 for certain contracts related to the TB Flats 1 and 2,
24 Ekola Flats and Cedar Springs projects, right?

25 A. That's correct.

1 Q. And I -- I want to understand where things
2 stand now so that we can understand what needs to happen
3 between now and some of these dates that you have got
4 that are set out in the future. Because the TB Flats 1
5 and 2 and Ekola Flats have kind of identical dates and
6 formats, maybe we can talk about those together. Both
7 of those indicate firm price EPC and TSA offers received
8 complete, but they also indicate that executable EPC and
9 TSA contracts will be done sometime in the future. Do
10 you see that?

11 A. I do.

12 Q. And tell me what needs to be done between now
13 and, say, June 15th to get to a point where you can have
14 an executable TSA for each of those projects.

15 A. So for the TB Flats and Ekola Flats projects
16 that we have listed, the TSA agreement by June 15, the
17 reason I have a lag between the May 31st date for the
18 executable EPC contract and the follow-on June 15th TSA
19 contract is that in the event we have some sort of a
20 schedule outcome from the regulatory proceedings, we
21 have effectively negotiated the contract terms for both
22 the EPC and the turbine supply agreements.

23 But we are leaving open the potential need to
24 align delivery dates amongst the schedules. Obviously,
25 the EPC contract is contingent upon timely receipt of

1 turbines so that they can meet their obligations under
2 the EPC contract. And then we need to be able to hold
3 the turbine supply agreement -- or the turbine supplier
4 accountable for delivery schedules.

5 So I'd say primarily the remaining terms to be
6 negotiated are delivery schedules for equipment. We
7 have effectively exchanged the rounds and rounds of red
8 lines, where applicable, to the form contracts for EPC
9 and the TSA. So from an agreement perspective, we've
10 largely come to terms.

11 I would say, however, that the counterparties
12 in certain instances, depending on the amount of lag, in
13 the event we don't receive approvals, as I mentioned
14 earlier, bid validity periods do expire. And in the
15 event they expire, that can change schedules, which are
16 exhibits to contracts, terms, pricing, those types of
17 things.

18 So I would say that the items that remain to
19 be completed are largely those that are contingent upon
20 receiving approvals and then being able to finalize the
21 details of the interactions between an EPC contractor
22 and a turbine supplier with respect to TB Flats 1 and 2
23 and Ekola. Sorry.

24 **Q. So those additional terms that need to be**
25 **finalized, between now and whenever the contracts become**

1 **executable, those additional terms could be terms upon**
 2 **which the -- your counterparty could decide they no**
 3 **longer want to be a part of this contract, right?**

4 A. In the event we don't receive approvals, I
 5 would say, you know, I think there are potentials for
 6 changes there. Counterparties are obviously watching
 7 our regulatory proceedings very closely, as you can
 8 imagine.

9 We -- we have engaged the market, but
 10 ultimately, you know, if you do not receive approvals,
 11 it is -- there is a potential that the terms do change,
 12 and that's largely why we have attempted to enter into
 13 good faith negotiations, take them as far as we can, but
 14 recognize the fact that we still are subject to
 15 regulatory reviews and approvals.

16 And in trying to maintain that -- that status,
 17 if you will, with the counterparties. And as I
 18 mentioned earlier, not preempt or presume commission
 19 outcomes, regulator review outcomes by signing --
 20 signing binding agreements and potentially commercial
 21 commitments prior to receiving those approvals.

22 **Q. And if -- if the company hasn't entered into**
 23 **those commitments, neither have your counterparties,**
 24 **right?**

25 A. So the counterparties, as I mentioned, with

1 bid validity periods and so forth, they have engaged the
2 competitive market for things like steel, aluminum,
3 copper. So we do know where they stand with respect to
4 the current bid validity periods, but without binding
5 agreements, they have not procured equipment, those
6 types of things.

7 Q. And I guess the direct point I am asking about
8 is, if, you know, for some reason the -- your
9 counterparty on the TSA contract for Ekola Flats
10 decides, setting aside the -- whatever ruling we get
11 from this commission on this issue, that they decide
12 they want to walk; maybe turbine costs are higher, steel
13 costs are higher, whatever it is, they could walk
14 tomorrow if they decided it was in their commercial best
15 interest?

16 A. I would say any party, until there is a
17 binding agreement, could walk if that's the term of art
18 today. I would also mention that we also, obviously, as
19 I mentioned earlier, we did go to the competitive
20 market. We short-listed EPC contractors. We
21 short-listed turbine equipment suppliers. So I think
22 the risk then becomes, do you go to your next best bid
23 and finalize negotiations there.

24 Q. Okay. And I appreciate you walking through
25 this with me. I -- in your testimony in this -- we can

1 get to the direct quote if we need to, but you indicate
2 that the projects will have robust risk mitigation
3 provisions in them.

4 And I guess my question about that is, that's
5 your anticipation that the projects will have -- that
6 the contracts you intend to sign with EPC TSA, ETA
7 agreements, that they will have those risk mitigation
8 measures that you testified about. But until there's --
9 those contracts are signed, those risk mitigation
10 measures can't be enforced, right?

11 A. I can't enforce an agreement that I haven't
12 signed. But as I mentioned earlier, the parties that
13 were engaged with -- are engaged in the process, they
14 are looking forward to moving forward with these
15 projects. So I don't see that as a -- as a major risk.

16 But in the event we -- as I also mentioned, we
17 have intentionally not signed these agreements. But
18 there is always that risk that a counterparty does
19 remove itself from a competitive offering, and as I
20 mentioned earlier, our next step or our work-around in
21 that regard would be to go to the next bidder.

22 Q. Okay. Thank you. I want to switch gears here
23 for a second. My next question may require us to give
24 you a copy of the Utah independent evaluator's report.
25 But we'll see where we get. Have you reviewed that

1 report?

2 A. Yes, I have.

3 Q. Okay. There was a provision in there, and
4 it's on page 85 of the redacted -- excuse me, the
5 unredacted confidential version, that there's a bullet
6 point in the recommendations that discussed the
7 potential for one of the projects to have a lower wind
8 generation outcome than is anticipated. Do you recall
9 that?

10 A. Yes, I do. The -- and if I am not mistaken,
11 it's the TB Flats 1 and 2 project. Does that sound
12 right?

13 Q. Okay. I think that's right, although I think
14 that part was redacted, but I'm not sure if that's --

15 A. When we're going by memory, I don't know what
16 was redacted.

17 MS. MCDOWELL: Let me just hand you a copy.

18 MR. RUSSELL: I don't know whether it was or
19 not.

20 Q. (By Mr. Russell) So yeah, let's turn -- it's
21 page 85 of that one.

22 A. I'm there.

23 Q. Okay. And I think the bullet starts "a common
24 occurrence in the wind industry." Do you see that?

25 A. Yes, I do.

1 Q. Okay. And I don't intend to read the whole
2 thing, but if you -- and if you need to read it before
3 you answer this question, go ahead, but my question
4 relates to the IE's concern about a project having --
5 the representation that the wind generation from that
6 project will be greater than what is, you know, realized
7 in real life.

8 And my question to you is, what -- what
9 provisions of the agreements seek to mitigate those
10 risks, if any?

11 A. Okay. So with respect to those risks, the
12 risks that we are talking about are wake losses, and
13 with respect to that given project, there is an upstream
14 project that we own and operate. I won't name it, even
15 though I already did. But there's an upstream project
16 that is known. We have assessed that wake effect from
17 that upstream project, not only in the report that's
18 mentioned here -- let me see if it's redacted.

19 Q. No.

20 A. No. The superior report. But also in our
21 original work that we did to assess the wind regime on
22 TB -- on that project with Blackened Beach. So we have
23 looked at the wake effects. We feel that that risk can
24 be mitigated.

25 I think it's also important to note that the

1 typical way of mitigating any additional effects is as
2 we get into micrositing of individual turbines, we'll
3 continue to rely on wind assessments. It's not a
4 one-time deal. We have obviously, based on our
5 proposals and so forth on those initial assessments, but
6 as we get into micrositing, we will be looking at that
7 very closely, because obviously we're very familiar with
8 that upwind farm.

9 **Q. Sure. In the agreements that you are**
10 **contemplating, we talked a little bit earlier about the**
11 **TSA, the EPC contracts. Are there any provisions in**
12 **those agreements that can help mitigate the risks that**
13 **the IE is talking about in this bullet pointed**
14 **paragraph?**

15 **A. Yeah. I think the provisions in the contracts**
16 **that help mitigate their risks from a cost and**
17 **performance perspective, when you go into micrositing,**
18 **obviously there are -- there's bandwidth around what the**
19 **original proposal contemplated. There's mechanism**
20 **within which to submit updated layouts.**

21 If there is a perceived change in work, for
22 example, to relocate a turbine, we'll look at the
23 offsetting costs. Did we save collector system costs
24 versus a relocation? Did we save on foundation costs
25 for an individual turbine? So the protections and the

1 mitigations largely would be managed via the change in
2 work provisions in the contract.

3 I don't know that that completely mitigates
4 the risk. I think the main focus is the fact that we
5 have two -- two reports out of two independent wind
6 assessments firms that have assessed the wind
7 performance. And then as I mentioned, as we get into
8 micrositings, we'll take one more look at it, and that
9 really becomes your risk mitigation for the long-term
10 operation of the facility. That micrositing effort is
11 important to us.

12 MR. RUSSELL: Okay. Thank you. That's all I
13 have.

14 CHAIRMAN LEVAR: Okay. Thank you,
15 Mr. Russell. Mr. Baker.

16 MR. BAKER: Thank you.

17 CROSS-EXAMINATION

18 BY MR. BAKER:

19 Q. Good afternoon Mr. Teply.

20 A. Good afternoon.

21 Q. I want to quickly follow up on a question
22 about clean power plan. Are you aware that the Supreme
23 Court has stayed the rule that's known as the clean
24 power plan?

25 A. Absolutely.

1 Q. And are you aware that the current
2 administration, through the EPA, has proposed the repeal
3 of that stayed clean power plan?

4 A. Yes. I helped submit comments on that from
5 Berkshire Hathaway Energy.

6 Q. All right. Moving to another issue here
7 quickly, the robust mitigation measures that you speak
8 of in the contract, those are in the various -- those
9 are ultimately, will be determined by the executable
10 contracts; is that correct?

11 A. Yes. The terms and conditions as included
12 originally in the pro forma agreements that I have
13 attached as exhibits ultimately are negotiated kind of
14 line by line, if you will. Particularly the -- those
15 around, you know, significant provisions like force
16 majeure, indemnity, performance guarantees, the types of
17 terms we have in those agreements, and then we
18 actually -- we ultimately capture the agreement in the
19 executed documents.

20 Q. And so the -- the version that's currently --
21 that have been submitted as part of the record are just
22 the pro forma contracts; is that correct?

23 A. Yes. As I mentioned, we've intentionally not
24 submitted nor finalized our definitive agreements at
25 this point. We have negotiated them to the point that

1 we can deliver on the dates that I have in my testimony,
2 but we have not included the executed contracts as of
3 yet, because they are not executed as of yet.

4 **Q. But so the revised versions that have gone**
5 **through numerous red lines, those are not -- where you**
6 **sit today, those revised terms and conditions are not**
7 **available for -- for review by any party or the**
8 **commission today, are they?**

9 A. If they would have been requested, we would
10 have provided them under highly confidential
11 protections, but largely because they were still being
12 negotiated, we have not made them available. Not that
13 we wouldn't have made them available if requested.

14 **Q. They are not in the record though for the**
15 **commission to review today, are they?**

16 A. Not at this time. You know, we have followed
17 a very similar path with respect to this significant
18 energy resource decision docket as we did, for example,
19 with the Jim Bridger 3 and 4 SERS, where we ran a
20 parallel path, request for proposals process.

21 We entered into this process recognizing the
22 timing required, and ultimately I think in that docket,
23 and subject to check, effectively were approved
24 conditionally upon ultimately submitting those contracts
25 for final reviews at the appropriate time, after they

1 had been executed.

2 Q. So -- so the answer is no, they are presently
3 not available, and that leaves us taking your word that
4 they are robust mitigation measures, correct?

