

# **PUBLIC SERVICE COMMISSION OF UTAH**

Docket No. 20-035-37

## **PUBLIC HEARING**

November 10, 2020

### **ADVANCED REPORTING SOLUTIONS**

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Public Hearing  
November 10, 2020

1 BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

2 -o0o-

3  
4 Application of Rocky Mountain)  
Power for Approval to Enter )  
5 into Resource Contracts in )  
Excess of Fifteen Years )  
6 Pursuant to Commission ) Docket No. 20-035-37  
Approved Agreements under )  
7 Electric Service Schedule )  
Number 34 )  
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14 VIDEO CONFERENCE PUBLIC HEARING TAKEN  
15 THROUGH ADVANCED REPORTING SOLUTIONS VIA ZOOM

16 Taken on November 10, 2020

17 10:01 a.m. to 10:20 a.m.

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21 Reported by: Michelle Mallonee, RPR, CCR  
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1 APPEARANCES

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3 Public Service Commission

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I N D E X

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

WITNESS	PAGE
KYLE MOORE	
Direct Examination by Ms. Wegener	6
DAVID WILLIAMS	
Direct Examination by Ms. Schmid	10
BELA VASTAG	
Examination by Mr. Moore	14

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

2 -o0o-

3 HEARING OFFICER HAMMER: Good morning, everyone.  
4 This is the time and forum noted for the hearing in the  
5 matter of the Application of Rocky Mountain Power for  
6 Approval to Enter into Resource Contracts in Excess of  
7 Fifteen Years. This is Commission Docket No. 20-035-37.

8 My name is Michael Hammer, and I'm the  
9 Commission's designated presiding officer for this  
10 hearing.

11 Let's go ahead and take appearances, beginning  
12 with Rocky Mountain Power, please. No one's on the line?  
13 Oh, we can't hear you, Emily.

14 MS. WEGENER: Because I'm double muted.

15 Can you hear me now?

16 HEARING OFFICER HAMMER: Yes.

17 MS. WEGENER: Okay. Good deal. Emily Wegener  
18 appearing on behalf of Rocky Mountain. And I have with  
19 me Kyle Moore for the Company.

20 HEARING OFFICER HAMMER: Thank you.

21 And for the Division of Public Utilities?

22 MS. SCHMID: Good morning. Patricia E. Schmid  
23 for the Division. With me as our witness today is David  
24 Williams.

25 HEARING OFFICER HAMMER: For the Office of

1 Consumer Services?

2 MR. MOORE: This is Robert Moore, assistant  
3 attorney general, representing the Office of Consumer  
4 Services. Our witness today will be Bela Vastag.

5 HEARING OFFICER HAMMER: And I see some other  
6 parties are on the line. You're welcome to listen.  
7 Would you like to enter an appearance today?

8 MR. DODGE: This is Gary Dodge. We have not  
9 intervened. I represent Salt Lake City and Park City.  
10 I'm on the line, but I don't need to enter a formal  
11 appearance. Thank you.

12 HEARING OFFICER HAMMER: All right. Thank you.  
13 Then we'll begin with Ms. Wegener. Are you  
14 ready to call your first witness?

15 MS. WEGENER: I am. The Company calls Kyle  
16 Moore.

17 HEARING OFFICER HAMMER: Mr. Moore, do you swear  
18 to tell the truth?

19 THE WITNESS: Yes.

20 HEARING OFFICER HAMMER: Go ahead.

21

22 KYLE MOORE,  
23 was called as a witness, and having been first duly  
24 sworn to tell the truth, the whole truth, and nothing  
25 but the truth, testified as follows:

DIRECT EXAMINATION

BY MS. WEGENER:

**Q. Good morning. Can you please state your name and business address for the record.**

A. Yes. My name is Kyle Moore. And I work at 1407 West North Temple, Salt Lake City, Utah 84116.

**Q. And what's your position at Rocky Mountain Power?**

A. I am a power marketer/originator in Rocky Mountain Power.

**Q. Did you prepare and submit testimony in Docket No. 20-035-37 on August 20th, 2020?**

A. Yes.

**Q. Do you have any corrections to that testimony?**

A. No.

**Q. If I asked you the same questions that are in your prefiled testimony today, would your answers be the same?**

A. Yes.

MS. WEGENER: And I move to admit the testimony of Kyle Moore.

HEARING OFFICER HAMMER: It's admitted.

