

PUBLIC SERVICE COMMISSION OF UTAH

Docket No. 21-035-69

HEARING

May 12, 2022

ADVANCED REPORTING SOLUTIONS

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1 BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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4 Application of Rocky)
5 Mountain Power for Approval)
6 of Electric Service)
7 Agreement between PacifiCorp)
8 and Nucor-Plymouth Bar)
9 Division, a Division of)
10 Nucor Corporation)
11) Docket No. 21-035-69
12 _____)

13 (PARTIAL TRANSCRIPT, CONFIDENTIAL SECTIONS REDACTED)

14 VIDEOCONFERENCED HEARING TAKEN THROUGH

15 ADVANCED REPORTING SOLUTIONS VIA ZOOM

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21 Reported by: Michelle Mallonee, RPR, CCR
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1 P R O C E E D I N G S

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3
4 CHAIRMAN LEVAR: Okay. We will go on the record
5 it looks like the streaming has begun.

6 Good morning. We are here for the Public
7 Service Commission hearing in Docket 21-035-69,
8 Application of Rocky Mountain Power for Approval of
9 Electric Service Agreement between PacifiCorp and
10 Nucor-Plymouth Bar Division, a Division of Nucor
11 Corporation.

12 My name is Thad Levar. I will be conducting
13 today's hearing.

14 And why don't we start with appearances. We'll
15 go to Rocky Mountain Power first.

16 MS. WEGENER: This is Emily Wegener, appearing
17 on behalf of Rocky Mountain Power. And with me today I
18 have our company witness, Craig Eller, who will be
19 presenting his testimony. And then I also have available
20 for questions Robert Meredith, who is our director,
21 responsible for cost of service switch and pricing, which
22 has become a little bit of an issue here. So he will be
23 available for any questions relating to that more general
24 topic. The specific development of the rates, Mr. Eller
25 will be available for.

1 CHAIRMAN LEVAR: Okay. Thank you, Ms. Wegener.
2 For Nucor Steel.

3 MR. COOK: This is Jeremy Cook with Cohne
4 Kinghorn, representing Nucor Steel - Utah. I have today
5 Pete Mattheis, the principal at Stone Mattheis Xenopoulos
6 & Brew, who will be adopting Nucor Steel's reply
7 comments. Mr. Mattheis will be providing -- will not be
8 providing a summary today, but will be available for
9 questions.

10 CHAIRMAN LEVAR: Okay. Thank you.
11 For the Division of Public Utilities.

12 MR. JETTER: Good morning. I'm Justin Jetter
13 representing the -- I'm from the Utah Division -- excuse
14 me -- Utah Attorney General's Office, representing the
15 Utah Division of Public Utilities. And the Division
16 intends to call one witness today who is joined on the
17 streaming, Jeff Einfeldt.

18 CHAIRMAN LEVAR: Okay. Thank you.
19 For the Office of Consumer Services.

20 MR. MOORE: Yes. This is Robert Moore of the
21 AG's office, representing of the Office of Consumer
22 Services. Bela Vastag, a utility analyst at the office,
23 will be the office's witness.

24 CHAIRMAN LEVAR: Okay. Thank you.
25 Is there anyone else to make an appearance

1 today?

2 Before we move forward, I want to ask everyone
3 your thoughts on handling confidential material in
4 today's hearing. Some of the things that are -- some of
5 the concepts that are marked "confidential," it seems to
6 me could underlie a lot of the discussion today. And at
7 least at first blush, it looks like it could be somewhat
8 difficult to try to go in and out of confidential
9 session, closing the hearing to the public and coming
10 back. But I want to get parties' thoughts on that.

11 The first question I want to ask is: Does
12 anyone have any objection to any of the material that's
13 marked confidential? I'll give you a moment to -- if
14 there are any objections, raise them now.

15 I'm not seeing or hearing any. So let me open
16 it up to a discussion of what would be the best way -- I
17 mean, we obviously want to make as much of our
18 proceedings open to the public as we can. We also want
19 to promote efficiency in how we conduct today's hearing.

20 So let me go to Ms. Wegener first, if you have
21 thoughts on this issue.

22 MS. WEGENER: From my part, my witness will not
23 be presenting confidential information in his summary.
24 So the exhibits that Mr. Moore provided included a
25 previous confidential contract with Nucor, so he can

1 speak to whether he can discuss that without discussing
2 the specific confidential information.

3 I also have structured my cross-examination to,
4 I think, avoid confidentiality, with just one line that
5 could potentially go into confidential material,
6 depending on the responses.

7 So I am -- I can go either way on whether we
8 make the whole thing confidential or whether we just flag
9 those confidential sections of cross that we would need
10 to close the hearing for.

11 CHAIRMAN LEVAR: Okay. Thank you, Ms. Wegener.
12 Mr. Cook.

13 MR. COOK: I don't believe we'll have a lot of
14 confidential discussion with Mr. Mattheis, so I think we
15 could go either way as well.

16 CHAIRMAN LEVAR: Okay. Thank you.
17 Mr. Jetter.

18 MR. JETTER: I think for the Division's, at
19 least direct presentation, I don't expect a need to go
20 into a confidential session.

21 I'm not really sure about cross for our witness.
22 I think I can avoid anything in any cross that I might do
23 for the other parties. But I'm also not necessarily
24 opposed to moving into a confidential session, either as
25 needed or for the hearing. Pretty flexible.

1 CHAIRMAN LEVAR: Okay.

2 Mr. Moore.

3 MR. MOORE: I'm not sure that I'm going to need
4 to use the confidential exhibit referenced by
5 Ms. Wegener. That is the only exhibit that I have that's
6 been marked confidential.

7 The confidentiality designations are rather
8 large in this case, and I have tried to structure my
9 cross, to the degree possible, to avoid a long list of
10 questions dealing with confidential issues.

11 Again, we can close the hearing in total if
12 you'd like, but I think we can, as well, pick and choose
13 when we close the hearing.

14 CHAIRMAN LEVAR: Sure. Okay. Well, it looks
15 like there's not a lot of interest in closing the entire
16 hearing or not much feeling that there's a need to. I'll
17 be honest, there's basically one contract concept that's
18 labeled "confidential" that I assumed there would be some
19 discussion of, and if there's not, I would have some
20 questions about. I will be careful not to ask about that
21 concept unless we first go into a closed session and stop
22 the streaming.

23 But I'll just ask all the attorneys just to be
24 mindful of how the discussion goes. What we don't want
25 to do is accidentally put something that shouldn't be in

1 the public record into the public record. But it sounds
2 like everyone is comfortable moving forward that way, so
3 we will.

4 Anything else that we need to handle
5 preliminarily before we move to Rocky Mountain Power?

6 Okay. Ms. Wegener.

7 MS. WEGENER: Thank you. The Company calls
8 Craig Eller.

9 CHAIRMAN LEVAR: Good morning, Mr. Eller.

10 Do you swear to tell the truth?

11 THE WITNESS: I do.

12 CHAIRMAN LEVAR: Okay. Go ahead.

13

14 CRAIG ELLER,

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

18

19 DIRECT EXAMINATION

20 BY MS. WEGENER:

21 Q. Good morning, Mr. Eller. Will you please state
22 and spell your name.

23 A. Yes. Craig Eller, C-R-A-I-G, E-L-L-E-R.

24 Q. And what's your position with Rocky Mountain
25 Power?

1 A. Vice president of business, policy, and,
2 development.

3 Q. And in this capacity, did you prepare and cause
4 to be filed direct testimony with the attached Exhibits
5 CME1 and CME2?

6 A. I did.

7 Q. Do you have any changes to that testimony?

8 A. No.

9 Q. So if I were to ask you the same questions today
10 that are contained in that testimony, would your answers
11 be the same?