5 A. To the extent that you have reviewed the pro
6 forma documents that are in the exhibits in my -- in my
7 testimony, I would say the final agreements remain
8 material -- materially consistent. But as you -- as
9 anyone that's negotiated a contract can imagine, there
10 have been rounds of red lines on specific terms and
11 conditions, but I'd say materially consistent. So from
12 a take my word for it, I would refer you to the pro
13 forma contracts that we have provided.

14 Q. And so we can't verify either the robustness
15 or that they are materially consistent at this point;
16 can we?

17 A. Only via the discovery opportunities that I
18 mentioned earlier.

19 Q. I want to go in -- while we're talking about
20 contracts, ask you about force majeure. And, you know,
21 I think you said that, and Mr. Vail testified about two
22 construction windows, or two construction seasons puts
23 it tight, but perhaps adequate to meet the 2020
24 deadline; is that correct?

25 A. Yes. We believe the remaining construction

1 schedules, the two construction seasons for the
2 transmission in particular, remain appropriate to
3 deliver the projects by 2020.

4 Q. And so hypothetically speaking, if there is a
5 forest fire that significantly disrupts one of those
6 construction schedules -- one of those construction
7 seasons or actually removes it all completely, would you
8 view that as a force majeure event?

9 A. I wouldn't -- with the right-of-way that we
10 have prescribed, as well as the wind farm sites that we
11 have identified, a forest fire is not a concern. But
12 for that hypothetical, I would mention that I would say
13 depending upon the impact, the original cause, each
14 force majeure potential event is reviewed on a
15 circumstance-by-circumstance basis.

16 While I don't think that's a good hypothetical
17 in this instance, in the event an event similar to a
18 forest fire was deemed to be a force majeure, pursuant
19 to the force majeure contract terms, we would bring that
20 back to the commission as we have committed to do.

21 Q. I guess a forest fire isn't a good example
22 because of the -- of a force majeure event because of
23 the rights-of-way and some of the other things that you
24 mentioned. Are you then testifying that forest fires
25 are within -- or insulation from forest fires are within

1 **your control?**

2 A. No. That's not what I testified to. I think
3 the main point being force majeure is defined in each
4 contract. We have an example of force majeure
5 definition in the contract in my exhibits, if we would
6 like to read through that.

7 But my point being, a force majeure event will
8 first be defined by the individual contract and force
9 majeure definitions are not that -- are very somewhat
10 boilerplate, contract to contract. I think you do get
11 some negotiation around particularly, you know, site
12 specific type of events.

13 So I would -- I would just go back to force
14 majeure perspective. It will be defined in the
15 contract. We will administer force majeure pursuant to
16 those terms, and we would bring such an event to the
17 commission if it was not commercially resolvable and
18 became a material issue for the commission to weigh in
19 on.

20 **Q. So switching gears here briefly. So**
21 **yesterday, I was asking Cindy Crane about the company's**
22 **risk tolerances in kind of arm's length negotiations.**
23 **And one of the examples I want to use was your build**
24 **transfer agreements that you reference in your**
25 **testimony. So we deferred that question until today.**

1 And I think during -- you said that BTAs
2 reflect an arm's length transaction; is that correct?

3 A. BTAs arm's length with respect to PacifiCorp's
4 direct access to the constructors and the equipment
5 suppliers. Obviously our contract under a build
6 transfer is with the developer or the project proponent.

7 Q. Can I turn your attention to Exhibit CAT4SS-8.

8 A. CAT4SS?

9 Q. Yes, 4SS. More specifically, page 28 of that.

10 CHAIRMAN LEVAR: Let me just clarify. Page 28
11 from what's at the top right of the page?

12 MR. BAKER: Yeah. Page 28 to 117.

13 CHAIRMAN LEVAR: Okay. Thank you.

14 Q. (By Mr. Baker) And I'm not sure if the -- I'm
15 looking at what was filed with the redacted version. So
16 just to -- I want to be talking about -- or ask some
17 questions about section 4.5 of the build transfer
18 agreement, and I believe that's page 17 of your BTA.

19 A. I'm there.

20 Q. You are there. So this section pertains to
21 developer permits and developer regulatory approvals; is
22 that correct?

23 A. Yes, it is.

24 Q. And the definition starting in paragraph 8
25 sets forth that all permits required by law, and I'm

1 paraphrasing here, with the design, engineering,
2 development, construction, start-up, testing, commission
3 and completion, ownership and operation of the project,
4 in accordance with this agreement and other project
5 documents are developer permits; is that correct?

6 A. That is the language that we just looked at.

7 Q. And I -- you know, will ask if you will agree
8 that the definition of permit under these PTAs means any
9 authorization, approval or consent. It goes on and
10 related to any governmental authority. That
11 unfortunately is in Appendix Z. I am happy to read the
12 whole thing or give you a copy of Appendix Z if you
13 would prefer.

14 I don't -- and I believe that at least the
15 version that was put online, Appendix Z was one of those
16 that was just referenced in the hyperlink to the RFT
17 documents, it was not actually included into the record.

18 Do you know, did Rocky EMD -- or did
19 PacifiCorp in its formal filing submit all of the
20 exhibits, or just the ones that were included in the
21 online filing? And I ask just to know if I need to
22 incorporate this into the record?

23 A. Yeah. I am not sure I know the answer to
24 that, but I believe we incorporated the form of the
25 agreement, maybe not Exhibit Z. I am not sure.

1 Q. Actually, at this point if Mr. Teply will just
2 read into the definition of permit. I probably don't
3 need to mark it.

4 A. So do you want to refer to section 4?

5 Q. I'm sorry. The BTA Appendix Z, please read
6 the definition of permit.

7 A. The permit definition reads, "It means any
8 authorization, approval, consent, waiver, exception,
9 variation -- or sorry, variance, order, publication,
10 license, filing, registration, ruling, permit, tariff,
11 certification, exemption and other action required by,
12 or with and noticed to and declarations of or with any
13 governmental authority."

14 Q. Thank you. Now, would you -- would you
15 stipulate, I suppose subject to check, that that
16 definition of permits is what's used to modify the
17 definition of developer permit in section 4.5 A?

18 A. Yeah. So I think section 4.5 A reads,
19 "Schedule 4.5 A sets forth all permits required by," and
20 skipping the hypothetical or the parenthetical there,
21 "required by applicable law in connection with the
22 design, engineering, development, construction,
23 start-up, testing, commissioning, completion, ownership
24 and operation of the project in accordance with this
25 agreement and other project documents."

1 So there's a schedule, 4.5 A that we haven't
2 looked at.

3 Q. Correct. But permits is a capital term, and
4 in the first line on subparagraph A, permits is
5 capitalized, correct?

6 A. Yes. Permit is capitalized, but the driver
7 here would be schedule 4.5 A.

8 Q. The schedule would set forth the specific
9 permits. But permits does -- is defined in the Appendix
10 Z that you just read, correct?

11 A. Yeah. Permits is broadly defined, and then
12 schedule 4.5 A is intended to limit that list.

13 Q. Thank you. If we move to subparagraph B, that
14 defines -- that says, "All developer permits" -- I'll
15 skip some of the standard, "are in full force and effect
16 and are final, and all appeal periods with respect
17 thereto have expired and terminated." Is that correct?

18 A. Yes. I would just continue to say, that is
19 with respect to the permits identified in schedule 4.5
20 A, which we don't have here.

21 Q. "And there is no action, suit, investigation
22 or proceeding pending, or to developer's knowledge
23 threatened that could result in the modification,
24 rescission, termination or suspension of any developer
25 permit obtained prior to the date this representation is

1 made or deemed made pursuant to this agreement."

2 Did I read that correctly?

3 A. Yes. You have read it correctly as it
4 pertains to the developer permits on schedule 4.5 A.

5 Q. Sure. And so if -- if the RFP was a developer
6 permit, this -- and Rocky Mountain Power was the
7 developer, Rocky Mountain Power would not be able to
8 make this representation, would it?

9 A. It depends on what would be listed on schedule
10 4.5 A as a developer permit.

11 Q. So if an agreement between Rocky Mountain
12 Power and the rate payers, the rate payers put on
13 schedule 4.5 the request for approval -- the RFP
14 solicitation approval order out of docket 170 --
15 17-035 -- I believe it was 23, and because that order is
16 on appeal, Rocky Mountain Power could not make this
17 representation, correct?

18 A. Under that set of hypothetical circumstances,
19 that would be correct.

20 Q. Would you agree with that me that the RFP is
21 integral to the -- that the RFP approval was a necessary
22 step in moving forward in this development process?

23 A. I would say the RFP approval is a very
24 important step in moving ahead with this approval
25 process, yes.

1 Q. You couldn't have proceeded with this RFP
2 solicitation without the approval of the RFP, correct?

3 A. I -- I don't believe so. But I would -- I am
4 subject to check on that.

5 Q. Well, it -- you said it was a very necessary,
6 or it was a material component of the steps that you
7 have gone through to present the specific request for
8 approval of your research decision, correct?

9 A. Correct, that is what I said. If we're trying
10 to correlate this to the permits, though, under this
11 contract, that's not the same.

12 Q. I am not trying to correlate the RFP appeal to
13 the permits that the developers that are your -- your
14 counterparties in a BTA are. I am trying to say that in
15 such -- what this says to me is, you would not accept an
16 appeal risk from your developers, your counterparties,
17 if that developer permit was -- was necessary for the
18 project to proceed. Is that what section 4.5 says to
19 you?

20 A. Required to construct is what it says to me.

21 Q. In connection with the start-up, testing
22 design, engineering. That solely relates to just the
23 ability to construct, not all of the approvals to get up
24 to the ability to start constructing?

25 A. The way I interpret section 4.5, developer

1 permits is -- is clearly targeted at construction
2 related operational permits, permits that are required
3 to begin construction and/or operate the facility. I'm
4 not sure I am tracking your question here.

5 **Q. Would this include things -- a governmental**
6 **authorization such as a cultural resources review?**

7 A. If that cultural resources review was required
8 to issue a permit to construct, I would say that would
9 be a -- that would be included in schedule 4.5 A as
10 defined in this contract.

11 **Q. So if there was a step that was necessary to**
12 **get to the -- government authorization that was**
13 **necessary in order for you to proceed to a construction,**
14 **that would be in schedule 4.5?**

15 A. If it was required for me to be allowed to
16 construct.

17 **Q. So you would not accept the appeal risk of**
18 **something that material to the project, would you?**

19 A. If I clearly have a requirement to construct,
20 I will make sure that the developer is not subject to
21 appeal prior to beginning to move dirt, for example,
22 because that is a requirement to have that permit in
23 hand prior to starting construction.

24 **Q. But you are asking the rate payers here to**
25 **take a risk on something that was necessary before you**

1 **could even begin the process to get to putting a shovel**
2 **in the dirt; is that correct?**

3 A. Which risk are we talking about?

4 **Q. The RFP appeal that is currently pending.**

5 A. I don't see the RFP appeal as a permit to
6 construct. I guess that's the correlation I am not
7 trying.

8 **Q. You don't see the RFP as a necessary step in**
9 **this process that will eventually allow for you to begin**
10 **construction, if it is approved?**

11 A. As I mentioned before, I do see it as a
12 necessary step. What I am delineating here is, I don't
13 see it as a requirement to begin construction, per se.
14 I see that as being more in the -- in the ilk of the
15 regulatory review, the approval of our regulator, and
16 the indication as to how this project would ultimately
17 be included in rates in this example in the state of
18 Utah.

19 **Q. Are you saying you do not need the regulatory**
20 **approval of the solicitation process to proceed with the**
21 **construction of this project?**

22 A. That's not necessarily what I am saying. But
23 what I am saying is, I don't see the approval of the RFP
24 as a permit to construct.

25 **Q. I am not asking if it's a permit to construct.**

1 MR. LOWNEY: Objection. I think the question
2 has been asked many times in many different ways, and
3 the answer is the same from Mr. Teply every time. I'm
4 not sure we're getting anything new.

5 CHAIRMAN LEVAR: Do you want to respond to the
6 objection?

7 MR. BAKER: Well, I believe he is trying to
8 evade the question. I was -- when I was trying to cross
9 Ms. Crane, I was asking generally about the contracting
10 positions of the company and was told to speak with
11 Mr. Teply. Now Mr. Teply is evading the question by
12 trying to drive to a very specific, this contract only
13 applies to a very narrow area of construction.