**Q. (BY MS. WEGENER:) Could you please provide a summary of your testimony.**

A. Yes. On August 18th, 2020, Rocky Mountain Power

1 filed an application, together with prefiled testimony  
2 and exhibits, requesting approval to enter into certain  
3 contracts for resources to serve Salt Lake City; Park  
4 City; Summit County, Utah; Utah Valley University; Vail  
5 Resorts; and Deer Valley Resorts, collectively  
6 "customers," under Electricity Service Schedule 34 that  
7 extend beyond the 15-year term for Commission-approved  
8 avoided cost prices.

9           As the Company explained in its application,  
10 there are extenuating circumstances that require power  
11 purchase agreements terms of 20 and 25 years, with  
12 corresponding longer-term avoided cost pricing for the  
13 customers.

14           Schedule 34 states that the rates paid by the  
15 customers will include an incremental charge that  
16 incorporates the concept of avoided cost, as defined in  
17 Utah Code Annotated Section 54-2-1(1).

18           To determine the incremental charge, the  
19 customer contracts use the term "resource avoided cost,"  
20 which the contract defines as an amount in dollars per  
21 kilowatt hour based on the Company's Utah Electric  
22 Service Schedule 38, applicable as of the date of  
23 determination equivalent to the levelized avoided cost  
24 purchase price that would be payable to the owner of the  
25 qualifying facility, as defined in such Schedule 38, with

1 a size, location, and fuel source comparable to that of  
2 the relevant customer renewable resource.

3 Schedule 38 currently limits a qualifying  
4 facilities contract term to 15 years. Schedule 34 does  
5 not specify a minimum or maximum resource contract term.

6 In Docket No. 18 -- apologize. I think that I  
7 had some edits here that I did not accept.

8 Rocky Mountain Power, the Division of Public  
9 Utilities, and the Office of Consumer Services,  
10 collectively the "parties," entered into a settlement  
11 stipulation filed with the Commission on October 20th,  
12 2020, in which the parties recognize that the extenuating  
13 circumstances relating to the ongoing COVID-19 public  
14 health emergency and its related effects on the economy  
15 and the PPA contract with the Schedule 34 resource  
16 specifically are key factors that allowed the parties to  
17 agree to the stipulation.

18 The parties agree that the extenuating  
19 circumstance provide a reasonable and rational basis for  
20 a one-time approval of a longer term that is inconsistent  
21 with the 15-year term initially negotiated and with the  
22 maximum terms of Schedule 37 and 38 contracts.

23 The parties agree that nothing in the  
24 stipulation is to be construed as finding or used as  
25 precedent in future cases before the Commission.

1           Based on the application and the stipulation,  
2 the proposed avoided cost treatment complies with the  
3 requirements of Schedule 34 and are in the public  
4 interest. And the Company respectfully requests that  
5 they be approved by the Commission.

6           **Q. Thank you.**

7           MS. WEGENER: I have nothing further. And this  
8 witness is now available for cross-examination.

9           HEARING OFFICER HAMMER: Ms. Schmid?

10          MS. SCHMID: No questions.

11          HEARING OFFICER HAMMER: Mr. Moore?

12          MR. MOORE: The Office has no questions. Thank  
13 you.

14          HEARING OFFICER HAMMER: And Ms. Wegener, do you  
15 have any other witnesses?

16          MS. WEGENER: I do not.

17          HEARING OFFICER HAMMER: Okay. I have nothing  
18 for you, Mr. Moore.

19          So we'll go ahead to move on to the next  
20 witness.

21          MS. SCHMID: Good morning. This is Patricia  
22 Schmid with the Division of Public Utilities.

23          HEARING OFFICER HAMMER: Pardon me, Ms. Schmid.  
24 I thought I heard Ms. Wegener say "I do."

25          You have no other witnesses?

1 MS. WEGENER: No. I said, "I do not." I  
2 apologize.

3 HEARING OFFICER HAMMER: I didn't get the "not."  
4 Thank you.

5 I'm sorry. Go ahead, Ms. Schmid.

6 MS. SCHMID: Good morning. This is Patricia  
7 Schmid with the Utah Attorney General's office. Our  
8 witness is David Williams. May he please be sworn?