12 A. Yes.

13 Q. Thank you.

14 MS. WEGENER: I would like to move to admit the
15 direct testimony of Craig Eller, along with the exhibits.

16 CHAIRMAN LEVAR: Thank you.

17 If anyone objects to that motion, please
18 indicate your objection.

19 I'm not seeing or hearing any, so the motion is
20 granted. Thank you.

21 Q. (BY MS. WEGENER:) Mr. Eller, did you also
22 participate in the preparation of the company's reply
23 comments submitted on May 5th and corrected on May 11th?

24 A. I did.

25 Q. And do you adopt those comments as your

1 testimony?

2 A. The revised version, yes.

3 MS. WEGENER: I would move to admit the revised
4 comments that were filed on May 11, 2022.

5 CHAIRMAN LEVAR: Thank you.

6 If anyone objects to that motion, please
7 indicate your objection.

8 I am not seeing or hearing any, so the motion is
9 granted. Thank you.

10 Q. (BY MS. WEGENER:) Mr. Eller, can you please
11 provide a summary of your testimony, including the
12 comments.

13 A. Yes.

14 Good morning, Chairman Levar. I present today
15 for commission approval an electric service agreement
16 between Nucor Steel - Utah, a Division of Nucor
17 Corporation, which I will refer to as "Nucor" and
18 PacifiCorp, doing business as Rocky Mountain Power, which
19 I'll refer to as "Rocky Mountain Power." The agreement
20 was included in the filing as Rocky Mountain Power
21 Exhibit CME-1.

22 In an application dated February 17th, 2022,
23 Rocky Mountain Power filed for approval of a new electric
24 service agreement with Nucor. The ESA has an effective
25 date of March 1, 2022, and runs through January 31, 2032.

1 The Company also seeks Commission approval of
2 the extension of the previous agreement between Rocky
3 Mountain Power and Nucor from December 31, 2021, to
4 February 28, 2022.

5 Nucor has been an interruptible customer of the
6 company for many years. Under the proposed ESA,
7 PacifiCorp will continue to provide Nucor with retail
8 full-service requirements of electric energy, and Nucor
9 will provide PacifiCorp with certain interruptible
10 products.

11 Changes between the existing ESA and the
12 proposed ESA consist of (1) rate changes, including an
13 increased average rate and improved rated structure; (2)
14 changes to curtailment terms, including a revised
15 curtailment credit value, added curtailment flexibility,
16 limitations on future curtailment credit value increases,
17 and reduced allowances for Nucor downtime; (3)
18 obligations of Nucor to procure its full electrical
19 service from the Company and direct access restrictions;
20 and (4) additional operational requirements to mitigate
21 and minimize voltage flickers and to improve performance
22 parameters.

23 The proposed ESA is in the public interest, as
24 it provides the following benefits customers.
25 Specifically, it significantly increases Nucor's base

1 retail rates, which will be uniformly adjusted in the
2 event of a future rate change for all Utah customers as
3 the result of a general rate case or major plant addition
4 case.

5 The rate structure better aligns demand and
6 energy charges with the cost generation of the load by
7 increasing the demand-based charges and aligning the
8 on-and-off peak energy windows with existing industrial
9 tariff schedules.

10 It improves the flexibility of the curtailment
11 options, including increasing the number of 15-minute
12 interruptions while keeping the total amount of permitted
13 interruptions over the course of the year the same by
14 decreasing the number of less flexible 60-minute
15 interruptions.

16 It provides a credit to Nucor for the
17 curtailment that is less than the benefits of the
18 curtailment to other customers.

19 It commits Nucor to remain a full-service --
20 full-requirements customer of the company through the
21 term of the contract with very limited exception,
22 reducing the risk of stranded cost and lost access to the
23 interruptible products.

24 It ensures the benefits from the interruptible
25 products by reducing allowances for downtime and the

1 ability for the credit amount to increase in the future.

2 And it obligates Nucor to further mitigate
3 voltage fluctuations than can cause flicker for other
4 customers.

5 Similar to previous ESAs of Nucor, the Division
6 of Public Utilities recommends approval of the proposed
7 ESA with three conditions to which the Company agrees.
8 These are the same conditions included in the order
9 approving the two prior ESAs.

10 Specifically, the Company will provide a
11 cost-of-service study that includes Nucor as part of any
12 general rate case or surcharge proceeding filed during
13 the term of the agreement and will file copies of future
14 amendments to the ESA with the Commission.

15 The Company also agrees that the Commission
16 order should specify that the interruption and
17 curtailment feature of the agreement is a system resource
18 consistent with the approved 2020 interjurisdictional
19 allocation protocol.

20 The only term of the proposed ESA to which the
21 OCS objects is the ten-year term. The OCS objects to the
22 methodology for calculating the curtailment value because
23 it includes assumptions about system capacity in 2028.

24 It also argues that because MSP parties are
25 negotiating a new protocol, there could be changes to the

1 allocation method for the current credit within the term
2 of the agreement.

3 OCS also argues that under the proposed ESA --
4 sorry.

5 The OCS also argues that rates under the
6 proposed ESA do not cover Nucor's cost of service and
7 that it would -- and that Nucor -- I apologize -- and OCS
8 would suggest that we should move Nucor to an existing
9 rate schedule in a yet-to-be-developed interruptible
10 tariff rather than receiving service under a special
11 contract.

12 On May 5th, in reply to its own comments, OCS
13 further argued that the Company used its own judgment to
14 arrive at the value of curtailment credit by selecting
15 the most appropriate years for when the Company's system
16 would receive a capacity value benefit and an intra-hour
17 benefit as a result of the curtailment product.

18 None of these arguments warrant rejecting the
19 terms of the proposed ESA. As an initial matter, the
20 ten-year term of the ESA was a material issue for Nucor,
21 and the result of rejecting that term would be
22 renegotiating the entire ESA.

23 The fact that the individual terms and
24 conditions must be considered in the context of all other
25 terms and conditions and, by extension, that any

1 alteration of individual substantial terms would have
2 impacted either party's decision to enter the agreement
3 is highlighted by the agreement's inclusion of Article
4 13.2, which allows either party to terminate the
5 agreement in the event of an adverse condition being
6 included in a Commission order.

7 Based upon the Company's discussion with Nucor
8 during negotiations, and supported by Nucor's reply
9 comments in this docket, the Company believes that Nucor
10 would not have agreed to the proposed ESA, including the
11 base rate increases and extensive protections to other
12 customers, without obtaining the nearly ten-year term
13 included in the ESA.

14 As a result, an order changing the contract
15 duration could reasonably be expected to result in a
16 renegotiation of the contract in its entirety,
17 jeopardizing many of the benefits to customers outlined
18 above.

19 CHAIRMAN LEVAR: Mr. Eller, I apologize for
20 interrupting you. I just want to get a clarification
21 from the counsel, because the concept you've just been
22 talking about is the one that was, in my materials,
23 marked as "Confidential."

24 I just want to make sure that everyone is
25 comfortable discussing that concept that you've just been

1 discussing in a public setting. That was my number-one
2 concern. And so if everyone's comfortable with that
3 concept, then that simplifies a lot of things for today.

4 Ms. Wegener and Mr. Cook primarily, let me just
5 ensure that there's a common understanding on that.

6 MS. WEGENER: My understanding is that the
7 specific terms, the specific, like, pricing terms and the
8 specifics of those, kind of, nonstandard terms in the
9 interruptions and stuff are confidential. But the fact
10 that we have agreements relating to them is not, so

11 CHAIRMAN LEVAR: Okay. Mr. Cook, any different
12 position on that?

13 MR. COOK: No.

14 CHAIRMAN LEVAR: So no concerns about what
15 Mr. Eller has just recently been saying in a public
16 setting?

17 MS. WEGENER: No concerns.

18 CHAIRMAN LEVAR: Okay. Thank you. That
19 simplifies things for me today. I apologize for the
20 interruption to your summary, Mr. Eller. Why don't you
21 go ahead.

22 THE WITNESS: No. No problem.

23 Okay. That said, the Company's valuation of the
24 credit continues to stand upon its own merit in support
25 of both the credit amount and the contract term.