14 I still have not gotten an answer about the
15 company's broader acceptance of appeal risks when it has
16 third party negotiations. And so I feel he is trying to
17 avoid the question.

18 CHAIRMAN LEVAR: I think I am going to rule
19 that Mr. Teply has answered the question to his -- to
20 his best knowledge and opinion. I do think we get the
21 point also on the record. But I am not inclined to
22 force Mr. Teply to answer in a different way than he has
23 so far.

24 MR. BAKER: I have no further questions.
25 Thank you.

1 CHAIRMAN LEVAR: Thank you. Any recross? I
2 mean, sorry, redirect.

3 MR. LOWNEY: We have no redirect.

4 CHAIRMAN LEVAR: Okay. Thank you.
5 Commissioner White, do you have any questions?

6 COMMISSIONER WHITE: No questions. Thank you.

7 CHAIRMAN LEVAR: Commissioner Clark.

8 EXAMINATION

9 BY COMMISSIONER CLARK:

10 Q. Good afternoon, Mr. Teply.

11 A. Good afternoon.

12 Q. Forgive my lack of immediate recall of this
13 material.

14 A. Me too.

15 Q. But the development transfer agreements, the
16 financial arrangements associated with them, relative to
17 TB Flats and the Ekola, or I mean -- yeah, TB Flats and
18 Ekola Flats projects, are those costs, I'll call them,
19 or financial commitments, are they in the record in any
20 of the confidential material that we have from the
21 company?

22 A. They would be the -- the costs associated with
23 the development transfer agreements are incorporated
24 into our cost, the benchmark projects cost summaries.
25 I'd have to double-check which exhibits.

1 Q. What I am asking is if they are called out.

2 A. Whether they are line item?

3 Q. Right.

4 A. I would have to double-check. I know they are
5 included in -- I have the rollup costs of the individual
6 projects included in the exhibit. I would need to
7 double-check the broader sort of exhibits to find, did I
8 get a line item on individual DTA costs.

9 Q. Okay.

10 A. I'm not certain that I did.

11 Q. Uh-huh. If that's a quick thing to do, but as
12 you go there, let me tell you what my next set of
13 questions are. I -- because I'd like you to point me to
14 the place in the record where, if the commission wanted
15 to identify by specific project some -- the contract
16 amount, by -- which would be a condition of our approval
17 or something like that.

18 In other words, you -- you have identified,
19 here is -- here is the amount of the -- of the TSA
20 agreement. Here is the amount of -- or the value of the
21 EPC agreement relative to this particular facility or
22 unit. Where will I find the numbers that are the
23 current state of your expectations?

24 A. Okay.

25 Q. Does that make sense to you?

1 A. I understand your question.

2 **Q. Probably in the same place as the other.**

3 A. I'll need to look, yes.

4 COMMISSIONER CLARK: Okay. So maybe we can go
5 off the record for a moment while he does that, if
6 that's all right.

7 CHAIRMAN LEVAR: Sure. About how long do you
8 think?

9 THE WITNESS: Just a few minutes. I think I
10 just need to flip through this book.

11 CHAIRMAN LEVAR: Okay. Should we just sit
12 here while you do it?

13 THE WITNESS: That's fine.

14 CHAIRMAN LEVAR: Is there any reason to
15 recess?

16 THE WITNESS: I think I can do it -- I've got
17 rollups in my exhibits. I was going to check with
18 Mr. Link to see. He's got them probably in his rollups
19 so...

20 CHAIRMAN LEVAR: Maybe we should just take a
21 brief recess then. Why don't we take 10 minutes, then
22 we'll reconvene in 10 minutes.

23 THE WITNESS: Yep.

24 (Recess from 3:57 p.m. to 4:08 p.m.)

25 CHAIRMAN LEVAR: Okay. I think we're back on

1 the record, and I think Commissioner Clark wanted to
2 make a brief clarification to his question.

3 Q. (By Commissioner Clark) I was a little vague.
4 But, and please don't read more into my question than --
5 you would make a mistake if you did read more into any
6 of my questions than I'm intending.

7 But what I am attempting to do is, I am
8 envisioning a scenario in which the commission wants to
9 condition approval on at least the execution of
10 contracts that have the values and the terms that you
11 had represented in the -- in your testimony, or the
12 record generally, and that you based -- that is the
13 company has based its economic analysis on.

14 A. Uh-huh.

15 Q. So that's -- so I just want to know, in --
16 where we can exactly find the current state of play of
17 those items?

18 A. Okay. Okay. So I think when we have looked
19 at the various exhibits between my testimony and
20 Mr. Link's testimony, and the best rollup of those
21 costs -- now, I don't think it's to the level of detail
22 you are looking for.

23 Q. Right.

24 A. The best rollup of those costs is my Exhibit
25 CAT-5SS. And would I just explain that exhibit provides

1 project-by-project costs.

2 Q. Oh, good.

3 A. What it doesn't do is then break my individual
4 project costs down into individual line items, for
5 example --

6 Q. Sure.

7 A. -- EPC, term and supply agreement, development
8 transfer agreement. We did submit that information as
9 part of the RFP process. So we have that information,
10 but we haven't submitted it as an exhibit, primarily
11 because it's highly confidential, and it literally lists
12 my bid price --

13 Q. Uh-huh.

14 A. -- for turbine supply agreement, EPC
15 agreement, et cetera. So we could produce that. It
16 would need to be retained under a level of highly
17 confidential protection, only for those line items,
18 because they effectively set the price that we have paid
19 for those individual contracts for the individual
20 projects.

21 So I have the rollup by project, but the
22 detail underneath that is available. We just haven't
23 submitted it because of the sensitivity of that
24 information.

25 Q. And the state of the art pro forma agreements

1 **that I think you have told us you expect will be**
2 **materially the same?**

3 A. Right.

4 **Q. When executed?**

5 A. Yes. Those are exhibits in my testimony.

6 **Q. And are those -- where would those be exactly?**

7 A. So the one --

8 **Q. In their most current form?**

9 A. Yeah. So the pro forma agreements, CAT, I
10 think it was 4SS-8, I believe. The -- should be the
11 build transfer agreement.

12 **Q. Uh-huh.**

13 A. Formal contract. Is that correct, Adam? Just
14 want to double-check that reference.

15 MR. LOWNEY: Yep.

16 A. And then the EPC contract.

17 **Q. (By Commissioner Clark) Right.**

18 A. CAT1SS-17. And those would be the two, you
19 know, major agreements for our -- for the kind of the
20 contract body form-up agreements there. And the turbine
21 supply agreements I have some early pro formas we could
22 submit something more recent there.

23 **Q. And the PPA?**

24 A. I don't have a PPA in my exhibits, and I'm not
25 sure if Mr. Link submitted that. That's the form of the

1 PPA is available publicly on the RFP website, which we
2 could make available.

3 Q. Okay.

4 A. But Mr. Link could confirm that. I think
5 that's the latest form. Although I think he stepped out
6 maybe. But that's available per the RFP website.

7 Q. So with regard at least to the -- thank you.
8 I think that's the information I am looking for. With
9 regard to the BTA, there's a liquidated damages
10 performance provision in that agreement; am I correct?

11 A. Yeah. There are several contractor
12 performance guarantees of that ilk with liquidated
13 damages, et cetera. Primarily around schedule delivery,
14 megawatts, all the capacity of the facility.

15 COMMISSIONER CLARK: Thank you. Those are my
16 questions.

17 EXAMINATION

18 BY CHAIRMAN LEVAR:

19 Q. I just have one question, to close the loop on
20 a question that Mr. Michel asked you, since I know you
21 enjoy talking about the clean power plan.

22 A. Absolutely.

23 Q. You know, he asked about what I will call the
24 REC-like credits that were potentially available under
25 that plan, and if I am referring to it in an artful way,

1 I apologize. And recognizing the current status of the
2 plan with the court stay and the current
3 administration's position, as I recall, some -- some
4 aspects of some kind of renewable credits under that
5 plan were state specific, and some would be owned by the
6 owner of the generation facility.

7 Would something like this project that we're
8 looking at be a state specific that the EPA would have
9 to decide whether it was -- whether it benefitted Utah
10 or Wyoming, or would that be a utility owned credit that
11 was marketable?

12 A. And obviously the -- oh, sorry. Sorry.

13 Q. To the best of your recollection of the clean
14 power plan. But since the issue was raised, I'd like to
15 see if we could close that loop a little bit more.

16 A. Sure. I think the concepts were relatively
17 open to discussion at the time of the clean power plan
18 being proposed and challenged and so forth. But a
19 variety of concepts existed, one of which I would say --
20 and the way we tended to assess the plan was, in the
21 event there was a tradeable commodity, per se, from a --
22 from a zero emitting resource like these projects.

23 The way we tended to assess that was, we
24 assumed, for the lack of more clarity around the rule,
25 that the -- any value associated with that tradeable

1 commodity, per se, would be allocated on a
2 state-by-state basis at the time pursuant to our
3 multistate allocation of cost responsibilities and so
4 forth across the state.

5 So we tried to -- we assumed for the sake of
6 assessment of that particular potential value stream
7 that we would allocate based on the same ratios of our
8 cost allocation across our states from a value
9 proposition, even though the facility was technically --
10 these facilities were located in Wyoming.

11 There are arguments out there that, well, if
12 it's located in Wyoming, maybe Wyoming should, you know,
13 get the credits. I would say those were all open-ended,
14 yet to be determined. And now with the plan and in the
15 state that it is, you know, I think we have tried to
16 address the potential greenhouse gas CO2 side of things,
17 obviously with the various sensitivity that Mr. Link
18 described, High CO2, low CO2 and zero C2.

19 So we kind of come at it maybe a different way
20 for this set of assessments, recognizing the clean power
21 plan is highly questionable.

22 CHAIRMAN LEVAR: Okay. I appreciate that for
23 that additional clarification. Commissioner White, did
24 you have a follow-up question?

25 COMMISSIONER WHITE: Yeah, I actually did.

1 EXAMINATION

2 BY COMMISSIONER WHITE:

3 Q. So since we're speaking of environmental
4 attributes, is it confidential as to the ownership of
5 those environment attributes in terms of the BTA? In
6 other words, who would those -- who would those --

7 A. No. We would -- I don't know that it would be
8 confidential. I don't think it would be confidential.
9 We would ultimately own the environment attributes as we
10 would own the asset.

11 Q. Okay. And what other -- we've talked about
12 WECCs and NERCs. And what other -- I mean, typically
13 what is that -- what -- what does that mean to you,
14 environment attributes in terms of that as being right
15 under the contract, I guess?

16 A. Well, I think to some extent to maybe to the
17 earlier discussion to some extent, it is, is there a
18 value established at some point with whether it be
19 federal rule making, state rule making, to establish
20 maybe more a broader tradable fungible commodity there?
21 Or is it more of a, you know, what we see today,
22 renewable portfolio standards, those types of things,
23 where you have a tangible value in certain states for
24 certain compliance obligations?

25 So I'd say over time from a value proposition,

1 that could change, depending on, you know, federal law,
2 state law, you know, if there are new programs that
3 are -- that are promulgated that provide a fungible
4 tradeable value to that attribute.

5 Q. So I think what you are saying, tell me if I
6 am wrong, is that, you know, assuming that the clean
7 power plan does not go beyond or is, you know, repealed,
8 you know, not revived, I guess, is there other options
9 potentially that the company examines in their IRP
10 process that those could be utilized for purposes of
11 regulatory compliance?

12 A. I don't know that we have assessed any other
13 options per se at this time. You know, as I mentioned,
14 we look at CO2. We have looked at it more from a cost
15 of compliance perspective in our assessments in the IRP
16 and so forth. I think there are potential values there.

17 I think if you take a look at our, as a system
18 our CO2 emissions over time, as well as all our other
19 emissions, as well from our thermal resources, as
20 renewables expand their penetration level, you do see
21 those CO2 levels coming down as a fleet year on year,
22 which is an inherent environmental benefit, if you will.