9 HEARING OFFICER HAMMER: Mr. Williams, do you  
10 swear to tell the truth?

11 THE WITNESS: I do.

12

13 DAVID WILLIAMS,  
14 was called as a witness, and having been first duly  
15 sworn to tell the truth, the whole truth, and nothing  
16 but the truth, testified as follows:

17

18 DIRECT EXAMINATION

19 BY MS. SCHMID:

20 Q. Please state your full name for the record.

21 A. David Williams.

22 Q. By whom are you employed and in what capacity?

23 A. I'm a utility analyst with the Utah Division of  
24 Public.

25 Q. In conjunction with your employment by the

1 **Division, have you participated in this docket?**

2 A. Yes.

3 **Q. Please describe your participation in this**  
4 **docket on behalf of the Division.**

5 A. I have reviewed the testimony and participated  
6 in the settlement discussions among the parties.

7 **Q. Do you have the Division's -- the Division's**  
8 **position to share with us today?**

9 A. Yes.

10 **Q. Could you please present that.**

11 A. Yes. The Division supports the stipulation and  
12 requests that the Commission approve it as filed.

13 The Company has provided a description of the  
14 facts leading to a stipulation. I'll summarize the key  
15 points that underlie the Division's recommendation.

16 Under the Schedule 34 conditions of service, the  
17 customer pays rates comprised of three parts: The normal  
18 tariff rate, a cost-based administrative fee, and a  
19 third component. And for this third component, unless  
20 the Commission approves a different method, the  
21 third component is "an incremental charge equal to the  
22 difference between the cost to the Company to supply  
23 renewable generation to the customer and the Company's  
24 avoided costs as defined in Utah Code Annotated Section  
25 54-2-1(1)."

1           Avoided costs for qualified facilities are  
2 addressed in Schedule 38. And the contracts that the  
3 Company has with the customers in the present case uses  
4 the term "resource avoided cost," which is a term defined  
5 in the terms of Schedule 38. Schedule 38 limits a  
6 qualifying facilities contract term to 15 years.

7           Therefore, although Schedule 34 itself does not  
8 specify the allowed length of a contract term, a PPA  
9 contract term longer than 15 years is not contemplated by  
10 Schedule 38.

11           Extenuating circumstances in this case prompt  
12 the Division to support the settlement. Of particular  
13 importance to the Division, the Company negotiated with  
14 the customers for a 15-year PPA, but COVID has had an  
15 effect on the financing market, and 15-year financing was  
16 not available. Therefore, the Division agrees that a  
17 one-time approval of a PPA term longer than 15 years is  
18 appropriate in this case. As mentioned by the Company,  
19 the parties agree that nothing in the stipulation is to  
20 be used as precedent.

21           **Q. Thank you, Mr. Williams. Does that conclude**  
22 **your comments?**

23           A. No, I had a little bit more. Sorry.

24           **Q. Okay. Please continue.**

25           A. As far as adjustments to Schedule 34, Schedule

1 34 may be modified to avoid future issues similar to this  
2 one. The parties agree to meet in 2021 to discuss  
3 changes to the tariff. We do not yet know exactly what  
4 these changes would look like, but we will consider input  
5 from interested parties.

6 So in conclusion, one-time approval, as set  
7 forth in the stipulation of this PPA longer than 15  
8 years, is just, reasonable, and in the public interest.  
9 This concludes my summary.

10 **Q. Thank you.**

11 MS. SCHMID: Mr. Williams is now available for  
12 cross-examine questions and questions from the hearing  
13 officer.

14 HEARING OFFICER HAMMER: Ms. Wegener?

15 MS. WEGENER: No questions. Thank you.

16 HEARING OFFICER HAMMER: Mr. Moore?

17 MR. MOORE: No questions. Thank you.

18 HEARING OFFICER HAMMER: And I have nothing for  
19 you, Mr. Williams. Thank you.

20 Ms. Schmid, any other witnesses?

21 MS. SCHMID: The Division has no other  
22 witnesses. Thank you.

23 HEARING OFFICER HAMMER: Thanks.

24 We'll go to you, Mr. Moore.

25 MR. MOORE: The OSC calls Bela Vastag and asks

1 that he be sworn.

2 HEARING OFFICER HAMMER: Mr. Vastag, do you  
3 swear to tell the truth?

4 THE WITNESS: Yes, I do.

5 HEARING OFFICER HAMMER: Thank you.

6

7 BELA VASTAG,

8 was called as a witness, and having been first duly  
9 sworn to tell the truth, the whole truth, and nothing  
10 but the truth, testified as follows:

11

12

EXAMINATION

13 BY MR. MOORE:

14 **Q. Could you please state and spell your name for**  
15 **the record.**

16 A. Yes. My name is Bela Vastag. That's B-E-L-A,  
17 last name Vastag, V, like in Victor, A-S-T-A-G.

18 **Q. How are you employed, and what is your business**  
19 **address?**

20 A. I am employed by the Office of Consumer Services  
21 as a utility analyst. And our business address is 160  
22 East 300 South, Salt Lake City, Utah.