1 The modeling of the curtailment credit is
2 consistent with the analyses conducted by the Company for
3 other long-term resource procurement decisions and
4 demonstrates that the anticipated benefits significantly
5 exceed the anticipated costs of the products over the
6 contract duration.

7 The Company made conservative choices about when
8 a capacity need will arise, especially in light of the
9 fact that the Nucor curtailment product is included as an
10 underlying system resource in the 2021 IRP.

11 While the Company selected 2028 as the year when
12 the curtailment product will provide capacity value, it
13 is conceivable that there may be capacity needs prior to
14 2028, and unlikely that the curtailment product will not
15 provide capacity value in 2028 and beyond.

16 Further, the Company did not include the full
17 capacity value associated with the proxy resource, but
18 rather only included the capacity value to the extent
19 that it exceeded the operating reserve value, as shown in
20 proprietary Company Work Papers 1 and 2.

21 The Company's inclusion of the intra-hour
22 benefits in the valuation of Nucor products is similarly
23 conservative.

24 First, the analysis only considers use in the
25 energy imbalance market during 115-minute events. This

1 is significantly less than the flexibility provided by
2 the proposed agreement and ensures that the product can
3 continue to provide operating reserve value throughout
4 the contract term.

5 Second, like the capacity value, the intra-hour
6 value was only included to the extent that it provided
7 incremental value over the operating reserve value. This
8 analysis resulted in the intra-hour benefits inclusions
9 starting in 2025, which coincides with known transmission
10 and resource developments that will take place over the
11 next few years.

12 The OCS's argument that the term length should
13 be reduced due to potential changes in the MSP is
14 similarly invalid, and the MSP does not provide a basis
15 to reject the agreement.

16 The Company has demonstrated that the agreement
17 benefits customers, making the agreement, as proposed, a
18 prudent resource decision which is in the public
19 interests. If parties to the MSP ultimately agreed to
20 allocate this ESA differently than the 2020 protocol,
21 customers will still benefit from the agreement, as its
22 benefits exceed the anticipated costs.

23 The OCS also argues that the ESA does not
24 appropriately cover Nucor's cost of service. The
25 proposed ESA improves alignment of demand energy cost

1 with cost causation by significantly increasing the
2 demand-based rate components and aligning the on-and-off
3 peak time periods with existing industrial tariff rates.
4 These changes significantly increase Nucor's overall base
5 service rates and lessen the risk that Nucor will pay
6 less than its cost of service in the future.

7 Other rate protections built into the ESA, such
8 as an adjustment for base price changes and obligations
9 to remain a full-requirements customer, protect other
10 customers from the risk that Nucor does not cover its
11 cost of service or leave stranded system costs.

12 The Company also disagrees that an interruptible
13 tariff is the best way to compensate Nucor's unique
14 interruptible products, which provides substantial system
15 benefits. To the Company's knowledge, Nucor has service
16 needs and interruptible capabilities that are wholly
17 unique with respect to the combination of scale, timing,
18 duration, and frequency of interruptions that make a
19 generally applicable tariff less feasible.

20 The value of interruptibility based on the load
21 characteristics of each unique customer will maximize
22 benefits to both the interruptible customer and all other
23 customers.

24 This ability to custom tailor a product to match
25 a single customer's flexibility is highlighted in the

1 proposed changes to the interruptible products, which
2 enabled the Company to obtain access to significantly
3 more 15-minute interruptions while maintaining the same
4 overall annual duration of cumulative interruptions and
5 reducing the number of less flexible 60-minute
6 interruptions. Such customization and optimization would
7 be lost if the Company were forced to administer a
8 one-size-fits-all tariff.

9 The Company represents that the terms and
10 conditions in the Nucor ESA are just, reasonable, and in
11 the public interest. Therefore, the Company recommends
12 and requests the Commission approve the ESA.

13 Thank you. And that concludes my summary.

14 Q. (BY MS. WEGENER:) Thank you, Mr. Eller.

15 MS. WEGENER: I have nothing further for this
16 witness, and he is available for questions -- for
17 cross-examination and questions from Chairman Levar.

18 CHAIRMAN LEVAR: Thank you.

19 Mr. Cook, do you have any questions for
20 Mr. Eller?

21 MR. COOK: Nope.

22 CHAIRMAN LEVAR: Thank you.

23 Mr. Jetter?

24 MR. JETTER: I have no questions. Thank you.

25 CHAIRMAN LEVAR: Thank you.

1 Mr. Moore?

2 MR. MOORE: I have a few questions.

3 CHAIRMAN LEVAR: Okay. Go ahead.

4

5 CROSS-EXAMINATION

6 BY MR. MOORE:

7 Q. Mr. Eller, late yesterday at the close of
8 business, Rocky Mountain Power filed a reply, redacted
9 reply comments, addressing how close to covering the
10 costs of service Nucor would be under the proposed ESA;
11 isn't that correct?

12 A. That's correct.

13 Q. You changed a sentence on page 5 of the comments
14 under the heading "Costs of Service" that references a
15 cost-of-service filing; isn't that correct?

16 A. That's correct.

17 Q. In your correction, you changed the percentage
18 increase Nucor needs to reach cost of service from
19 .55 percent to 15.51 percent; isn't that correct?

20 A. That's correct.

21 Q. It's also correct that you inserted a new
22 sentence, stating, "The increase requested from new
23 contract would therefore bring Nucor within 10 percent of
24 its cost of service"; is that right?

25 A. Correct.

1 Q. You didn't provide any work papers or analysis
2 explaining how you arrived at the 10 percent figure;
3 isn't that true?

4 A. Is your question -- yes. Is the question how we
5 come with the rates themselves or the 10 percent stated
6 there?

7 Q. The 10 percent.

8 A. Okay. There's no work papers. There's a prior
9 redacted statement on the percent increase, and then a
10 later reference to 10 percent is that it is less than
11 10 percent, implied by the two values there.

12 Q. Well, one is less than 10 percent.

13 Are you claiming that the cost of service under
14 your calculations are anywhere from zero to 10 percent,
15 or are they close to 10 percent?

16 A. Yeah. We're saying less than 10 percent, based
17 on those figures, the expected increase, and then a
18 separate and independent calculation, which was using the
19 calendar year 2020 data, that stated a 15.51 percent
20 increase required.

21 Q. So I'm going to ask you again. I'm a little bit
22 confused. I'm sorry.

23 Is your testimony that the -- Nucor needs to
24 increase its cost of services from somewhere close to
25 10 percent but under, or anywhere from 10 percent to

1 .001 percent, or do you know?

2 A. I'm not -- I guess I'm not certain I'm tracking
3 the question. And the informational filing referenced is
4 not, to my understanding, the result of a full, you know,
5 rate case proceeding. It's an informational filing that
6 was done, based on calendar year 2020.

7 So I think there's -- I guess I don't want to
8 overstate, you know, the precision of what's implied in
9 that study. And depending on what you want to talk about
10 on that study, you may need to talk to Robert Meredith,
11 but

12 Q. Let me ask you this: Do you know what the
13 computation was based on -- well, let me -- let me take
14 another step.

15 MR. MOORE: I'm about to elicit a question based
16 on an exhibit that contains a calculation, Nucor's cost
17 of service, the informal -- informational cost-of-service
18 study that was referenced in your comments. This is OCS
19 Cross Exhibit No. 2.

20 I would like to ask counsel from Nucor and Rocky
21 Mountain Power if they consider this information to be
22 confidential.

23 CHAIRMAN LEVAR: Do you both, Ms. Wegener and
24 Mr. Cook, have the cross exhibit to which he's speaking?
25 It looks like it's a spreadsheet that has at the top

1 "Rocky Mountain Power Cost of Service by Rate Schedule"?

2 Is that right, Mr. Moore?

3 MR. MOORE: That's correct. Thank you,
4 Commissioner.

5 CHAIRMAN LEVAR: Ms. Wegener.

6 MS. WEGENER: I'm scrolling there now, but my
7 understanding is that this is -- are you talking about
8 Exhibit -- Exhibit 1, Cost of Service by Rate Schedule?