23 Whether there's a cost associated with that,
24 I'd say the best way we are capturing that right now is
25 through the IRP, the sensitivities around potential CO2

1 costs and how that might play into our portfolios. But
 2 I think until there's a, you know, a new rule enacted at
 3 the federal level, other state laws enacted, that you
 4 know, provide some tradeable commodity that we can start
 5 to assess a little bit more from a tangible perspective,
 6 for now, we make assumptions around CO2 cost per ton as
 7 the surrogate.

8 COMMISSIONER WHITE: That's all the questions
 9 I have. Thanks.

10 CHAIRMAN LEVAR: Thank you, Mr. Teply. We
 11 appreciate your testimony today.

12 THE WITNESS: Thank you.

13 MR. LOWNEY: I just have one follow-up to
 14 Commissioner Clark's inquiry about the pro forma PPA. I
 15 believe that it is provided in the record as part of
 16 Mr. Link's exhibits. So it RTL11SS, which was the RPF
 17 materials.

18 It was an extremely -- I think it's a 6,000
 19 page document so it was provided electronically. So I
 20 think it was on a CD is my understanding. So in
 21 addition to -- I believe Mr. Teply's correct is, it's
 22 publicly available on the company's RFP website. It
 23 would also be found, I believe, in that exhibit.

24 CHAIRMAN LEVAR: Thank you. That gives us
 25 some light reading to do.

1 MR. LOWNEY: I don't think the PPA was 6,000
2 pages.

3 CHAIRMAN LEVAR: Ms. McDowell or Mr. Lowney,
4 your next witness.

5 MR. LOWNEY: The company calls Ms. Joelle
6 Steward.

7 CHAIRMAN LEVAR: Ms. Steward, do you swear to
8 tell the truth?

9 THE WITNESS: I do.

10 CHAIRMAN LEVAR: Thank you.

11 JOELLE STEWARD,
12 was called as a witness, and having been first duly
13 sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. LOWNEY:

16 Q. Ms. Steward, could you please state and spell
17 your name for the record.

18 A. My name is Joelle Steward. J-O-E-L-L-E,
19 S-T-E-W-A-R-D.

20 Q. And how are you employed?

21 A. I am the vice president of regulation.

22 Q. And in that capacity, have you either filed or
23 adopted the prefiled testimony that has been labeled
24 direct testimony, supplemental direct and rebuttal
25 testimony, second supplemental direct testimony and

1 **surrebuttal testimony?**

2 A. Yes.

3 Q. And do you have any changes or corrections to
4 that testimony today?

5 A. I do not.

6 Q. And if I ask you the same questions as
7 included in that testimony, will your answers be the
8 same?

9 A. Yes.

10 MR. LOWNEY: I move to admit the testimony of
11 Ms. Steward into the record.

12 CHAIRMAN LEVAR: Any party object to that
13 motion, please indicate to me. I am not seeing any
14 objection, so the motion is granted. Thank you.

15 Q. (By Mr. Lowney) Ms. Steward, have you
16 prepared a summary for the commission today?

17 A. I have.

18 Q. Please proceed.

19 A. Thank you. Good afternoon. My testimony
20 explains the company's proposed rate making treatment
21 for costs and benefits of the combined projects in this
22 application. As in the repowering case, the company
23 proposes an interim mechanism, the resource trafficking
24 mechanism or RTM, to recover the costs and pass back the
25 full benefits of the projects until those are reflected

1 in base rates in a general rate case.

2 The RTM would work in conjunction with the
3 energy balancing account or EBA, to match recovery of
4 costs with the benefits. The RTM would include the
5 capital cost of the projects and the benefits from the
6 production tax credits from the new wind resources. The
7 EBA, absent any adjustment, would include a hundred
8 percent of the incremental zero fuel cost energy from
9 the new wind projects, the wheeling revenue from the new
10 transmission line, and the costs of the PPA.

11 I acknowledge the commission declined to adopt
12 the RTM in the repowering case and stated that the
13 company can seek recovery of the costs and benefits
14 through available rate making mechanisms, such as a
15 general rate case, deferral accounting treatment and/or
16 the EBA.

17 As in the repowering case, the company
18 believes the RTM is the best proposal to match costs and
19 benefits of the new projects. However, the company is
20 open to these rate making alternatives to the extent
21 they treat costs and benefits consistently.

22 Being able to pursue rate making such as a
23 deferral in conjunction with the EBA, outside of a
24 general rate case, is beneficial for a couple of
25 reasons. First and foremost, it matches benefits with

1 the cost. Without the RTM or a deferral or a general
2 rate case, customers will begin receiving benefits from
3 the incremental zero fuel cost energy of the new wind
4 projects without paying any of the costs incurred to
5 obtain those benefits.

6 For example, in 2021, the first full year of
7 operation for the combined projects, without a way to
8 match the cost and benefits, customers would receive an
9 estimated \$35 million of net power cost benefits and new
10 wheeling revenue, which would equate to reduction in
11 rates of about 1.7 percent, while the company would
12 absorb \$63 million in costs.

13 As other parties have pointed out, the company
14 has added new resources in the past without requesting a
15 cost recovery mechanism. However, that was prior to the
16 current power cost mechanism and at a smaller magnitude
17 in terms of both costs and benefits.

18 Second, the combined projects are a key driver
19 for the company's next general rate case. A deferral or
20 the RTM will allow the company to align that rate case
21 timing for these projects with other cost pressures the
22 company is facing over the next couple of years into one
23 general rate case, which will help avoid the cost and
24 complexity of back-to-back rate cases.

25 Importantly, any rate making treatment outside

1 of a general rate case would only include costs up to
2 the projected levels of the combined projects. This is
3 consistent with the approval statutes for both the
4 significant energy resource decisions and the voluntary
5 request for resource decisions.

6 The company would need to seek recovery of any
7 costs in excess of the projected costs in a general rate
8 case. As such, approval of rate making treatment now
9 will not diminish the company's incentive to prudently
10 manage the cost of the combined projects because all
11 costs will be subject to a prudence review before
12 inclusion in rates.

13 Several parties propose conditions that they
14 argue should apply if the combined projects are
15 approved. However, we believe these conditions are
16 entirely unnecessary because the preapproval statute
17 already provides sufficient customer protections. As I
18 already mentioned, the law allows preapproval only up to
19 the projected cost. Any cost overruns would need to be
20 evaluated in a general rate case.

21 Additionally, in the event of a material
22 change in circumstance, the company will use the process
23 provided in the law for additional commission and
24 stakeholder review. As in the repowering case, the
25 company bears the risk for meeting the PTC

1 qualifications for the new wind resources, except due to
2 changes in law or an event that is beyond the reasonable
3 control of the company, or those with whom the company
4 has contracted for project development.

5 The company also agrees to pass back to
6 customers any liquidated damages received by the company
7 from vendors under contractual agreements. However, the
8 company does not agree it should be held responsible for
9 risks outside of its control.

10 Lastly, parties claim that there is an uneven
11 sharing of benefits between the company and customers.
12 The company believes that this claim is incorrect. The
13 combined projects are traditional resources that will
14 meet customer needs at the lowest reasonable cost. The
15 only customer benefit is the recovery of its cost,
16 including its cost of capital.

17 In closing, the company requests that the
18 commission approve the combined projects up to the total
19 projected costs identified in Table 1 of my surrebuttal
20 testimony and rate making treatment that will provide a
21 matching of costs with benefits. And that concludes my
22 summary.

23 MR. LOWNEY: Thank you. Ms. Steward is
24 available for cross-examination and commissioner
25 questions.

1 CHAIRMAN LEVAR: Okay. Thank you.

2 Mr. Longson, do you have any questions for Ms. Steward?

3 MR. LONGSON: No questions. Thank you.

4 CHAIRMAN LEVAR: Okay. Thank you.

5 Mr. Holman.

6 MR. HOLMAN: No questions. Thank you.

7 CHAIRMAN LEVAR: Ms. Hayes.

8 MS. HAYES: No questions. Thank you.

9 CHAIRMAN LEVAR: Thank you. Mr. Jetter or
10 Ms. Schmid.

11 MR. JETTER: I'd just like to ask just a
12 couple brief questions.

13 CROSS-EXAMINATION

14 BY MR. JETTER:

15 Q. Good afternoon. You would agree with us that
16 is -- if this project were approved, it would be a
17 significant increase in the company's rate base?

18 A. It's a significant, yes. It's -- well, I
19 don't want to say any number, because it was
20 confidential in my testimony, but it's a large
21 investment.

22 Q. A large investment. And it's even quite large
23 relative to the company's entire portfolio; is that
24 correct?

25 A. I believe you could say that. I haven't seen

1 those proportions recently. But --

2 Q. Okay. In fact, it was so large that the
3 company witnesses in a tax refund docket testified that
4 it might endanger the credit rating to give full tax
5 refunds because of the size of the debt that would
6 accompany this; is that correct?

7 A. I don't believe that is correct. I don't
8 believe our -- the combined projects in this application
9 had no bearing on our filing for tax reform.

10 Q. So the debt that would come along with this
11 was not part of the debt-to-revenue ratios that were
12 relevant in that case?

13 A. Well, it's included as Ms. Kobliha testified.
14 Our overall financing includes everything we do, not
15 project specific.

16 Q. Would you agree that the debt that would be
17 required for this project would make up a significant
18 portion of the company's overall debt?

19 A. I think Ms. Kobliha would actually be the
20 better witness for that. She handles the financing.

21 Q. Okay. Are you aware of any company pressures
22 in the near future that would be more significant than
23 the value of this project?

24 A. More significant? Not necessarily. But we
25 do -- we haven't finalized our depreciation study, which

1 we're going to be filing in September, which we do
2 expect to have significant cost pressures. We also have
3 our repowering and the drop-off of the current PTCs for
4 the current wind assets. So all together, we have
5 several cost drivers coming in over a two-year period.

6 And even with this large project and the
7 investment, the overall rate impact, because of the size
8 of the benefits and the PTCs, is still relatively
9 modest, at only 1.4 percent in the first full year of
10 operation.

11 **Q. Okay. But you -- is it your position that**
12 **it's a small enough impact on the company that it**
13 **wouldn't drive a rate case in its own right?**

14 **A.** No. I mean, because of all of the cost
15 pressures we have coming, and depending on what sort of
16 rate making treatment we have, if we're passing back the
17 benefits but not getting recovery of the costs, that
18 would likely -- very likely drive us in for a rate case.

19 **MR. JETTER:** Okay. That's my only question.
20 Thank you.

21 **CHAIRMAN LEVAR:** Okay. Thank you, Mr. Jetter.
22 Mr. Moore or Mr. Snarr?

23 **CROSS-EXAMINATION**

24 **BY MR. MOORE:**

25 **Q. Hello.**

1 A. Hi.

2 Q. Are you aware that in response to OCS data
3 request 13.9, the company acknowledged that it plans to
4 file a statutory rate case during the year 2020, using a
5 proposed test year of 2021?

6 A. I don't recall the specific data request, but
7 I -- that -- I am aware that that is our plan, yes.

8 Q. Now, the -- Mr. Teply, I believe, stated that
9 the inservice date for TB Flats 2 -- 1 and 2, and Ekola
10 Flats is scheduled for November 15th, 2020, and Cedar
11 Springs is established for November 26, 2020. Does that
12 sound correct to you?

13 A. Yes.

14 Q. Accordingly, isn't it true that the new wind
15 and transmission projects will only be in service for
16 approximately one and a half months prior to the
17 proposed year -- the next plan test year for the general
18 rate case?

19 A. Yes. And that is still assuming we got the
20 test period we were seeking.

21 Q. Generally, you have criticized the office's
22 position regarding the need to have a general rate case,
23 because it allows customers to receive benefits of zero
24 fuel costs through the EBA prior to the costs of the
25 projects being incorporated into rates with a general

1 rate case; isn't that true?

2 A. Yes. We're looking for a balance, a match of
3 costs and benefits.

4 Q. However, given your plans to oppose the RTM
5 and file a rate case in 2020, with the future test year
6 proposed as 2021, the company's position is that it
7 should recover all expenses prior to a general rate
8 case, even if those expenditures do not cause the
9 company to earn less than its authorized rate of return.

10 And isn't it also true that the company's
11 position that the rate could be in effect for several
12 years, based on the capital costs in 2021, which is the
13 highest capital cost in the combined projects? Do you
14 want me to break that up?