23 **Q. In your capacity as a utility analyst for the**  
24 **OCS, have you participated in the negotiations and**  
25 **drafting of the settlement stipulation that is the**

1 subject of the hearing today?

2 A. Yes, I have.

3 Q. In your opinion, is the settlement just and  
4 reasonable and resultant in the public interest?

5 A. Yes.

6 Q. Have you prepared a summary of the OSC  
7 position --

8 A. Yes, I have.

9 Q. -- on the settlement? Please proceed.

10 A. Good morning, Mr. Hammer, and the other parties  
11 at today's hearing.

12 For some background, on February 6, 2020, in a  
13 separate proceeding in Docket No. 19-035-39, the  
14 Commission approved Schedule 34 contracts between Rocky  
15 Mountain Power, or RMP, and several large RMP electric  
16 customers. These customers are Salt Lake City, Park  
17 City, Summit County, Utah Valley University, Vail  
18 Resorts, and Deer Valley resorts. Collectively, these  
19 Schedule 34 contracts are referred to in this proceed and  
20 in the stipulation as the "customer contracts."

21 Just again, background. The purpose of Schedule  
22 34 is to allow Rocky Mountain Power to purchase renewable  
23 energy for certain qualified customers.

24 The customer contracts are not directly at issue  
25 in this proceeding. What is at issue is the contract; or

1 in other words, the power purchase agreement, or PPA,  
2 that RMP has signed for the renewable resource that will  
3 provide the renewable energy that is required under the  
4 customer contracts.

5 The issue that Rocky Mountain Power has raised  
6 in this proceeding is that when the Commission approved  
7 the customer contracts back in February of 2020, Rocky  
8 Mountain Power stated that the renewable resource PPA  
9 would be for a term of 15 years, but now RMP states that  
10 the PPA term must be greater than 15 years.

11 Rocky Mountain Power explains that the increase  
12 in the PPA term is needed so that the project developer  
13 can obtain financing to build the customer's chosen  
14 renewable resource.

15 This change in PPA term length raises some  
16 important questions about how to calculate the avoided  
17 cost to be used in the customer contracts, including how  
18 to handle the fact that current avoided costs are now  
19 higher than those calculated when the initial -- are now  
20 lower, sorry, than those calculated in the initial PPA --  
21 when the initial PPA was negotiated and when the customer  
22 contracts were signed.

23 After we reviewed the customer contracts and  
24 Rocky Mountain Power's filing in this proceeding and then  
25 after some discussions with Rocky Mountain Power and the

1 customers, the Office of Consumer Services, or OCS,  
2 identified two primary issues resulting from RMP's  
3 request to change the PPA term length in this proceeding.

4 One, whether it is appropriate to use avoided  
5 costs based on a combination of the original 15-year PPA  
6 and the new longer-term PPA for pricing in the customer  
7 contracts; and two, that Schedule 34, as currently  
8 written, does not contain enough specific information on  
9 how pricing and other procedures are to be implemented  
10 when RMP develops customer contracts and negotiates PPAs  
11 with the associated renewable resources.

12 The OCS believes that resolving these two issues  
13 is very important to ensuring that RMP customers who do  
14 not participate in Schedule 34 do not bear any additional  
15 costs associated with Rocky Mountain Power acquiring a  
16 Schedule 34 resource or with Rocky Mountain Power  
17 providing service to these Schedule 34 customers.

18 However, the OCS does acknowledge that the  
19 current COVID-19 public health and then the related  
20 economic crisis have created extenuating circumstances,  
21 making it difficult for RMP to finalize the Schedule 34  
22 customer contracts and the associated PPA with the  
23 customer's chosen renewable resource.

24 Therefore, the OCS does not oppose Rocky  
25 Mountain Power's proposed terms in this proceeding under

1 these specific and limited circumstances.

2 The OCS wants to make it clear that the  
3 stipulation does not set a precedent for how Schedule 34  
4 pricing is to be determined in future contracts that RMP  
5 enters into under different circumstances.

6 However, the stipulation does provide for the  
7 finalization of the customer contracts and the resource  
8 PPA at issue in this docket. And importantly, the  
9 stipulation also provides for a process to reform and  
10 improve the Schedule 34 tariff in a future proceeding.

11 The OCS participated in several settlement  
12 negotiation meetings and was very involved in the  
13 development of the stipulation now before the Commission.  
14 The OCS appreciates how the parties have worked together  
15 to develop a stipulation that will allow the Schedule 34  
16 customers to move (inaudible) more renewable energy, and  
17 also includes an agreement for parties to collaborate to  
18 improve how Schedule 34 is implemented in the future.