9 MR. MOORE: Yes, I am.

10 MS. WEGENER: Okay. The Company doesn't
11 consider that to be confidential.

12 CHAIRMAN LEVAR: Okay. Thank you.

13 Mr. Cook.

14 MR. COOK: We agree.

15 CHAIRMAN LEVAR: Okay. Go ahead, Mr. Moore.

16 Q. (BY MR. MOORE:) Mr. Eller, do you have that
17 spreadsheet up in front of you?

18 A. I do.

19 Q. To reach your conclusion that the figure was
20 somewhere below 10 percent, did you do any computation
21 based on this schedule, based on this exhibit?

22 A. Yeah, the Company was, in that statement,
23 looking at the 15.51 listed for Customer No. 1, and
24 compared that to the anticipated base rate increase,
25 which is redacted in the Company's reply comments.

1 Q. And you used those two -- that information to
2 come up with an approximation of how much Nucor needed to
3 increase its rates to be a cost of service; is that your
4 testimony?

5 A. I'm not suggesting that the rate needs to be
6 increased further. The Company's statement is that it
7 would bring that difference to less than 10 percent. So
8 it would bring that 15.51 to less than 10 percent.

9 Again, the spreadsheet is not a rate proceeding,
10 and you'll note there are a number of different
11 categories that are on that Exhibit 1 that show
12 significantly larger variations than 15.51 percent.

13 Q. Yes, but you you'll also note that the
14 10 percent -- let me -- let me give you a hypothetical
15 here.

16 If you were at 10 percent, on this exhibit, you
17 would be the furthest below cost of service as to any
18 other customer; is that correct?

19 A. At 10 percent. Correct. I don't see any
20 positive values higher than that.

21 Q. I'm not trying to hold you into any type of
22 statement regarding the granularity of your evaluation,
23 but I want to go back to the 10 percent figure because we
24 did some computations on that and came out with a figure
25 very close to 10 percent.

1 So I'm going to ask you: Did you do any
2 computations, and did you come out with a specific
3 figure, even though that figure might not be exact?

4 A. Yes.

5 Q. What was that figure?

6 A. Again, I think to give that precision would
7 imply the confidential increase in that -- in that
8 statement. Because the calculation we did is the
9 difference between those two.

10 Q. All right.

11 MR. MOORE: Chairman Levar, I think this is an
12 important point, and I think I'd like to go into closed
13 proceedings to get this estimate on the record.

14 CHAIRMAN LEVAR: Is there any objection from any
15 party to closing the hearing to the public for the next
16 few questions, for the next portion of Mr. Moore's
17 cross-examination of Mr. Eller?

18 If you have an objection, please indicate it.

19 Okay. Based on Mr. Moore's motion and the
20 apparent need to discuss the figure that's labeled as
21 "Confidential" on page 5 of Rocky Mountain Power's reply
22 comments, I am making a determination under Utah Code
23 54-3-21 that it is in the best interests of the public to
24 withhold this following discussion from the public to
25 preserve the confidential rate and term information.

1 So Mr. Downey, would you discontinue the
2 streaming for a few moments, and I'll let you know when
3 it's time to begin again.

4 And Ms. Mallonee, will you designate the portion
5 of the transcript as "Confidential" from this point until
6 we move forward.

7 Please just take a quick look at the participant
8 list. As I said, Mr. Downey is with the PSC. If there's
9 anyone else you see on the participant list that should
10 not be here, please indicate it, but I'm not seeing any
11 names that shouldn't be.

12 And I'm not hearing any objections from anyone.
13 So Mr. Moore, if you'd go ahead.

14
15 (The following testimony is
16 designated as "Confidential.")

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5 (End of "Confidential" designation.)

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7 CHAIRMAN LEVAR: Mr. Moore.

8 Q. (BY MR. MOORE:) Mr. Eller, I would like to
9 direct your attention to lines 121 and 130 of your
10 testimony.

11 A. I didn't hear the specific line references.

12 Q. 121 to 130.

13 A. Okay.

14 Q. In this passage, you assert the ten-year
15 contract is in the interest of all its customers; isn't
16 that correct?

17 A. That is correct.

18 Q. Specifically, beginning on line 127, you state,
19 "The proposed ESA, which includes commitments by Nucor to
20 maintain a full-service customer, work together to
21 significantly reduce the risk of Nucor reducing the
22 service requirement on the Company's system, which could
23 result in higher costs to other customers."

24 Did I read that correctly?

25 A. That's correct.

1 Q. It is also true that at times a resource
2 deficiency that may occur over the ten years of the
3 contract, Nucor reducing the service requirement could
4 just as easily result in lower costs -- in lowering costs
5 to the customers because of the reduction in the need for
6 additional generational resources to serve increasing
7 load; isn't that correct?

8 A. I don't know that to be true. I'm not seeing an
9 evaluation that says Nucor reducing its load would be a
10 savings to other customers. I'm not seeing that.

11 Q. Well, you would agree with me, wouldn't you,
12 that the less generational sources you need to construct
13 to service load, the more prices -- the more generational
14 systems are put on the system, the more cost to
15 consumers?

16 A. So yes. If there are load increases beyond the
17 capability of the existing system, there may be a need to
18 construct additional facilities. Whether or not, you
19 know, that adds cost pressure would be dependent on the
20 cost of the specific, you know, assets at the time.

21 And I'll note that, again, Nucor here is
22 providing interruptible service so their -- the
23 requirement to add resources for them is mitigated. And,
24 you know, I don't think there could be a one-for-one swap
25 of a Nucor flexible load going away and being replaced by

1 an equivalent firm load with no interruption that -- you
2 know, I don't think one could just take the place of the
3 other without adding requirements and costs. So I think
4 Nucor is unique in that aspect.

5 Q. Yes, but you stated in your testimony that
6 Nucor's reducing the service requirement could, not
7 definitely will, result in higher costs to customers;
8 isn't that true? You've done no analysis showing that if
9 they reduce their service requirement, there will be a
10 quantifiable reduction in costs to consumers. And you
11 don't make the assertion that this will happen, that this
12 necessarily will happen in the future; isn't that
13 correct?

14 A. Yeah, that is correct. But I think there's a
15 general principle of having assets to serve a load and
16 that load later going away, leaving costs that's -- that
17 is the basis of that statement. And the risk that a loss
18 of Nucor's load, be it through, you know, their own
19 operations or them installing, you know, generation
20 behind the meter is reasonably expected to add costs to
21 other customers.

22 Q. Well, that depends, however, on whether Rocky
23 Mountain Power at the time has researched sufficient,
24 doesn't it?

25 A. Correct.

1 Q. And basically, it's also true that recently
2 PacifiCorp has entered a period of increasing procurement
3 in generational resources and is issuing RFPs
4 approximately every two years; isn't that correct?

5 A. That's correct.

6 Q. Mr. Eller, I would again direct your attention
7 to your corrected reply comments on page 2,
8 third paragraph, beginning with, "Absent a ten-year term,
9 Nucor likely would not have agreed to various
10 components," and then goes on to state, "For example, the
11 ESA allows the Company to (1) adjust the proposal base
12 rates by the average price charged for all Utah retail
13 customers in general rate cases and major plant addition
14 cases"; isn't that correct?

15 A. So I'm not finding your exact -- I didn't get to
16 your exact reference point. But I heard two concepts.

17 One was that they would not have agreed to it
18 without the ten-year term. And I -- yes, I believe that
19 we would not have been successful in reaching the terms
20 of this ESA without the inclusion of the ten-year term.

21 The second was that the rates in the ESA will
22 adjust with rate cases and major plant additions, and
23 that is also correct.

24 Q. There's a similar provision in the previous
25 Nucor's ESA regarding the change in rates. And that

1 contract only had a two-year term with two one-year
2 extensions; isn't that correct?

3 A. That is correct. And again, that is not the
4 exclusive support for the ten-year term. I listed a
5 number of other substantial contractual benefits that we
6 got out of this ESA that support that term, which I can
7 get into, but it's -- that is not -- I'm not suggesting
8 that that is -- that that rate adjustment from rate cases
9 and major plant additions is the exclusive benefit to
10 customers that justifies the ten-year term. There's many
11 others.