15 A. Yes, please.

16 Q. All right. Given your plans concerning the
17 general rate case that we have discussed, the company's
18 position is that it should recover all expenditures
19 to -- prior to the general rate case, even if those
20 expenditures do not cause the company to earn less than
21 its authorized rate of return; is that true?

22 A. All expenditures, all are investments as well
23 as the benefits we proposed will be -- will start being
24 recovered consistently. You know, I cannot speak to
25 whether or not we would be earning our authorized rate

1 of return at that time, at that point in time, two years
2 from now, given all the other drivers we have before
3 then.

4 Q. And isn't it true that the company's position
5 that rates could be in effect for several years, based
6 on capital costs in 2021, the proposed test year, which
7 is the highest year of capital costs in the combined
8 projects; isn't that true?

9 A. It's possible, if we do a rate case, and it
10 goes into service in 2021. That is the first full year,
11 and at that point revenue requirement starts declining
12 for individual investments due to depreciation.
13 However, that helps us offset other costs that come in
14 during that time to help us stay out of a rate case, and
15 that's been traditional rate making.

16 Q. Isn't it true that the company has not
17 provided any evidence that pursuing these projects will
18 jeopardize its ability to earn its authorized rate of
19 return?

20 A. I would disagree with that. We have made
21 available our -- our business plan is highly
22 confidential. Parties have -- were able to come on site
23 and actually look at those returns forecasted over the
24 next 10 years. And since they are highly confidential,
25 I will not speak to what they are specifically, but I

1 disagree that nothing was provided.

2 Q. In lines 87 and 96 of the company's June 30,
3 2017, direct testimony, which you adopted, the question
4 was asked, "Under what authority is the company
5 proposing approval for the rate making treatment for
6 the -- for the wind and transmission projects?"

7 And was your answer by referring to three
8 statutes, Utah code section 54-4-23, 54-17-202, and
9 54-17-403? Isn't that correct?

10 A. Yes, that's correct.

11 Q. Isn't it true that none of these provisions
12 have a section like 54-7-13.5(4)(c) of the EBA statute,
13 which provides an energy balancing account that is
14 formed and maintained in accordance with this section
15 does not constitute impermissible retroactive rate
16 manager or single issue rate making?

17 A. I don't have that statute you cited in front
18 of me.

19 Q. May I approach?

20 A. You will need to restate the cite again.

21 Q. 54-7-13.5(4)(c).

22 A. That is correct. Neither -- none of these,
23 the three of them, do not to my recollection have that
24 same energy balancing account. But that would not make
25 it, in my view, prohibitive to adopt an RTM-like

1 mechanism, or a deferral of the costs and benefits. We
2 have the EBA or the RBA, which is not pursuant to this
3 statute as well related to the EBA.

4 Q. Isn't it true that the company contends that
5 the rate making treatment is needed to match the costs
6 and benefits, not because of the occurrence of an
7 unforeseeable event that is beyond control of the
8 company and that has an extraordinary impact on the
9 company's finances?

10 A. Could you restate that again?

11 Q. Isn't it true that the company contends that
12 the RTM is needed primarily to match costs and benefits?

13 A. Yes.

14 Q. And you do not contend that it's needed
15 because of the occurrence of an unforeseen event that is
16 beyond the company's control and has extraordinary
17 impact on the company's finances?

18 A. That -- that's correct. I mean, essentially
19 we're proposing it because of the benefits will be
20 passing through the EBA without recovery of those costs.

21 Q. All right. This is a very similar question,
22 so bear with me. Isn't it true that the company does
23 not contend the RTM is making -- is, taken as a whole,
24 is needed because of increase in recurring costs that
25 are both unexpected and beyond the company's control?

1 A. That's correct.

2 Q. May I direct your attention to the May 15th,
3 2018, surrebuttal testimony.

4 A. Okay.

5 Q. And I'll direct your attention to lines 22 and
6 37. And this coincides with your summary where you said
7 that you believe the preconditions proposed by some of
8 the parties are unnecessary?

9 A. Yes.

10 Q. That's consistent with this testimony?

11 A. Yes.

12 Q. You also cited provisions -- you also cited to
13 provisions of the Energy Resource Procurement Act
14 related to recovery of costs above the preapproved costs
15 and seeking commission's guidance upon change in
16 circumstances and stated, "Additional conditions on caps
17 and operation and maintenance are inconsistent with Utah
18 resource approval laws." Isn't that your testimony?

19 A. Could you point me to that? Is that in the
20 surrebuttal?

21 Q. That's in the surrebuttal. I think lines 23
22 -- lines 22 -- I'm sorry. Lines 22 to 24.

23 A. I don't recall talking about O and M in -- was
24 that in your question?

25 Q. No, it was not meant to be. I apologize if it

1 was. This paragraph starting on lines 22 and finishing
2 on lines 37.

3 A. Yes.

4 Q. That's what I was referring to, and it ends
5 with, "petition for caps on" --

6 A. Oh.

7 Q. "For cost caps on capital operations and
8 maintenance are inconsistent with Utah's resource
9 approval laws."

10 A. Yes.

11 Q. All right. However, isn't it true that
12 section 54-17-302 (5)(B) provides the commission can
13 approve significant resource decision subject to
14 conditions imposed by the commission?

15 A. Yes, it does say that.

16 Q. And similarly, section 54-17-402 (6)(B)
17 provides that the commission can approve all or part of
18 the voluntary resource decision subject to conditions
19 imposed by the commission?

20 A. Yes, it does say that.

21 Q. May I direct your attention to your May 15,
22 2018, surrebuttal testimony lines 281 to 289?

23 A. Okay.

24 Q. These lines include a question that states in
25 part, "Mr. Vastag expressed concern relating to the

1 current multistate process, MSP, and recommends that
2 Mr. Hayet's cost caps should be adopted to address these
3 concerns." And then it references Mr. Vastag's rebuttal
4 testimony.

5 A. Yes.

6 Q. The question is, are these reasonable
7 recommendations? Is that correct?

8 A. Yes. That's what the question is.

9 Q. You answered this question no. This is
10 contrary to 217 protocol currently approved for
11 interjurisdictional cost allocations in the Utah -- in
12 the state of Utah; isn't that correct?

13 A. Yes.

14 Q. Isn't it true that the combined projects are
15 not coming online for service until the end of 2020?

16 A. Yes.

17 Q. And there is presently no multistate
18 allocation method agreed upon for 2020; isn't that true?

19 A. Yes. That's correct.

20 Q. Isn't it true that placing a cap on
21 preapproval, as Mr. Vastag and Mr. Hayet suggests, does
22 not limit the amount the company can ultimately seek for
23 recovery? Do you want me to read that again?

24 A. Yeah.

25 Q. Isn't it true that placing a cap on

1 **preapproval, as Mr. Vastag suggests, does not limit the**
2 **amount the company can ultimately seek for recovery?**

3 A. That is not how I understood Mr. Vastag's
4 testimony. If it's preapproval as consistent with the
5 law, with the ability to come in and seek recovery in a
6 general rate case for any cost overruns, but I believe I
7 read Mr. Vastag's testimony as an overall hard cap that
8 we could never seek additional costs.

9 Q. I am going to hand you a copy Mr. Vastag's
10 testimony that you cited. It's in the record, but I
11 assume you don't have it. The sentence starting
12 therefore on 87, and ending with responsible under
13 preapproval, will you read that sentence into the record
14 please?

15 A. I'm sorry. On line?

16 Q. Here, I'll do it.

17 A. On 87.

18 Q. "Therefore, if the commission decides to
19 approve these economic opportunity projects, the office
20 recommends that the commission specify the maximum
21 dollar amount of the project cost for which Utah payers
22 would be responsible for under preapproval."

23 A. I see now, yes.

24 Q. With that clarification, does that change your
25 testimony regarding the -- whether the proposed cap on

1 **preapproval violates the 2017 protocol?**

2 A. Well, the 2017 protocol may not be in effect
3 at that time. As we all know, those discussions are
4 currently being determined. Setting a Utah
5 jurisdictional amount, and a cap on that, prejudices and,
6 you know, imposes on those ongoing discussions a cap
7 that I don't believe -- I don't agree with because right
8 now allocation factors are dynamic based on loads and
9 resources.

10 Q. That's under -- well, I am going to hand you a
11 portion of your testimony in the repowering docket.
12 Since this is not on the record, I'll make an exhibit of
13 it.

14 Now, on page 2, this is a -- actually, it's
15 page 160 of the transcript, page 2 of the handout. On
16 line 7. This was, like, the last time I questioned you.
17 I asked, "Is it true that capping the amount of
18 preapproved costs does not violate the 2017 protocol"?
19 And you respond, "I believe that is correct, yes?"

20 A. Yes, I see that.

21 Q. And you are aware, as you have mentioned, that
22 your Oregon Public Service Commission issued an order
23 refusing to acknowledge PacifiCorp's final short list?

24 A. I'm aware of that, yes.

25 Q. Doesn't this create additional uncertainty

1 regarding how the new MSP cost allocation method will
2 affect the cost sharing of the combined projects?

3 A. I don't think that creates any additional
4 uncertainty.

5 Q. If the Oregon ultimately decides not to allow
6 recovery costs for the combined projects and rates, how
7 does the company plan to seek recovery of the costs for
8 the combined projects under the multistate protocol?

9 A. I can't speak to that. I don't have -- I am
10 not involved in those MSP discussions at this point.
11 You are talking about seeking recovery in Oregon for
12 those? Because in Oregon, they do not -- they have not
13 disallowed our ability to come in and seek recovery of
14 those costs.

15 Q. Yes. My question was, assuming the
16 hypothetical, if they did, how would this affect how
17 these costs are allocated among the states, in the
18 multistate process?

19 A. With what we know right now, in the 2017, it
20 wouldn't. Utah would still get its allocation based on
21 its -- the factors in the protocol. And I imagine that
22 will be part of any discussions going forward in MSP.
23 We have a resource in Oregon that is not in rates in
24 Oregon. We have a resource, actually Rolling Hill, that
25 is not in rates in Oregon that did not shift costs to

1 other states.

2 Q. And that result's consistent with Mr. Hayet's
3 cap on preapproval, isn't it?

4 A. Mr. Hayet's cap?

5 Q. Mr. -- Mr. Vastag mentioned Mr. Hayet's cap on
6 preapproval?

7 A. No. I think the nuance is setting a Utah
8 jurisdictional cap for a resource that's going into
9 service in two years, when under the current methodology
10 for MSP or 2017 protocol, is based on dynamic factors
11 and what those loads are at that time. That's my
12 concern about presetting a Utah jurisdictional cap now.
13 Loads could go up, load could go down in Utah, relative
14 to other states.

15 Q. And you could come in and make that argument
16 under a prudence review to allocate more -- more of the
17 cost to Utah. But that would be your obligation if the
18 preapproval was just capped?

19 A. I don't think that's a prudence review
20 determination. I think that's just an allocation
21 determination. And I don't think we should preset or
22 predetermine what those allocations would be in two
23 years from now.

24 Q. Well, the cap is set on pre -- well, fine.
25 Thank you very much.

1 A. Okay.

2 MR. MOORE: I have no further questions.

3 CHAIRMAN LEVAR: Okay. Thanks, Mr. Moore.

4 Mr. Russell.

5 MR. RUSSELL: Thank you, Chair LeVar. I don't
6 have any questions for this witness.

7 CHAIRMAN LEVAR: Mr. Baker?

8 MR. BAKER: Thank you. I just have a couple
9 of questions.

10 CROSS-EXAMINATION

11 BY MR. BAKER:

12 **Q. In other states such as Wyoming, you have**
13 **agreed to abandon your request for an RTM; is that**
14 **correct? Or I'm sorry, in Wyoming. In Wyoming you have**
15 **abandoned your request for an RTM?**

16 A. In Wyoming we have a comprehensive settlement
17 with several parties. One in particular, Wyoming
18 Industrial Energy Users. As a part of that settlement,
19 it had repowering, it had EB 2020, these resources
20 before us today, as well as tax reform.

21 Within the overall context of those
22 settlements, we did agree not to pursue the RTM.
23 However, we do have cost recovery for these resources
24 through other aspects of that, those stipulations, and
25 specifically through the tax reform docket. It allows

1 us to retain costs from the deferred tax benefits
2 related to these resources once they go into service.