19 The OCS believes that this settlement  
20 stipulation is just and reasonable in result and in the  
21 public interest. The OCS recommends that the Commission  
22 approve it.

23 That concludes my statement.

24 MR. MOORE: Mr. Vastag is available for  
25 cross-examination and questions from the Hearing Officer.

1 HEARING OFFICER HAMMER: Ms. Wegener?

2 MS. WEGENER: No questions. Thank you.

3 HEARING OFFICER HAMMER: Ms. Schmid?

4 MS. SCHMID: No questions. Thank you.

5 HEARING OFFICER HAMMER: And I have nothing for  
6 you, Mr. Vastag. Thank you for your testimony.

7 Anything else, Mr. Moore?

8 MR. MOORE: The Office has no further witnesses.

9 HEARING OFFICER HAMMER: Okay. Is there  
10 anything else that we need to address before we adjourn?

11 All right. Thank you, everyone, for your  
12 participation. Take care. We're adjourned.

13 MS. SCHMID: Thank you.

14 MR. MOORE: Thank you.

15 (The matter concluded at 10:20 a.m.)

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CERTIFICATE

1  
2  
3 State of Utah                    )  
  ss.  
4 County of Salt Lake        )

5                    I, Michelle Mallonee, a Registered  
6 Professional Reporter in and for the State of Utah, do  
hereby certify:

7                    That the proceedings of said matter was  
8 reported by me in stenotype and thereafter transcribed  
into typewritten form;

9                    That the same constitutes a true and correct  
10 transcription of said proceedings so taken and  
transcribed;

11                    I further certify that I am not of kin or  
12 otherwise associated with any of the parties of said  
cause of action, and that I am not interested in the  
13 event thereof.

14                    WITNESS MY HAND at Salt Lake City, Utah,  
this 20th day of November, 2020.

15  
16 

17 \_\_\_\_\_  
18 Michelle Mallonee, RPR, CCR  
19 Utah CCR #267114-7801  
20 Expires May 31, 2022  
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22  
23  
24  
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-	5	apologize 8:6 10:2
-o0o- 4:2	54-2-1(1) 7:17 11:25	appearance 5:7,11
1	6	appearances 4:11
1407 6:5	6 15:12	appearing 4:18
15 8:4 12:6,9,17 13:7 16:9,10	8	applicable 7:22
15-year 7:7 8:21 12:14, 15	84116 6:6	application 4:5 7:1,9 9:1
160 14:21	A	approval 4:6 7:2 8:20 12:17 13:6
18 8:6	A-S-T-A-G 14:17	approve 11:12
18th 6:25	accept 8:7	approved 9:5 15:14 16:6
19-035-39 15:13	address 6:4 14:19,21	approves 11:20
2	addressed 12:2	asks 13:25
20 7:11	adjustments 12:25	assistant 5:2
20-035-37 4:7 6:12	administrative 11:18	attorney 5:3 10:7
2020 6:12,25 8:12 15:12 16:7	admit 6:20	August 6:12,25
2021 13:2	admitted 6:22	avoid 13:1
20th 6:12 8:11	agree 8:17,18,23 12:19 13:2	avoided 7:8,12,16,19,23 9:2 11:24 12:1,4 16:16, 18
25 7:11	agreement 16:1	B
3	agreements 7:11	B-E-L-A 14:16
300 14:22	agrees 12:16	back 16:7
34 7:6,14 8:4,15 9:3 11:16 12:7,25 13:1 15:14,19,22	ahead 4:11 5:20 9:19 10:5	background 15:12,21
37 8:22	allowed 8:16 12:8	based 7:21 9:1
38 7:22,25 8:3,22 12:2,5, 10	amount 7:20	basis 8:19
	analyst 10:23 14:21,23	begin 5:13
	Annotated 7:17 11:24	beginning 4:11
	answers 6:17	behalf 4:18 11:4
		Bela 5:4 13:25 14:7,16
		bit 12:23
		build 16:13