12 Q. For example, in that same paragraph, I think
13 it's the same sentence, you also stated that, "A
14 long-term contract is supported by the ESA's provision,
15 allowing the Company to reduce curtailment credit if the
16 expected curtailment credit is not available due" --
17 excuse me -- "to reduce curtailment credit if the
18 expected curtailment product is not available due to
19 Nucor's operating conditions"; isn't that true?

20 A. Correct. That's one of the additional benefits
21 that we got in this ESA.

22 Q. It's also true that a similar provision was
23 included in Nucor's previous ESA that had a two-year
24 contract term with two one-year extensions; isn't that
25 correct?

1 A. No, that section was amended. There was a
2 number of improvements that further restricted the
3 ability for Nucor to have downtime further, you know,
4 shaped when and how that downtime could happen. So there
5 is a significant improvement in that availability
6 language from the prior ESA to this ESA.

7 Q. But there is availability language in the prior
8 ESA; isn't that correct?

9 A. Yeah.

10 Q. That's all the questions I have. Thank you very
11 much, Mr. Eller.

12 CHAIRMAN LEVAR: Thank you, Mr. Moore.

13 Looks like, Ms. Wegener, do you have any
14 redirect for Mr. Eller?

15 MS. WEGENER: I don't have redirect. Thank you.

16 CHAIRMAN LEVAR: Okay.

17
18 CROSS-EXAMINATION

19 BY CHAIRMAN LEVAR:

20 Q. I just had one question that I -- if it doesn't
21 implicate anything confidential, because it's about
22 something that's not in the record.

23 What has been the status since -- I believe it
24 was February 28th was the expiration of the current
25 extension. What's been the status since that point?

1 A. The status? Do you mean, like, what are the
2 rates that we've been charging to Nucor?

3 Q. Yes. I mean, have you just -- I know in the
4 record there seemed to be an extension to February 28.
5 But has that extension just, by default, continued past
6 February 28?

7 A. No. We have been using the proposed ESA as the
8 rates in this kind of interim period while we're seeking
9 Commission approval.

10 CHAIRMAN LEVAR: Okay. Thank you. That's the
11 only question I have.

12 Thank you for your testimony this morning,
13 Mr. Eller.

14 THE WITNESS: Thank you.

15 CHAIRMAN LEVAR: Ms. Wegener.

16 MS. WEGENER: Unless anyone has questions of
17 Mr. Meredith, I have nothing further.

18 CHAIRMAN LEVAR: Okay. Thank you.

19 Mr. Cook, do you have any questions for
20 Mr. Meredith?

21 MR. COOK: No.

22 CHAIRMAN LEVAR: Thank you.

23 Mr. Jetter?

24 MR. JETTER: No questions. Thank you.

25 CHAIRMAN LEVAR: Thank you.

1 Mr. Moore?

2 MR. MOORE: I have no questions.

3 I would, however, like to take this opportunity
4 to introduce into the record OCS Exhibit No. 2, the
5 spreadsheet that we discussed -- we were discussing
6 during cross.

7 CHAIRMAN LEVAR: Thank you. If anyone objects
8 to that, please indicate your objection. I am not seeing
9 or hearing any, so the motion is granted. Thank you.

10 (Exhibit OCS 2 was marked for identification.)

11 CHAIRMAN LEVAR: Okay. Ms. Wegener, anything
12 else from Rocky Mountain Power?

13 MS. WEGENER: No, nothing from the Company at
14 this time.

15 CHAIRMAN LEVAR: Thank you.

16 Mr. Cook, I believe you indicated that
17 Mr. Mattheis would not be presenting testimony but
18 available for questions; is that correct?

19 MR. COOK: That is correct.

20 CHAIRMAN LEVAR: Okay.

21 Ms. Wegener, do you have any questions for
22 Mr. Mattheis?

23 MS. WEGENER: No questions. Actually -- no, I
24 take that back. I do have a question for Mr. Mattheis.

25 CHAIRMAN LEVAR: Okay. Let me put him under

1 oath.

2 Good morning, Mr. Mattheis. Do you swear to
3 tell the truth.

4 THE WITNESS: I do.

5 CHAIRMAN LEVAR: Okay.

6 Go ahead, Ms. Wegener.

7

8 PETE MATTHEIS,

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

12

13 DIRECT EXAMINATION

14 BY MS. WEGENER:

15 Q. Good morning, Mr. Mattheis.

16 A. Good morning.

17 Q. I only have one question that I just want to
18 establish on the record.

19 Would you consider the ten-year term included in
20 the ESA to be a material term of that contract?

21 A. Absolutely. That was a foundational element at
22 the beginning of our negotiations.

23 Q. And if the Commission were to reject that term,
24 would you seek to reopen the contract and renegotiate
25 other terms.

1 A. Yes, I expect we would.

2 Q. Thank you. That's all I have.

3 CHAIRMAN LEVAR: Okay. Thank you, Ms. Wegener.

4 Mr. Jetter, do you have any questions?

5 MR. JETTER: Sorry. I've been struggling a
6 little bit to get my mute to turn off here. I have no
7 questions. Thank you.

8 CHAIRMAN LEVAR: Thank you.

9 Mr. Moore?

10 MR. MOORE: No questions. Thank you.

11 CHAIRMAN LEVAR: Okay.

12 Mr. Cook, any follow-up based on Ms. Wegener's
13 questions?

14 MR. COOK: No. But I would just like to clarify
15 that we were going to introduce his reply comments as his
16 testimony, just to clarify that we're -- I just want to
17 make sure we weren't going to do a summary, but that was
18 his testimony.

19 CHAIRMAN LEVAR: Okay. If there's any objection
20 to entering those reply comments into the record as the
21 testimony of Mr. Mattheis, please indicate your
22 objection. I'm not seeing or hearing any, so that motion
23 is granted.

24 MR. COOK: I have nothing further.

25 CHAIRMAN LEVAR: Thank you, Mr. Cook.

1 I'll go to Mr. Jetter next.

2 MR. JETTER: Thank you. The Division would like
3 to call and have sworn Jeff Einfeldt.

4 CHAIRMAN LEVAR: Good morning, Mr. Einfeldt. Do
5 you swear to tell the truth?

6 THE WITNESS: Yes.

7 CHAIRMAN LEVAR: Okay. Go ahead.

8 MR. JETTER: Okay. Thank you.

9

10 JEFF EINFELDT,
11 was called as a witness, and having been first duly
12 sworn to tell the truth, the whole truth, and nothing
13 but the truth, testified as follows:

14

15 DIRECT EXAMINATION

16 BY MR. JETTER:

17 Q. Mr. Einfeldt, would you please start by stating
18 your name and occupation for the record.

19 A. My name is Jeff Einfeldt. I'm a utility
20 technical consultant with the Division of Public
21 Utilities.

22 Q. Thank you. In the course of your employment
23 with the Division, have you had the opportunity to review
24 the application and the filings in this docket?

25 A. Yes, I have.

1 Q. And did you create and cause to be filed with
2 the Commission a -- it's titled an "Action Request
3 Response," but comments from the Division dated April 6,
4 2022?

5 A. Yes.

6 Q. And do you have any corrections or edits you'd
7 like to make to those --

8 A. No.

9 Q. Would you adopt that as part of your testimony
10 today?

11 A. Yes.

12 MR. JETTER: I'd like to move at this time to
13 enter into the record the comments filed by the Division
14 that I've identified that were the -- I believe they're
15 April 6th, 2022.

16 CHAIRMAN LEVAR: Thank you.

17 If anyone objects to that motion, please
18 indicate your objection.

19 I'm not seeing or hearing any, so the motion is
20 granted. Thank you.

21 MR. JETTER: Thank you.

22 Q. (BY MR. JETTER:) And Mr. Einfeldt, have you
23 prepared a brief summary of the Division's position in
24 this docket?