3 Q. In Oregon you have to go back in for a full
4 rate review should you proceed with this project; is
5 that correct?

6 A. That's -- that was always the plan. The
7 docket in Oregon was for acknowledgement of the final
8 short list. It was not a rate making proceeding.

9 Q. And I just want to clarify what I think I
10 heard, was that the company will not shift any
11 unrecovered costs from a partial or full disallowance in
12 another state to Utah customers?

13 A. I don't believe that's exactly what I said. I
14 used an example of under the current protocol, how that
15 did not occur, as we have discussed. Those discussions
16 are ongoing. I am not involved in those discussions. I
17 cannot speak to what that potential outcome will be.

18 Q. So you can't state for certain what will
19 happen by the time these projects come online, if they
20 are approved?

21 A. No, I can't. And I think our parties in that
22 process are aware of these projects, and that will be
23 part of those discussions.

24 MR. BAKER: Thanks. I have no further
25 questions.

1 CHAIRMAN LEVAR: Okay. Thank you.

2 Mr. Lowney, and redirect?

3 MR. LOWNEY: Just a few questions.

4 REDIRECT EXAMINATION

5 BY MR. LOWNEY:

6 Q. First, do you recall when counsel for the
7 division was asking you questions about the magnitude of
8 this investment?

9 A. Yes.

10 Q. Do you recall those questions -- and I believe
11 you noted in response to one of those questions that the
12 rate increase in the first year these projects will be
13 in operation is 1.4 percent. Do you recall that?

14 A. The overall net impacts, yes.

15 Q. And isn't it true that that is the highest
16 rate increase, in the near term anyway, relative to
17 these projects?

18 A. Yes.

19 Q. And just one other clarifying question. And I
20 would refer you to the OCS Exhibit D that you were asked
21 questions about. This is your testimony in the
22 repowering case, and you were asked specifically about a
23 question on page 160 involving whether or not a cap on
24 the amount of preapproval costs violates the 2017
25 protocol.

1 A. Yes.

2 Q. And I just wanted to be clear for the record.
3 The discussion in that case involving the cap was not a
4 hard cap in the sense that anything over and above those
5 amounts would be, per se, unrecoverable. This
6 discussion involved the soft cap, correct?

7 A. I believe so, yes.

8 MR. LOWNEY: Thank you. I have no further
9 questions.

10 CHAIRMAN LEVAR: Okay. If Mr. Lowney's
11 questions prompt any recross, please indicate to me.

12 MR. MOORE: I have one quick question.

13 CHAIRMAN LEVAR: Let me just ask, does anyone
14 else have any recross based Mr. Lowney's, or are we just
15 Mr. Moore? Okay.

16 RE CROSS-EXAMINATION

17 BY MR. MOORE:

18 Q. Do you understand the office's position in
19 this docket that having a preapproved cap is a soft cap
20 or a hard cap? Is it the same cap we suggested in the
21 repowering docket or is it a different cap?

22 A. You have me a little uncertain now actually.
23 I had read the testimony as a hard cap.

24 Q. I'm sorry. I guess we'll get this cleared up
25 on direct. But you do agree that if the office is

1 referring to a soft cap, that that's not -- that would
2 not in the hypothetical we discussed violate the 2017
3 protocol?

4 A. If it's a soft cap, it's consistent with the
5 statute, and I think where we may disagree is whether or
6 not that cap, soft cap should be set based on a Utah
7 jurisdictional amount or a total project cost amount.

8 Q. All right. Let's assume the case as a Utah
9 jurisdictional amount.

10 A. Okay.

11 Q. Would a soft cap on that amount violate the
12 2017 protocol?

13 A. I am not sure I see the point then of a soft
14 cap, if we can still come in under jurisdictional
15 allocations, with whatever jurisdictional allocation
16 there is at that time.

17 Q. So it doesn't prejudice Rocky Mountain Power
18 greatly?

19 A. I don't know that I would agree to that. I
20 mean, it could, depending on how that played out. It
21 shifts some additional risk to us that I don't think is
22 justified, based on the dynamics going on, and that are
23 known under the current revised protocol or 2017
24 protocol, as well as the ongoing discussions.

25 MR. MOORE: Thank you. I have no further

1 questions.

2 CHAIRMAN LEVAR: Okay. Thank you.

3 Commissioner Clark, do you have any questions for
4 Ms. Steward?

5 COMMISSIONER CLARK: No questions. Thank you.

6 CHAIRMAN LEVAR: Commissioner White?

7 COMMISSIONER WHITE: No questions. Thank you.

8 CHAIRMAN LEVAR: Okay. And I don't have any
9 other questions. Thank you for your testimony today.
10 Ms. McDowell or Mr. Lowney.

11 MR. LOWNEY: That concludes the company's
12 case.

13 CHAIRMAN LEVAR: Okay. Thank you. I think we
14 will go ahead at this time with Interwest Energy
15 Alliance. If you would like to call your witness.

16 MR. LONGSON: Interwest calls Gregory Jenner.

17 CHAIRMAN LEVAR: Mr. Jenner, do you swear to
18 tell the truth?

19 THE WITNESS: I do.

20 CHAIRMAN LEVAR: Thank you.

21 GREGORY JENNER,
22 was called as a witness, and having been first duly
23 sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. LONGSON:

1 **Q. Mr. Jenner, could you please state and spell**
2 **your name, please.**

3 A. My full name is Gregory Jenner. That's
4 G-R-E-G-O-R-Y, J-E-N-N-E-R.

5 **Q. And could you tell us your current employer**
6 **and business address?**

7 A. I am a partner at Stoel Rives, LLP. The
8 address is 601 13th Street, Northwest, Washington, D.C.
9 20005.

10 **Q. And in this docket, Mr. Jenner, you submitted**
11 **for Interwest direct testimony and supplemental answer**
12 **testimony; is that correct?**

13 A. That is correct.

14 **Q. Interwest -- excuse me. If the same questions**
15 **were asked in those documents today, would your answers**
16 **be the same?**

17 A. Yes, they would.

18 MR. LONGSON: Interwest moves for the
19 admission of the direct and supplemental answer
20 testimony of Mr. Jenner.

21 CHAIRMAN LEVAR: Okay. If any party objects
22 to that, please indicate to me. I am not seeing any
23 objection. So motion is granted. Thank you.

24 **Q. (By Mr. Longson) Have you prepared a summary**
25 **of your testimony, Mr. Jenner?**

1 A. Yes, I have.

2 Q. Go ahead.

3 A. Thank you very much. Mr. Chairman,
4 Commissioners White and Clark. It's a pleasure to be
5 here. The original purpose of my testimony early in --
6 excuse me, in late 2017 was to talk about the new tax
7 bill. It was pending at the time, and there was some
8 uncertainty about which way congress was going to go.

9 As we know, the concerns that had been raised
10 about the effects on renewable energy, certain negative
11 effects on renewable energy were resolved and resolved
12 favorably to the renewable energy industry so the
13 original purpose of my testimony is now somewhat moot.

14 The secondary purpose of my testimony was
15 focused on my expertise in the renewable energy tax area
16 and to talk about the analysis of the possible risks
17 regarding completion of transmission, issues including
18 continuous construction and placed-in-service dates for
19 the combined facilities, principally to confirm Rocky
20 Mountain Power's analysis that the risks of losing the
21 PTCs were minimal and had been mitigated substantially.

22 In my experience, it's understandable why
23 Rocky Mountain Power is pursuing wind first before
24 solar. And frankly, that mirrors what's happening in
25 the industry generally. My practice, which is about 85

1 percent renewable energy tax, we are seeing a
2 substantial decline in solar projects because everybody
3 is trying to get the wind projects in service before the
4 various deadlines that have been talked about. And I
5 will go into those details in a minute.

6 I represent both developers and independent
7 power producers. They are all -- many of them are
8 pursuing wind before solar. Solar will be next, because
9 as has been discussed, it phases down, but not out, as
10 wind does, after 2019.

11 There's a lot of confusion about how the --
12 the various dates and deadlines and phase-outs of the
13 production tax credit works. Rocky Mountain Power has
14 presented testimony correct in my view. Absolutely
15 correct in my view. But there has been again, I want to
16 get into some of the nuances.

17 The first date that's important for everybody
18 to consider is when construction begins on a project.
19 As has been discussed, if construction begins in 2016,
20 that project, assuming all other things being equal,
21 will qualify for 100 percent of the PTCs.

22 Redeeming item after beginning construction is
23 the continuity requirement, and there's been a little
24 bit of confusion about the continuity requirement. I
25 wanted to explain in more detail what the continuity

1 requirement is so that it's clear for everybody.

2 Once construction has begun, the developer has
3 an obligation to maintain continuous construction or
4 continuous efforts. And what the IRS has said is, they
5 will presume that that standard has been met if the
6 project has been placed in service within the fourth
7 calendar year after the project begins construction.
8 And that is why we are so focused on the 2020 date,
9 because if you place the project in service within 2020,
10 assuming that you had begun construction in 2016, you
11 will qualify. You will meet the continuity requirement,
12 and you will qualify for 100 percent of the PTCs.

13 That is not the only way, however, that you
14 can qualify for 100 percent of the PTCs. Even if the
15 project were not in service in 2020, there is still a
16 possibility, based on the facts and circumstances, that
17 the project will qualify for 100 percent of the PTCs.
18 As I said, it's a fact and circumstances determination.
19 But the IRS has laid out a series of what they call
20 excusable disruptions which they will look at and
21 consider in determining whether continuity has been met.

22 One of those excusable disruptions is a delay
23 in interconnection and transmission. So for example, if
24 a transmission facility were delayed for any reason, and
25 therefore the turbines could not be placed in service on

1 or before the end of 2020, the IRS may still consider
2 that project as qualified for 100 percent of the PTCs.

3 So what Rocky Mountain Power has done is, has
4 built in redundancy into the risk mitigation. The first
5 way that they are going to mitigate risk is to have the
6 turbines in service before the end of 2020.

7 If for some reason or another the IRS deems
8 that not -- those turbines not to be in service, they
9 can -- because of the transmission facilities, they can
10 still look to the excusable disruption standard and
11 still qualify for 100 percent of the PTCs. That's not a
12 given, but it certainly is a backstop to the 2020 placed
13 in service date.

14 So I would say that Rocky Mountain Power has
15 in all regards, as best they possibly can, mitigated the
16 risk of missing out on 100 percent of the PTCs in their
17 plan. With that, I'll conclude.

18 CHAIRMAN LEVAR: Thank you.

19 MR. LONGSON: Mr. Jenner is available for
20 cross examination.

21 CHAIRMAN LEVAR: Thank you. Mr. Holman, do
22 you have any questions for Mr. Jenner?

23 MR. HOLMAN: I don't, thank you.

24 CHAIRMAN LEVAR: Ms. Hayes, do you have any
25 questions?

1 MS. HAYES: I do not. Thank you.

2 CHAIRMAN LEVAR: Thank you. Ms. McDowell or
3 Mr. Lowney?

4 MR. LOWNEY: The company has no questions.

5 CHAIRMAN LEVAR: Okay. Mr. Jetter.

6 MR. JETTER: I have no questions. Thank you.

7 CHAIRMAN LEVAR: Okay. Mr. Moore.

8 MR. MOORE: I'm going to ask just one quick
9 question, and I apologize to all in this room. This is
10 a question I asked before, but I didn't understand the
11 answer.

12 THE WITNESS: Okay.

13 CROSS-EXAMINATION

14 BY MR. MOORE:

15 Q. If a project seeks to qualify for PTCs by
16 beginning construction in 2016, and misses the 2020 date
17 by one day --

18 A. Uh-huh.

19 Q. -- they lose off on 100 percent PTCs, but do
20 they receive any lower amount of PTCs, or is it a
21 complete zero PTC?

22 A. Well, may I disagree with your premise?

23 Q. Well, you can restate a premise that makes
24 more sense if I didn't.

25 A. Thank you. It is not correct that if they

1 miss the placed-in-service deadline by one day, they
2 miss out on 100 percent of the PTCs. If there is a
3 reason, they would -- if they miss the placed-in-service
4 deadline, they would then fall back on the facts and
5 circumstances test.