**business** 6:4 14:18,21

---

**C**

---

**calculate** 16:16

**calculated** 16:19,20

**call** 5:14

**called** 5:23 10:14 14:8

**calls** 5:15 13:25

**capacity** 10:22 14:23

**case** 12:3,11,18

**cases** 8:25

**change** 16:15

**charge** 7:15,18 11:21

**chosen** 16:13

**circumstance** 8:19

**circumstances** 7:10 8:13  
12:11

**City** 5:9 6:6 7:3,4 14:22  
15:16,17

**Code** 7:17 11:24

**collectively** 7:5 8:10  
15:18

**comments** 12:22

**Commission** 4:7 8:11,25  
9:5 11:12,20 15:14 16:6

**Commission's** 4:9

**Commission-approved**  
7:7

**Company** 4:19 5:15 7:9  
9:4 11:13,22 12:3,13,18

**Company's** 7:21 11:23

**comparable** 8:1

**complies** 9:2

**component** 11:19,21

**comprised** 11:17

**concept** 7:16

**conclude** 12:21

**concludes** 13:9

**conclusion** 13:6

**conditions** 11:16

**conjunction** 10:25

**construed** 8:24

**Consumer** 5:1,3 8:9  
14:20

**contemplated** 12:9

**continue** 12:24

**contract** 7:20 8:4,5,15  
12:6,8,9 15:25

**contracts** 4:6 7:3,19 8:22  
12:2 15:14,19,20,24  
16:4,7,17,22,23

**corrections** 6:14

**cost** 7:8,12,16,19,23 9:2  
11:22 12:4 16:17

**cost-based** 11:18

**costs** 11:24 12:1 16:18

**County** 7:4 15:17

**COVID** 12:14

**COVID-19** 8:13

**cross-examination** 9:8

**cross-examine** 13:12

**current** 16:18

**customer** 7:19 8:2 11:17,  
23 15:20,24 16:4,7,17,  
21,23

**customer's** 16:13

**customers** 7:6,13,15  
12:3,14 15:16,23

---

**D**

---

**date** 7:22

**David** 4:23 10:8,13,21

**deal** 4:17

**Deer** 7:5 15:18

**defined** 7:16,25 11:24  
12:4

**defines** 7:20

**describe** 11:3

**description** 11:13

**designated** 4:9

**determination** 7:23

**determine** 7:18

**developer** 16:12

**difference** 11:22

**DIRECT** 6:1 10:18

**directly** 15:24

**discuss** 13:2

**discussions** 11:6 16:25

**Division** 4:21,23 8:8 9:22  
10:23 11:1,4,11 12:12,  
13,16 13:21

**Division's** 11:7,15

**docket** 4:7 6:11 8:6 11:1,  
4 15:13

**Dodge** 5:8

**dollars** 7:20

**double** 4:14

**drafting** 14:25

<b>duly</b> 5:23 10:14 14:8	<b>facility</b> 7:25	<b>health</b> 8:14
<hr/>	<b>fact</b> 16:18	<b>hear</b> 4:13,15
<b>E</b>	<b>factors</b> 8:16	<b>heard</b> 9:24
<hr/>	<b>facts</b> 11:14	<b>hearing</b> 4:3,4,10,16,20, 25 5:5,12,17,20 6:22 9:9, 11,14,17,23 10:3,9 13:12,14,16,18,23 14:2,5 15:1,11
<b>East</b> 14:22	<b>February</b> 15:12 16:7	<b>higher</b> 16:19
<b>economy</b> 8:14	<b>fee</b> 11:18	<b>hour</b> 7:21
<b>edits</b> 8:7	<b>Fifteen</b> 4:7	<hr/>
<b>effect</b> 12:15	<b>filed</b> 7:1 8:11 11:12	<b>I</b>
<b>effects</b> 8:14	<b>filing</b> 16:24	<hr/>
<b>electric</b> 7:21 15:15	<b>financing</b> 12:15 16:13	<b>importance</b> 12:13
<b>Electricity</b> 7:6	<b>finding</b> 8:24	<b>important</b> 16:16
<b>emergency</b> 8:14	<b>formal</b> 5:10	<b>include</b> 7:15
<b>Emily</b> 4:13,17	<b>forum</b> 4:4	<b>including</b> 16:17
<b>employed</b> 10:22 14:18, 20	<b>fuel</b> 8:1	<b>inconsistent</b> 8:20
<b>employment</b> 10:25	<b>full</b> 10:20	<b>incorporates</b> 7:16
<b>energy</b> 15:23 16:3	<b>future</b> 8:25 13:1	<b>increase</b> 16:11
<b>enter</b> 4:6 5:7,10 7:2	<hr/>	<b>incremental</b> 7:15,18 11:21
<b>entered</b> 8:10	<b>G</b>	<b>initial</b> 16:19,20,21
<b>equal</b> 11:21	<hr/>	<b>initially</b> 8:21
<b>equivalent</b> 7:23	<b>Gary</b> 5:8	<b>input</b> 13:4
<b>EXAMINATION</b> 6:1 10:18 14:12	<b>general</b> 5:3	<b>interest</b> 9:4 13:8 15:4
<b>Excess</b> 4:6	<b>General's</b> 10:7	<b>interested</b> 13:5
<b>exhibits</b> 7:2	<b>generation</b> 11:23	<b>intervened</b> 5:9
<b>explained</b> 7:9	<b>Good</b> 4:3,17,22 6:3 9:21 10:6 15:10	<b>issue</b> 15:24,25 16:5
<b>explains</b> 16:11	<b>greater</b> 16:10	<b>issues</b> 13:1
<b>extend</b> 7:7	<hr/>	<hr/>
<b>extenuating</b> 7:10 8:12,18 12:11	<b>H</b>	<hr/>
<hr/>	<b>Hammer</b> 4:3,8,16,20,25 5:5,12,17,20 6:22 9:9,11, 14,17,23 10:3,9 13:14, 16,18,23 14:2,5 15:10	<b>K</b>
<b>F</b>	<hr/>	<hr/>
<hr/>	<b>handle</b> 16:18	<b>key</b> 8:16 11:14
<b>facilities</b> 8:4 12:1,6		