25 A. Yes, I have.

1 Q. Please go ahead.

2 A. Good morning. The Division recommends the
3 Commission approve the proposed ESA negotiated between
4 PacifiCorp and Nucor as just, reasonable, and in the
5 public interest.

6 The proposed ESA changes the pricing terms to
7 align more closely with Tariffs 9 and 31, which allow for
8 a more transparent analysis of the adequacy going forward
9 of whether Nucor is covering an appropriate share of the
10 cost of service.

11 The proposed ESA retains protections against
12 price volatility included in the previous ESA, such as
13 changes related to future general rate cases and major
14 plant addition cases.

15 The ESA also provides for price adjustments due
16 to the EBA, the REC revenue adjustments, sustainable
17 transportation and energy plan, low-income residential
18 Lifeline program, the Federal Tax Act adjustments, and
19 other tariffs and schedules made applicable by Commission
20 order.

21 The proposed ESA continues to bring Nucor's
22 pricing structure closer to alignment with other
23 industrial customers. The Utility and Nucor feel --
24 sorry. The Utility and Nucor freely negotiated these
25 provisions.

1 The proposed agreement also includes price
2 protections regarding the curtailment credit and modifies
3 some curtailment durations that allow PacifiCorp
4 additional flexibility in balancing its system.

5 Again, the Division recommends the Commission
6 approve the proposed ESA negotiated between PacifiCorp
7 and Nucor as just, reasonable, and in the public
8 interest.

9 This concludes my comments. Thank you.

10 Q. Thank you, Mr. Einfeldt.

11 MR. JETTER: I have no further questions. I
12 would like to, at this time, tender Mr. Einfeldt for
13 cross-examination and questions from the Chairman.

14 CHAIRMAN LEVAR: Okay. Thank you.

15 Ms. Wegener, do you have any questions for
16 Mr. Einfeldt?

17 MS. WEGENER: No questions. Thank you.

18 CHAIRMAN LEVAR: Okay. Thank you.

19 Mr. Cook?

20 MR. COOK: No questions.

21 CHAIRMAN LEVAR: Mr. Moore?

22 MR. MOORE: I have just a few questions.

23 CHAIRMAN LEVAR: Okay. Go ahead.

24

25

1 CROSS-EXAMINATION

2 BY MR. MOORE:

3 Q. Mr. Einfeldt, the DPU has taken the position
4 that the proposed ESA should be approved for the full
5 ten-year term; isn't that correct?

6 A. Yes, that's correct.

7 Q. Isn't it true that the value of the proposed
8 curtailment credit established in the proposed ESA is
9 estimated by Rocky Mountain Power by performing
10 calculations based on PacifiCorp's 2021 IRP?

11 A. Today, I'm not prepared to render an opinion
12 with regard to that, and I apologize. We can go back and
13 research that. I just don't recall today.

14 If I may, I could add that I do believe that
15 that entered into their calculation and their
16 negotiation.

17 Q. Okay. Well, specifically, isn't it true that
18 two significant components of curtailment credit capacity
19 value intra-hourly value only provide value in the outer
20 years of the contract, 2028 to 2031, and 2025 to 2031
21 respectively?

22 A. We, the Division, did not specifically analyze
23 the effects of those specifically for any year in the
24 outline, so I'm not prepared to render an opinion on
25 that.

1 Q. Can I ask you, is that your understanding of
2 Rocky Mountain Power's testimony and application -- or do
3 you have an understanding that Rocky Mountain Power made
4 that contention?

5 A. I have an understanding that that was part of
6 their consideration in the negotiation.

7 Q. Do you understand that the OCS challenged the
8 reliability of these calculations because PacifiCorp's
9 IRP, and thus PacifiCorp's estimate of resource needs,
10 are updated on a two-year IRP cycle, reflecting an
11 ever-changing market and system conditions?

12 A. Yeah, I understand that is the Office's
13 position. And I understand that the IRP is refreshed
14 every year and there's a new IRP presentation every other
15 year.

16 Q. Isn't it true that in comments to the 2021 IRP,
17 the DPU took a position that is consistent with the OCS's
18 concerns about using the 2021 IRP for acquiring resources
19 based on needs identified in the outer years of the
20 ten-year horizon?

21 A. I have not reviewed the IRP thoroughly or
22 recently, so I would have to assume that -- I can only
23 assume that what you state is correct.

24 Q. Why don't we do this: Why don't I direct your
25 attention to OCS Cross Exhibit No. 5.

1 Do you have a copy of that with you?

2 A. I had -- I don't know if I do. Where would I
3 find it? Would it be in --

4 Q. I sent some exhibits to your counsel about 45
5 minutes before the hearing. Did you get a copy of those?

6 MR. JETTER: Jeff, it should be in your Inbox.

7 CHAIRMAN LEVAR: Let me jump in. This is
8 probably an appropriate time for a ten-minute break
9 anyway. So why don't we recess for ten minutes while
10 Mr. Einfeldt gets that cross exhibit in his possession,
11 and then we'll return to the cross-examine. Thank you.

12 (A break was taken from 11:01 a.m. to 11:10 a.m.)

13 CHAIRMAN LEVAR: Thank you. We are back on the
14 record, and we are in public hearing right now.

15 Mr. Moore, if I want to continue your
16 cross-examination of Mr. Einfeldt.

17 MR. MOORE: Certainly.

18 Q. (BY MR. MOORE:) There you are. Did you get a
19 chance to look at Exhibit 5 during that recess?

20 A. I believe I have Exhibit 5 up. And let me just
21 verify what was sent to me from Mr. Jetter is a copy of
22 Rocky Mountain Power's reply comment. Is that your
23 Exhibit 5?

24 Q. I'm sorry, the exhibits -- it's all one
25 document. But if you scroll through them, that would --

1 that document didn't need to be introduced.

2 The exhibits were put together before the change
3 in the reply comments, and so a lot of them now are not
4 useful.

5 But if you scroll through the exhibits, you'll
6 find -- you'll get to Exhibit 5, and the first page is
7 the first page of the Division's March 4, 2022 IRP
8 comments in Docket 21-035-09.

9 A. I am not finding that. I have sent to me from
10 Justin Jetter hearing exhibits, and then I have a Nucor
11 exhibit. Let's see here.

12 MR. JETTER: Jeff, I think what Mr. Moore is
13 looking for -- on that PDF, I think in mine is page 22 of
14 the PDF; does that sound right?

15 MR. MOORE: That sounds correct.

16 THE WITNESS: My PDF, let me open it again here.
17 The PDF that I've received is Nucor -- is entitled,
18 "Nucor Exhibit" and then in parentheses (2) and then in
19 parentheses (1.pdf). And if I open that again -- okay.
20 Maybe it didn't open fully the first time.

21 So you're looking for page number -- what was it
22 again, Justin?

23 MR. JETTER: So page 22 of 30 is, I think, the
24 beginning of what's been marked on this PDF as "OCS Cross
25 Exhibit 5."

1 THE WITNESS: Okay. I believe I have that up
2 now.

3 Q. (BY MR. MOORE:) I apologize for the confusion
4 I caused by the way I put together these exhibits.

5 But since we're on the same page now, can I have
6 you turn to the second page of the exhibit and address
7 your attention to the last paragraph, the sentence that
8 begins, "An IRP's use should be tempered by humility."

9 Do you see that?

10 A. Yes, I do.

11 Q. Could you please read that sentence and the next
12 sentence into the record.

13 A. "An IRP's use should be tempered by humility
14 about its limitations, particularly in its later years
15 because of threshold decisions the Company made with
16 little to no meaningful consultation and very limited
17 opportunity to test different modeling options after
18 feedback. The filed IRP suffers from deficiencies that
19 limit its value for planning a least cost/least risk
20 portfolio beyond the two- to four-year window of the
21 action plan. These threshold decisions also limit the
22 IRP's value in" --

23 Q. That's fine, Mr. Einfeldt. I just want you to
24 read those two questions [sic]. Sorry for interrupting,
25 but that will do.