6 As I mentioned, one of the facts that the IRS
7 will look at, and this was promulgated in notice 2016-31
8 for your review, one of the excusable disruptions that
9 the IRS will consider is the failure of the ability to
10 put transmission in place to carry the load. So in
11 other words, the IRS will not necessarily consider the
12 failure to place the turbines in service as in 2020 as
13 causing 100 percent of the PTCs to be lost. So that's
14 why I was disagreeing with your question.

15 Now, I think if I might, where you are going,
16 so I will try and address that question. If for one
17 reason or another, either because the 2020
18 placed-in-service deadline was missed or because the IRS
19 after -- and I'm sure this would be litigated until the
20 cows come home. If the taxpayer then was unable to
21 determine or establish that they had continuity under
22 the facts and circumstances, in other words, the
23 turbines were not placed in service in 2020, you missed
24 the continuity requirement, then you would not qualify
25 for any PTCs whatsoever.

1 MR. MOORE: Thank you very much. I have no
2 more questions.

3 CHAIRMAN LEVAR: Okay. Thank you.
4 Mr. Russell.

5 MR. RUSSELL: Thank you. I don't have any
6 questions for Mr. Jenner.

7 CHAIRMAN LEVAR: Okay. Mr. Baker.

8 MR. BAKER: Thank you. I have no questions
9 either.

10 CHAIRMAN LEVAR: Okay. Commissioner White, do
11 you have any questions?

12 COMMISSIONER WHITE: Yeah. Thank you,
13 Mr. Jenner.

14 EXAMINATION

15 BY COMMISSIONER WHITE:

16 Q. I am just wondering, the guidance you are
17 providing, is that -- how did the IRS -- is that through
18 like a code violation? Is that a 5S letter ruling, or
19 how are they basing that?

20 A. None of the above. It was done through what's
21 called a notice. And that's all of the beginning
22 construction guidance has been done through the -- a
23 notice. A series of them beginning in 2013, two in
24 2013, one in '14, one in '15, a couple in '16. They've
25 been churning them out regularly.

1 So notice 2016-31 repromulgated a list of
2 excusable disruptions. And what is significant in
3 2016-31 is, they added transmission, disruption of
4 transmission as an excusable disruption. That was new.
5 So we can -- you can draw your own conclusions.

6 I would conclude, based on what I know about
7 how treasury and IRS operate, that industry
8 representatives came to them and said, hey, we have a
9 problem here with transmission. There is at least the
10 possibility that transmission may not be in place. And
11 therefore, we think it's appropriate that you add
12 transmission as an excusable disruption, and the IRS
13 agreed. That would be my speculation.

14 COMMISSIONER WHITE: Thank you. That's all I
15 have got.

16 CHAIRMAN LEVAR: Okay. Thank you.
17 Commissioner Clark.

18 COMMISSIONER CLARK: I just have a couple
19 questions too, Mr. Jenner.

20 THE WITNESS: Yes, sir.

21 EXAMINATION

22 BY COMMISSIONER CLARK:

23 **Q. So the four year in-service horizon that you**
24 **described, is that -- in your world, is that the safe**
25 **harbor -- is that referred to as the safe harbor?**

1 A. It is. It's not the only safe harbor. There
2 was the 5 percent safe harbor that was referred to
3 earlier, but yes, it is a safe harbor.

4 **Q. And the excusable disruptions that have been**
5 **denominated, I -- it's been months since I looked at the**
6 **list, but do any of them relate to governmental permits,**
7 **regulatory approvals, any delays of that sort?**

8 A. Yes, they do. I could give you the list. I
9 can't remember them off the top of my head. There are
10 things as nuanced and esoteric as Indian tribes in the
11 list. It is failure to get custom-made parts. It looks
12 a lot like force majeure, but it's not denominated as
13 force majeure.

14 **Q. What about the approval of a Public Service**
15 **Commission to go forward with the project?**

16 A. With all due respect, Commissioner, I don't
17 think so. That's probably not excused.

18 **Q. It's disappointing.**

19 A. Yeah, I was afraid you were going to say that.
20 No, I doubt seriously whether the failure of a Public
21 Service Commissioner -- Commission, exercising its
22 duties as such, would qualify as excusable disruption.

23 **Q. And in relation to the facts and circumstances**
24 **alternative path for qualifying --**

25 A. Uh-huh.

1 Q. -- would that be a situation where the
2 taxpayer claims the credit in its filing to the service,
3 and then the service challenges it and then there's --
4 it's -- there's audit, and then there's the hearings
5 that would ensue if -- if it wasn't resolved in some
6 way?

7 A. Yes, sir. That's -- it's a full employment
8 act for tax lawyers.

9 COMMISSIONER CLARK: Thanks very much. Those
10 are my questions.

11 CHAIRMAN LEVAR: I think I just have one
12 follow-up question.

13 EXAMINATION

14 BY CHAIRMAN LEVAR:

15 Q. Following up to Commissioner White's questions
16 as you described the notice -- the notices that the IRS
17 has used. Just based on your experience and expertise
18 with the IRS, how would you describe the existence or
19 nonexistence, or what would be your description of any
20 potential risk that in the next few short years the IRS
21 might change its position in a way that's detrimental to
22 a developer of a PTC eligible resource?

23 A. With respect to wind, I think it highly
24 unlikely. There have been -- there is so much water
25 under the bridge, too many decisions been -- that have

1 been made. The guidance has been basically consistent,
2 evolving, but consistent throughout the process.

3 I would find it remarkable if the IRS would
4 reverse themselves on these things. And there would be
5 such an outcry, myself included. You know, there would
6 be people with pitchforks and torches standing outside
7 the gates of the IRS to join all the others that are
8 there already. So I would doubt seriously that they
9 would reverse themselves.

10 CHAIRMAN LEVAR: Okay. I don't think I have
11 follow-up questions. So thank you. We appreciate your
12 testimony today.

13 THE WITNESS: Thank you very much, sir.

14 CHAIRMAN LEVAR: Anything else from Interwest
15 Energy Alliance?

16 MR. LONGSON: No. Thank you, Chairman.

17 CHAIRMAN LEVAR: Mr. Jetter, we could continue
18 for a little while, or we could see this as a natural
19 time to break for the day and come back tomorrow. Would
20 there be any use to getting your first witness's summary
21 on the record, or would you rather just start fresh in
22 the morning?

23 MR. JETTER: I have spoken with my witness. I
24 think we would prefer to proceed tonight, if we can.

25 CHAIRMAN LEVAR: Okay. We can plan to go a

1 little bit farther tonight. Why don't you call your
2 first witness.

3 MR. JETTER: Thank you. The division would
4 like to call division witness Joni Zenger.

5 CHAIRMAN LEVAR: Good afternoon, Dr. Zenger.
6 Do you swear to tell the truth?

7 THE WITNESS: Yes.

8 CHAIRMAN LEVAR: Thank you.

9 JONI S. ZENGER,
10 was called as a witness, and having been first duly
11 sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. JETTER:

14 Q. Good afternoon, Ms. Zenger. Would you please
15 state your name and occupation for the record? Excuse
16 me, I'd like to correct that. Dr. Zenger.

17 A. Dr. Joni S. Zenger, Z-E-N-G-E-R, technical
18 consultant for the energy section.

19 Q. Thank you. And in the course of your
20 employment with the Utah Division of Public Utilities,
21 did you create and cause to be filed with the commission
22 direct, rebuttal and supplemental rebuttal and
23 surrebuttal testimonies?

24 A. Yes.

25 Q. If you were asked the same questions included

1 in those testimonies today, would your answers remain
2 the same?

3 A. Yes.

4 Q. Do you have any corrections or edits you would
5 like to make?

6 A. I have one small correction. It's on my
7 direct testimony on page 10. It's the very last line.
8 It says, "the covered projects," and it should say "the
9 combined projects."

10 Q. Okay. Thank you. And is the correct
11 identification of that is, that would be DPU 1.0 direct
12 testimony, and line 215?

13 A. Exactly. Thank you.

14 Q. Thank you. And have you prepared a statement
15 summarizing your testimony in this docket?

16 A. Yes.

17 Q. Please go ahead.

18 A. If you can stay awake a few more minutes here.
19 The division -- the commission should not approve the
20 combined projects according to the division's opinion.
21 They are not in the public interest. The combined
22 projects, if they were approved, would require the
23 expenditure of billions of dollars of rate payer funds
24 over decades for the small hope of a low probability
25 benefit for customers and a large high probability

1 benefit for the utility. The purported need for such a
2 project is very modest capacity addition.

3 Further, the division has little confidence in
4 the RFP results because of the limited nature of the RFP
5 and utility-imposed constraints upon it. The final
6 removal of the Uinta PPA is largely unreviewed and
7 unreviewable, given the exceedingly late date that the
8 company informed Utah parties that it intended to remove
9 it.

10 Moreover, significant new risks have arisen.
11 Given the Oregon commission's recent decision to not
12 acknowledge the RFP results, new risks concerning
13 multistate allocation exist.

14 The company's proposal offers a narrow benefit
15 if any. It will be years before we know whether it
16 proves to be a beneficial resource or not. It should
17 not be approved on the projections and assumptions
18 relied on by the utility, because forecast
19 uncertainties, the utility's predictive track record,
20 present unreasonable risk for a project that is not
21 needed.

22 In particular, the gas forecasting by the
23 company has historically been higher than actual gas
24 prices. Indeed in the Jim Bridger SER case, the
25 company's lowest-cost forecast was higher than actual

1 gas prices have been. Similarly, in the last decade,
2 customers have been subject to significant trading
3 losses that resulted in part from over forecast gas
4 prices.

5 Now, the company claims it has demonstrated
6 the combined projects are the most -- are most likely
7 the least-cost, least-risk resources through its IRP
8 modeling analysis, and repeated SO and PaR sensitivity
9 studies. However, the results of the company's model
10 simulations are only as credible as the company inputs
11 and assumptions, which the division has shown are
12 questionable and uncertain.

13 Caution is warranted based on the nature of
14 predictions, and the company's history of being wrong in
15 recent years in ways that led to unacceptable risk for
16 the unnecessary combined projects.

17 Indeed, although the utility now claims a need
18 for these projects, the capacity contribution of the
19 combined projects is miniscule and costly. The utility
20 argues that it is pursuing lower cost energy in the
21 customer's interest, yet customer groups oppose that
22 acquisition. The customer groups are not naive or
23 confused. They know the risks and ask the commission
24 not to take them.

25 Although net benefits might materialize, there

1 is also a very good chance that they will not. The
2 benefits are far from certain as the division has
3 testified. The only certainty if the combined projects
4 are approved is that customers will pay billions of
5 dollars in capital costs in returns to the utility for
6 decades. And further, unlike in the repowering case,
7 these projects have no operational history, adding
8 additional risk to this resource decision.

9 While the company claims its results show the
10 combined projects are favorable in 16 out of 18 price
11 policies scenarios, in actuality, the division's
12 analysis shows the combined projects are not cost
13 effective in most price policy scenarios and can end up
14 harming Utah rate payers when considering the cost and
15 the risk tradeoffs in the proposal.

16 Rocky Mountain Power continues to claim in its
17 analysis, and its analysis reveals benefits in most
18 scenarios, but the division neither agrees with those
19 scenarios nor the assumptions underlying them.
20 Mr. Peaco will address these points further.

21 At times utilities and regulators must rely on
22 the best available information and projections and
23 proceed on those assumptions. Those situations
24 typically involve the choice between two or more
25 similar -- similarly uncertain choices. A no-action

1 alternative usually has a cost that is rarely
2 quantified. The cost of failure to serve customers for
3 instance, is so high that the nonaction alternative is
4 typically not considered.

5 We do not agree that this case presents a
6 similar set of facts, where some action is necessary.
7 The no-action alternative available here plainly
8 represents the least-risk scenario. It further provides
9 flexibility in a quickly changing energy industry to
10 adapt to new opportunities.

11 Locking in billions of dollars of long-term
12 assets that provide very little meaningful capacity
13 value for decades is not an appropriate choice for
14 customers, when there is no demonstrated need for new
15 resources.