<b>kilowatt</b> 7:21	10:6 15:10	
<b>Kyle</b> 4:19 5:15,22 6:5,21	<b>Mountain</b> 4:5,12,18 6:7, 10,25 8:8 15:15,22 16:5, 8,11,24,25	<hr/> <b>P</b> <hr/>
<hr/> <b>L</b> <hr/>	<b>move</b> 6:20 9:19	<b>paid</b> 7:14
<b>Lake</b> 5:9 6:6 7:3 14:22 15:16	<b>muted</b> 4:14	<b>Pardon</b> 9:23
<b>large</b> 15:15	<hr/> <b>N</b> <hr/>	<b>Park</b> 5:9 7:3 15:16
<b>leading</b> 11:14	<b>needed</b> 16:12	<b>participated</b> 11:1,5 14:24
<b>length</b> 12:8 16:15	<b>negotiated</b> 8:21 12:13 16:21	<b>participation</b> 11:3
<b>levelized</b> 7:23	<b>negotiations</b> 14:24	<b>parties</b> 5:6 8:10,12,16, 18,23 11:6 12:19 13:2,5 15:10
<b>limits</b> 8:3 12:5	<b>normal</b> 11:17	<b>parts</b> 11:17
<b>listen</b> 5:6	<b>North</b> 6:6	<b>Patricia</b> 4:22 9:21 10:6
<b>location</b> 8:1	<b>noted</b> 4:4	<b>payable</b> 7:24
<b>longer</b> 8:20 12:9,17 13:7	<hr/> <b>O</b> <hr/>	<b>pays</b> 11:17
<b>longer-term</b> 7:12	<b>obtain</b> 16:13	<b>points</b> 11:15
<b>lower</b> 16:20	<b>OCS</b> 14:24	<b>position</b> 6:7 11:8 15:7
<hr/> <b>M</b> <hr/>	<b>October</b> 8:11	<b>power</b> 4:5,12 6:8,9,10,25 7:10 8:8 15:15,22 16:1,5, 8,11,25
<b>market</b> 12:15	<b>office</b> 4:25 5:3 8:9 9:12 10:7 14:20	<b>Power's</b> 16:24
<b>marketer/originator</b> 6:9	<b>officer</b> 4:3,9,16,20,25 5:5,12,17,20 6:22 9:9,11, 14,17,23 10:3,9 13:13, 14,16,18,23 14:2,5	<b>PPA</b> 8:15 12:8,14,17 13:7 16:1,8,10,12,15,20,21
<b>matter</b> 4:5	<b>one's</b> 4:12	<b>precedent</b> 8:25 12:20
<b>maximum</b> 8:5,22	<b>one-time</b> 8:20 12:17 13:6	<b>prefiled</b> 6:17 7:1
<b>meet</b> 13:2	<b>ongoing</b> 8:13	<b>prepare</b> 6:11
<b>mentioned</b> 12:18	<b>opinion</b> 15:3	<b>prepared</b> 15:6
<b>method</b> 11:20	<b>OSC</b> 13:25 15:6	<b>present</b> 11:10 12:3
<b>Michael</b> 4:8	<b>owner</b> 7:24	<b>presiding</b> 4:9
<b>minimum</b> 8:5		<b>price</b> 7:24
<b>modified</b> 13:1		<b>prices</b> 7:8
<b>Moore</b> 4:19 5:2,16,17,22 6:5,21 9:11,12,18 13:16, 17,24,25 14:13		<b>pricing</b> 7:12
<b>morning</b> 4:3,22 6:3 9:21		<b>proceed</b> 15:9,19