1 A. Okay.

2 Q. Thank you. Now, may I direct your attention to
3 the next page of the exhibit, which is on page 4 of the
4 DPU comments. In the first sentence of the last
5 paragraph, starting with the words, "In Section 3 of
6 these comments." Could you read that sentence into the
7 record.

8 A. Where am I going to find that again?

9 Q. The next page on the exhibit, which is page --
10 which will be listed as page 41 of your comments.

11 A. Okay.

12 Q. There's a heading that says, "Review of the
13 Company's Load Forecast and Natural Gas Forecast."

14 A. Okay. It's item No. 7, it looks like.

15 Q. That's right. Could you please read just the
16 first sentence that follows after that, starting in
17 Section 3.

18 A. "In Section 3 of these comments above, the
19 Division discussed how small changes in outputs could
20 have large effects in out years. And so the company
21 should exercise caution in putting too much weight on
22 expensive resource decisions that are many years out. In
23 this section, we examine the load forecast and natural
24 gas forecasts in turn to" --

25 Q. That's fine, Mr. Einfeldt. You got the part I

1 wanted into the record. Thank you very much.

2 Given what you just read, is it fair to say that
3 the DPU's position that the proposed ESA be approved for
4 ten years based, in part, on the curtailment credit value
5 arrived at by relying on resource decisions occurring in
6 the outer years of the 2021 IRP is inconsistent with
7 DPU's position that the 221 [sic] IRP should not be
8 acknowledged beyond the two- to four-year window of the
9 action plan because, beyond this time, the resource
10 decisions in the IRP are unreliable?

11 A. Perhaps I can state the following: When we
12 first started reviewing this contract between Nucor and
13 Rocky Mountain Power, we did notice the ten-year term in
14 the contract. It did give us a little bit of
15 consternation or concern that it was going out for ten
16 years, especially in light of, you know, other
17 experiences and so forth that we have considered.

18 And so we looked at that, with that concern in
19 mind, from the Division and came to an understanding and
20 a conclusion and gained some confidence from the
21 Division's perspective that this contract appeared to be
22 just, reasonable, and in the public interest, starting
23 with that concern of the ten years, that we were able to
24 get some comfort with regard to that ten years and was
25 able -- the Division was able to distinguish that

1 ten-year term.

2 There were some distinguishing characteristics
3 that seemed to -- well, that allowed us to gain some of
4 that confidence compared to, say, other ESAs in the past
5 and possibly currently, which is as much as I feel
6 comfortable in saying without possibly getting into some
7 confidential information between Rocky Mountain Power
8 and, say, other parties that aren't part of this docket.
9 But we do --

10 Q. Okay. We can tell from that -- I'm sorry, I
11 didn't mean to interrupt you. I thought you were
12 finished.

13 A. But we do -- we were able to -- the Division was
14 able to come to a decent -- a good enough confidence
15 level with to regard this contract, you know, compared to
16 some of the other issues that I know -- that I'm aware
17 of.

18 With regard to your specific comments about the
19 IRP and this contract, one of the questions -- I guess
20 concerns that I have with regard to some of your
21 questioning, I guess, is would we try to be -- would we
22 always, I guess, limit contracts and other things to no
23 more than a two-year period, which seems to be a little
24 bit -- a little too restrictive for the company and some
25 of its customers to transact its business, especially,

1 you know -- and could that hurt ratepayer -- ratepayers
2 in general if they weren't able to do that.

3 I don't know if that last comment comes across
4 cohesive or coherently or not, but hopefully it did.

5 Q. Let me sum this up. Hopefully, I can sum it up.

6 Are you testifying that the -- the contract term
7 caused the Division some pause, and that pause is
8 consistent with your position that the IRP, which was
9 used to calculate the curtailment credit, is unreliable
10 outside the two to four window -- two- to four-year
11 window, which you only requested that it be acknowledged
12 for?

13 Does that make sense to you?

14 A. I think I understand that, but I don't -- I
15 don't know that that accurately describes the Division's
16 process in getting to its conclusion in this case.

17 We -- you know, as I looked at this and as the
18 Division looked at this, we were probably more focused on
19 other items, like other ESAs and so forth. We were
20 passingly aware of the IRP, but the IRP and the decisions
21 and the testimony -- the Division's testimony and
22 position on the IRP wasn't a driving -- an overall
23 driving factor in this docket.

24 Q. Thank you.

25 MR. MOORE: Chairman, I'm going to get -- I just

1 have two more questions, but this -- these questions
2 track questions I had with Mr. Eller when we were in
3 confidential proceedings. And so maybe we should go back
4 to closed proceedings for these last two questions.

5 CHAIRMAN LEVAR: Let me just ask for
6 clarification: Are we specifically going to be talking
7 about that number on page 5 of Rocky Mountain Power's
8 corrected reply comments?

9 MR. MOORE: Yes.

10 CHAIRMAN LEVAR: Okay. Is there any objection
11 to closing the hearing to the public for a few moments
12 while Mr. Moore asks these questions?

13 I'm not seeing or hearing any objections, so I
14 will make the same determination that I made previously
15 in the hearing, and we will discontinue the streaming for
16 a few moments and mark the transcript as "Confidential"
17 for the next few questions.

18

19 (The following testimony is
20 designated as "Confidential.")

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14 (End of "Confidential" designation.)

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16 CHAIRMAN LEVAR: Okay. Thank you. We have
17 concluded Mr. Moore's cross-examination of Mr. Einfeldt
18 from the Division of Public Utilities.

19 Mr. Jetter, do you have any redirect?

20 MR. JETTER: No, I don't have any redirect.
21 Thank you.

22 CHAIRMAN LEVAR: Okay. I have a few questions
23 for you, Mr. Einfeldt.

24

25

1 CROSS-EXAMINATION

2 BY CHAIRMAN LEVAR:

3 Q. There's a number that we were discussing in the
4 "Confidential" section, so I won't ask you to state the
5 number. But on page 5 of Rocky Mountain Power's
6 corrected reply comments, there's a number. And the
7 sentence around the number says, "Further, the proposed
8 ESA results in approximately" confidential number
9 "percent price increase before surcharges of the
10 curtailment credit."

11 Do you agree that that number is accurate, or
12 have you checked the accuracy of that number?

13 A. I know we looked at some things surrounding that
14 number, but we've had to -- we accept that number the way
15 it has been presented by the Company as accurate, so I
16 have not fully verified that number.

17 Q. Okay. Do you have any obvious reasons to
18 suspect that it might not be accurate?

19 A. I do not. I'm not aware of anything that would
20 indicate that it's not accurate.

21 Q. Okay. Do you have in front of you Nucor's reply
22 comments submitted on May 5th?

23 A. Yes.

24 Q. Before I ask you this question, let me go to
25 Mr. Cook.

1 CHAIRMAN LEVAR: These are -- these are
2 designated as "Confidential." There's not material
3 highlighted, so I assume the entire document was intended
4 to be confidential. Let me just ask if the first six or
5 so lines of page 3, if those concepts in those lines are
6 confidential, starting with, "There are two."

7 MR. COOK: I apologize. Let me -- on page --
8 did you say page 3?

9 CHAIRMAN LEVAR: Yes. Starting with the words,
10 "There are two," and for about six lines after that.

11 MR. COOK: No, I don't believe so.

12 Do you not have the reply comments that are
13 redacted or ...?

14 CHAIRMAN LEVAR: The copy I have is labeled
15 "Confidential," but there's no specific -- there's no
16 specific language highlighted. So my assumption is that
17 the whole document was intended to be confidential, but
18 I'm not sure if that was the intent. So I'm just
19 clarifying if those lines I referred to could be referred
20 to in a public hearing, or if they would only be referred
21 to in a closed hearing.

22 MR. MATTHEIS: And if I may Mr. Chairman, those
23 lines are fine. Those are not confidential.

24 MR. COOK: Yeah.

25 CHAIRMAN LEVAR: Okay. Thank you.

1 Q. (BY CHAIRMAN LEVAR:) It's probably easiest,
2 Mr. Einfeldt, if I just ask you to read those lines, and
3 then I just have one or two follow-ups.