16 When speculating about future benefits, one
17 should be humble about the limits of current knowledge.
18 Multiple parties across multiple states conducting their
19 own independent analysis agree. Though using different
20 methods of analysis and criticizing different parts of
21 the utility's analysis, the conclusions are largely the
22 same. The utility is overstating benefits and
23 understating risks.

24 Independent experts, consultants, economists,
25 engineers and accountants agree that the combined

1 projects should not be approved. Rocky Mountain Power
2 has cited the case of environmental controls at the Jim
3 Bridger coal facility in Wyoming as an instant where the
4 division tolerates similar uncertainties. However, two
5 points must be understood about the Bridger example.

6 First, as I have explained, the decision about
7 adding controls repowering or closing, it had to be made
8 based on the best available information. The status quo
9 was not an option in that case. Second, in retrospect,
10 the decision was likely not the least-cost choice, given
11 the gas and the carbon prices since then have proven
12 such.

13 The Bridger decision illustrates the risk that
14 facts will not match projections, making the decision
15 the wrong one in retrospect. The division is not
16 suggesting making decisions about prudence with the
17 benefits of hindsight. Rather, the division is
18 illustrating that predictions are inherently risky.

19 Here, we have credible doubt before us that
20 the combined projects resulting from the RFP short list
21 are the lowest-cost and lowest-risk resources. We know
22 this because of several demonstrated facts.

23 No. 1, the commission determined the
24 foundational analysis of the company's plan to build the
25 wind and transmission resources to be less credible,

1 failing to meet its IRP guideline No. 3. Parties were
2 deprived of a process that might have resulted in more
3 comprehensive consideration of resource options and a
4 more stable analysis to evaluate.

5 Number 2, that deprivation has led to a clunky
6 process in the RFP and in this docket, where parties
7 have faced multiple changes in methods and analysis,
8 arguing about shifting assumptions and facts. The
9 proposal in this docket has shifted in every round of
10 testimony filed by the utility.

11 Not only did the division determine this
12 proposal had problems, but the Oregon commission also
13 found similar problems with the company's proposal as it
14 stated, quote, we simply are not persuaded at this time
15 that the RFP process was adequate to demonstrate that
16 the specific projects selected are the lowest cost and
17 lowest risk for utility customers.

18 Due to the rushed nature of this RFP and
19 adjustments late in the process, related to accelerating
20 the completion of the transmission line, there remain
21 just four viable project options for consideration. The
22 narrow short list left little ability to evaluate cost
23 and risks tradeoffs that we and the RFP's independent
24 evaluator considered important. End quote.

25 And No. 3, further, the IE evaluating the bids

1 confirmed that the selected bids were not the
2 lowest-cost offers, but rather the lowest-cost offers
3 that were viable under the current transmission
4 assumptions and constraints imposed by the company in
5 its RFP.

6 One important risk that the division has
7 previously identified is the risk that other state
8 commissions will not approve recovery of all or part of
9 the combined projects. That risk has come to partial
10 fruition in the Oregon order, refusing to acknowledge
11 the RFP results.

12 In the event this commission approves the
13 combined projects and submits Utah rate payers to its
14 share of the costs, while other states do not, it may
15 leave Utah at a significant disadvantage when
16 negotiating allocation of those resource costs, as
17 compared to states that have not approved.

18 Even within the narrow scope of the utility's
19 consideration of renewable resources, more options for
20 consideration would likely have been available had the
21 utility better sequenced and coordinated its resource,
22 planning and procurement. The haste the utility claims
23 as an exigent circumstance preventing normal
24 consideration is self inflicted.

25 Production tax credits have existed for years.

1 So the IRP results that now favor of the combined
2 projects, that result in significant benefits to the
3 utility are not credible. The RFP results are
4 questionable at best, and the company's analysis of the
5 research decision is not persuasive.

6 Given the shifting set of projects,
7 assumptions and data that we have had to work with in
8 this case, in almost a year now, we arrive at this
9 hearing uncertain of whether the removal of one selected
10 project was properly evaluated, how the removed project
11 would look without the other projects, and whether other
12 sources of generation may be more economical among other
13 things. Rocky Mountain Power has had every opportunity
14 to present a consistent cohesive proposal that the
15 commission and parties could reasonably evaluate on the
16 merits. It has failed to do so.

17 The combined projects pose unacceptable risk
18 to customers and should be denied. In its initial
19 filings, PacifiCorp admitted that the acquisition of the
20 combined projects was early, but that it still made
21 sense to acquire the resources because they presented
22 such a compelling opportunity.

23 The company stated the following in IRP docket
24 No. 67 before the Oregon commission, quote, if taking an
25 early action is the least-cost, least-risk option, then

1 doing so is consistent with the commission's principles
2 for least cost planning, even if there is no immediate
3 need for additional resources. Closed quote. And that
4 was on page 19 on October 5 of the staff's final
5 comments.

6 Finally, with respect to the segment D-2
7 transmission line, the September 14th, 2017, IRP
8 technical conference, the company concedes that its
9 proposed transmission line is not needed to address
10 short-term reliability concerns on a stand-alone basis.
11 In the absence of the new end acquisition, PacifiCorp
12 would not construct or acquire the new transmission
13 line, at least not until the year 2024.

14 As the company stated, we are currently
15 complying with NERC reliability standards and expect to
16 be going forward. Thus, PacifiCorp admitted in the
17 Oregon docket what it now denies in this one. The
18 commission should evaluate this decision based on the
19 representation that the transmission line would not
20 otherwise be built. Thank you.

21 MR. JETTER: Thank you, Dr. Zenger. The
22 division would like to move, at this time, to enter into
23 the record direct, rebuttal and supplemental rebuttal
24 and surrebuttal testimonies filed by Dr. Zenger. And
25 these are DPU Exhibits 1.1 DIR, 1.0 R, 1.0 RSUP, and 1.0

1 SR., and I believe that is all of Ms. Zenger's
2 testimony.

3 CHAIRMAN LEVAR: Okay. Thank you. If any
4 party objects to that motion, please indicate to me.
5 Not seeing any objection, so the motion is granted.
6 Thank you, Mr. Jetter.

7 MR. JETTER: Thank you. And I have been made
8 aware that I have not entered the Public Utility
9 Commission of Oregon order that I used as DPU Cross, I
10 believe it was Exhibit 3. But I don't recall that I
11 marked it. And I'd like to just move at this time to
12 enter that into the record.

13 CHAIRMAN LEVAR: Okay. If any party objects
14 to that motion, please indicate to me. I am not seeing
15 any objection. The motion is granted.

16 MR. JETTER: Thank you. Ms. Zenger is
17 available for questions, cross from the parties or the
18 commission. I'm not sure if the commission would like
19 to proceed with some of that now or --

20 CHAIRMAN LEVAR: Why don't we go through some
21 of that, and see if we find a good stopping point after
22 a while. Mr. Moore, do you have any questions for
23 Dr. Zenger?

24 MR. MOORE: No questions. Thank you.

25 CHAIRMAN LEVAR: Okay. Mr. Russell.

1 MR. RUSSELL: No questions. Thank you, Chair.

2 CHAIRMAN LEVAR: Okay. Mr. Baker.

3 MR. BAKER: No questions. Thank you.

4 CHAIRMAN LEVAR: Mr. Holman.

5 MR. HOLMAN: No questions. Thank you.

6 CHAIRMAN LEVAR: Ms. Hayes.

7 MS. HAYES: Just a very few. Thank you.

8 CROSS-EXAMINATION

9 BY MS. HAYES:

10 Q. Good afternoon, Dr. Zenger.

11 A. Good afternoon.

12 Q. So your summary was very helpful. I just want
13 to try and clarify a couple issues with the division's
14 position, and I'm looking at page 26 of your April 17th
15 testimony, which is the rebuttal -- supplemental
16 rebuttal and surrebuttal.

17 A. The confidential.

18 Q. Well, I think I am looking at a redacted
19 version.

20 A. Okay.

21 Q. But I am not getting into anything that would
22 be impacted.

23 A. Okay. What page was that?

24 Q. Oh, 26. And I am looking specifically at
25 footnote 43, where you -- well, maybe I'll just read

1 this to you. "Table 514 of the 2017 IRP shows without
2 the energy vision 2020 investment available FOTs of
3 1,670 megawatts exceed the system requirements by a wide
4 margin through the first 10 years of the study."
5 Period.

6 "In 2026 PacifiCorp expects that currently
7 available resources and FOTs will exceed total system
8 requirements, including a 13 percent planning reserve,
9 by approximately 447 megawatts. This means that without
10 acquiring any new generating resources or transmission
11 lines, PacifiCorp will continue to be capable of
12 providing adequate services to customers in Utah,
13 inclusive of a material reserve margin. As such, the
14 proposal cannot reasonably be characterized as
15 addressing a resource need."

16 Did I read that correctly?

17 A. Yes.

18 Q. So is it the division's position that
19 available front office transactions should be pursued
20 irrespective of the availability of resources that are
21 lower cost?

22 A. No, not necessarily. Low-cost resources
23 should be pursued. If the FOTs are lower-cost resource,
24 then definitely pursue them.

25 Q. Okay.

1 A. This -- this is just the first time it's been
2 introduced to us in an IRP context that it would be like
3 treated as other supply side resource.

4 Q. Okay. So if there are resources that are
5 lower cost than the front office transactions, what --
6 let me back up and say, so in your -- in your testimony
7 you -- you present pursuing the available front office
8 transactions as sort of the no-action alternative; is
9 that correct?

10 A. Well, it's correct that this IRP the -- with
11 the load and the resource deficit and balance that we
12 had, that the FOT -- we were just presented with the
13 numbers that the company gave us. And so those are the
14 numbers that we accepted based on the availability in
15 many different hubs.

16 Q. Okay. So just assuming that there are
17 resources that are lower cost than the front office
18 transactions, would -- and if front office transactions
19 are sort of the no-action alternative, wouldn't that
20 demonstrate that pursuing the no-action alternative is
21 more costly?

22 A. With the premise that front office
23 transactions cost more, it would be.

24 Q. Yes. Yes.

25 A. Okay.

1 Q. Okay. And so the -- the economics of the
2 project costs, for example, the relative economics of
3 front office transactions versus an alternative, is
4 relevant to the issue of whether there is a resource
5 need; is that correct?

6 A. It's my understanding that it is going forward
7 now.

8 MS. HAYES: Okay. I have no other questions.
9 Thank you.

10 CHAIRMAN LEVAR: Okay. Thank you, Ms. Hayes.
11 Mr. Longson, do you have any questions for Dr. Zenger?

12 MR. LONGSON: No questions. Thank you.

13 CHAIRMAN LEVAR: Okay. Thank you.

14 Ms. McDowell or Mr. Lowney, I don't know if it makes
15 sense to start your cross-examination and have to finish
16 it tomorrow. Unless you expect it to be 20 minutes or
17 less, it probably makes sense to wait until tomorrow.
18 Why don't you indicate to me what your preference is.

19 MS. MCDOWELL: I think my preference would be
20 to wait until tomorrow. It will be longer than 20
21 minutes, and I -- you know, I know people start to fade
22 out as the day goes on. So I appreciate being able to
23 start in the morning.

24 CHAIRMAN LEVAR: Okay. Well, with that, I
25 think it's an appropriate time to recess for the day

1 unless anyone else has anything we should address
2 procedurally before we recess. I am not seeing anything
3 from anyone, so we are in recess until 9:00 a.m.
4 tomorrow morning. Thank you.

5 (The hearing concluded at 5:40 p.m.)

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1 C E R T I F I C A T E

2 STATE OF UTAH)

3 COUNTY OF SALT LAKE)

4 THIS IS TO CERTIFY that the foregoing proceedings
5 were taken before me, Teri Hansen Cronenwett, Certified
6 Realtime Reporter, Registered Merit Reporter and Notary
7 Public in and for the State of Utah.

8 That the proceedings were reported by me in
9 Stenotype, and thereafter transcribed by computer under
10 my supervision, and that a full, true, and correct
11 transcription is set forth in the foregoing pages,
12 numbered 264 through 567 inclusive.

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

17 WITNESS MY HAND and official seal at Salt Lake
18 City, Utah, this 7th day of June, 2018.

19
20 
21 Teri Hansen Cronenwett, CRR, RMR
License No. 91-109812-7801

22 My commission expires:
23 January 19, 2019
24
25

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