**proceeding** 15:13,25  
16:6,24

**project** 16:12

**prompt** 12:11

**proposed** 9:2

**provide** 6:23 8:19 16:3

**provided** 11:13

**public** 4:21 8:8,13 9:3,22  
10:24 13:8 15:4

**purchase** 7:11,24 15:22  
16:1

**purpose** 15:21

---

**Q**

**qualified** 12:1 15:23

**qualifying** 7:25 8:3 12:6

**questions** 6:16 9:10,12  
13:12,15,17 16:16

---

**R**

**raised** 16:5

**raises** 16:15

**rate** 11:18

**rates** 7:14 11:17

**rational** 8:19

**ready** 5:14

**reasonable** 8:19 13:8  
15:4

**recognize** 8:12

**recommendation** 11:15

**record** 6:4 10:20 14:15

**referred** 15:19

**related** 8:14

**relating** 8:13

**relevant** 8:2

**renewable** 8:2 11:23  
15:22 16:2,3,8,14

**represent** 5:9

**representing** 5:3

**requesting** 7:2

**requests** 9:4 11:12

**require** 7:10

**required** 16:3

**requirements** 9:3

**resorts** 7:5 15:18

**resource** 4:6 7:19 8:2,5,  
15 12:4 16:2,8,14

**resources** 7:3

**respectfully** 9:4

**resultant** 15:4

**reviewed** 11:5 16:23

**RMP** 15:15 16:2,9

**Robert** 5:2

**Rocky** 4:5,12,18 6:7,9,25  
8:8 15:14,22 16:5,7,11,  
24,25

---

**S**

**Salt** 5:9 6:6 7:3 14:22  
15:16

**Schedule** 7:6,14,22,25  
8:3,4,15,22 9:3 11:16  
12:2,5,7,10,25 15:14,19,  
21

**Schmid** 4:22 9:9,10,21,  
22,23 10:5,6,7,19 13:11,

20,21

**Section** 7:17 11:24

**separate** 15:13

**serve** 7:3

**service** 7:6,22 11:16

**Services** 5:1,4 8:9 14:20

**set** 13:6

**settlement** 8:10 11:6  
12:12 14:25 15:3,9

**share** 11:8

**signed** 16:2,22

**similar** 13:1

**size** 8:1

**source** 8:1

**South** 14:22

**specifically** 8:16

**spell** 14:14

**state** 6:3 10:20 14:14

**stated** 16:8

**states** 7:14 16:9

**stipulation** 8:11,17,24  
9:1 11:11,14 12:19 13:7  
14:25 15:20

**subject** 15:1

**submit** 6:11

**summarize** 11:14

**summary** 6:24 13:9 15:6

**Summit** 7:4 15:17

**supply** 11:22

**support** 12:12

**supports** 11:11

**swear** 5:17 10:10 14:3

**sworn** 5:24 10:8,15 14:1,  
9

---

**T**

---

**tariff** 11:18 13:3

**Temple** 6:6

**term** 7:7,19 8:4,5,20,21  
12:4,6,8,9,17 16:9,10,12,  
15

**terms** 7:11 8:22 12:5

**testified** 5:25 10:16  
14:10

**testimony** 6:11,14,17,20,  
24 7:1 11:5

**thought** 9:24

**time** 4:4

**today** 4:23 5:4,7 6:17  
11:8 15:1

**today's** 15:11

**treatment** 9:2

**truth** 5:18,24,25 10:10,  
15,16 14:3,9,10

---

**U**

---

**underlie** 11:15

**University** 7:4 15:17

**Utah** 6:6 7:4,17,21 10:7,  
23 11:24 14:22 15:17

**Utilities** 4:21 8:9 9:22

**utility** 10:23 14:21,23

---

**V**

---

**Vail** 7:4 15:17

**Valley** 7:4,5 15:17,18

**Vastag** 5:4 13:25 14:2,7,  
16,17

**Victor** 14:17

---

**W**

---

**Wegener** 4:14,17 5:13,15  
6:2,20,23 9:7,14,16,24  
10:1 13:14,15

**West** 6:6

**Williams** 4:24 10:8,9,13,  
21 12:21 13:11,19

**witnesses** 9:15,25 13:20,  
22

**words** 16:1

**work** 6:5

---

**Y**

---

**years** 4:7 7:11 8:4 12:6,9,  
17 13:8 16:9,10