4 Do you mind reading from, "There are two main
5 benefits" down to "system emergencies in real time."

6 A. Sure. "There are two main benefits of a large
7 interruptible load, neither of which are fully accounted
8 for in a class cost-of-service study.

9 "First, a large interruptible load provides
10 long-term avoided capacity cost savings because a utility
11 does not have to plan for the capacity to serve the
12 interruptible load.

13 "Second, interruptible load provides operational
14 value since it can be used to balance loads and respond
15 to system emergencies in real time."

16 Q. So I have two questions.

17 My first question: Do you agree generally with
18 those two benefits asserted by Nucor?

19 A. Yes.

20 Q. Okay. And the second question: Do you agree
21 with the assertion that they are not fully accounted for
22 in the class cost-of-service study? And let me narrow
23 that question a little bit.

24 So if we go to Rocky Mountain Power's reply
25 comments -- and this number is not confidential. So if

1 you go to the page we were discussing -- you're familiar
2 with the 15.51 percent that we've been discussing today
3 as what --

4 A. Yes.

5 Q. -- under the previous -- under the
6 cost-of-service study showed that they were the
7 difference from cost of service?

8 Would you agree that these two benefits
9 articulated by Nucor are not reflected in that
10 15.51 percent, or do you think they are reflected to some
11 extent but maybe not fully?

12 A. I can't render an opinion one way or the other.

13 My gut feel is that they are incorporated in
14 there. The concepts, I do believe -- as we reviewed
15 this, I think those concepts, Rocky Mountain Power was
16 aware of. And I believe they were considered as they
17 came to -- as they negotiated the contract that we do
18 have.

19 Those concepts and those savings concepts, I do
20 believe were considered based on the information and the
21 conversations that we have had with the company. I
22 cannot opine as to a certain value assigned to those
23 concepts.

24 Q. Okay. Thank you.

25 And then the only other question I have: Are

1 you aware of reasonably similarly situated customers to
2 Nucor that might be an intuitive choice to include in a
3 tariff, to consider replacing the special contract with
4 tariff?

5 A. Today, no, I'm not today, as I sit here today.

6 Q. Thank you for your testimony today,
7 Mr. Einfeldt.

8 A. Okay.

9 Q. I appreciate your help.

10 CHAIRMAN LEVAR: Mr. Jetter, anything else from
11 the Division?

12 MR. JETTER: Nothing further from the Division.
13 Thank you.

14 CHAIRMAN LEVAR: Thank you.

15 Mr. Moore.

16 MR. MOORE: Thank you.

17 The Office calls Bela Vastag and asked that he
18 be sworn.

19 CHAIRMAN LEVAR: Good morning, Mr. Vastag. Do
20 you swear to tell the truth?

21 THE WITNESS: Yes.

22 CHAIRMAN LEVAR: Thank you. Go ahead.

23
24 BELA VASTAG,
25 was called as a witness, and having been first duly

1 sworn to tell the truth, the whole truth, and nothing
2 but the truth, testified as follows:

3

4

DIRECT EXAMINATION

5

BY MR. MOORE:

6

Q. Could you please spell and state your name for
7 the record.

8

A. Yes. Bela Vastag. I think the reporter can
9 probably see my name on the video. But it's first name
10 Bela, B-E-L-A, last name Vastag, V-A-S-T-A-G.

11

Q. Mr. Vastag, how are you employed, and how long
12 have you been in that position?

13

A. I am -- I work for the Office of Consumer
14 Services as a utility analyst, and I have been in the
15 position for approximately 11 years.

16

Q. In your capacity as a utility analyst, have you
17 reviewed the filings in this docket and related to this
18 docket related to Nucor's application -- or Rocky
19 Mountain Power's application to approve the Nucor
20 contract?

21

A. Yes, I have.

22

Q. On April 18, 2022, did you prepare and cause to
23 be filed comments relating to the OCS's position on the
24 application in both confidential and redacted forms?

25

A. Yes.

1 Q. On May 5th, 2022, did you prepare and cause to
2 be filed reply comments?

3 A. Yes.

4 Q. Do you have any changes you'd like to make to
5 these comments at this time?

6 A. No, I have no changes.

7 Q. Do you adopt these comments as your testimony
8 today?

9 A. Yes.

10 MR. MOORE: At this point, the Office would move
11 to submit the April 18th and May 5th comments.

12 CHAIRMAN LEVAR: If anyone objects to that
13 motion, please indicate your objection.

14 I am not seeing or hearing any, so the motion is
15 granted. Thank you.

16 Q. (BY MR. MOORE:) Have you prepared a summary of
17 the OCS's position in this case?

18 A. Yes, I have.

19 Q. Please proceed.

20 A. Okay.

21 Good morning, Chairman Levar, and everyone else
22 joining us this morning.

23 The Office of Consumer Services, or OCS, does
24 not oppose the proposed electric service agreement, or
25 ESA, with Nucor, except for its ten-year term.

1 The OCS disagrees with Rocky Mountain, or RMP,
2 that it is in the public interest to lock in an ESA rate
3 structure, the associated curtailment credit, and also
4 rates that do not reflect cost of service for Nucor for
5 ten years when there are many uncertainties impacting the
6 future operations of Rocky Mountain Power's system. And
7 then I'll go through these -- what these uncertainties
8 include.

9 Number one, there are rapid changes occurring in
10 the western electricity industry, including the
11 retirement of fossil fuel generators, substantial
12 increases in intermittent renewable generation, and the
13 development of new resource adequacy and day-ahead energy
14 markets.

15 Number two, the current multi-state protocol, or
16 MSP, agreement expires at the end of 2023. A new
17 agreement is currently being negotiated, and it is
18 uncertain how the new agreement will impact the
19 allocation of costs and benefits of the Nucor ESA.

20 Number three, Rocky Mountain Power used
21 PacifiCorp's 2021 IRP preferred portfolio to evaluate the
22 value of Nucor's curtailment credit. The IRP preferred
23 portfolio can change significantly every two years,
24 especially in light of the rapid industry changes that I
25 mentioned earlier in my summary.

1 It is uncertain that a curtailment credit amount
2 based on the 2021 IRP will accurately reflect its actual
3 value for the entire proposed ten-year term of this ESA.

4 In addition, when applying the 2021 IRP data,
5 RMP used some subjective judgments in determining how to
6 model Nucor's curtailment value. And is it uncertain if
7 these subjective choices would still be appropriate in
8 future years' modeling runs.

9 Number four, it is uncertain how the proposed
10 ESA in this docket will affect Nucor's cost of service
11 going forward over the long term. Though Rocky Mountain
12 Power filed an errata filing yesterday at the end of the
13 business day, claiming that the new rates move Nucor
14 within 10 percent, specifically 9.8 percent of covering
15 their cost of service, no work papers were provided.

16 Also, there are still uncertainties as to how
17 Rocky Mountain Power's new rate structure -- now a
18 higher-demand base structure, as Mr. Eller described --
19 how these uncertainties with this new rate structure in
20 the proposed new ESA for Nucor affect Nucor's coverage of
21 its cost of service over time.

22 In addition, the OCS reviewed the last
23 cost-of-service study provided by Rocky Mountain Power,
24 and that's in Docket No. 22-035-37. And even with the
25 proposed rates from this ESA, Nucor would still be the

1 lowest-performing customer class in this study.

2 If Nucor's rates remain significantly below its
3 cost of service, or if their cost-of-service coverage
4 actually worsens, it would not be in the public interest
5 to lock in this ESA's rate structure for the entire term
6 of a ten-year contract. There should be an opportunity
7 to adjust rates if cost coverage is too far out of line,
8 considering that this risk is borne by the other
9 ratepayers.

10 Number five, it is uncertain if a
11 special-contract ESA will be the preferred approach to
12 contracting for demand-side management or interruptible
13 resources in the future.

14 The OCS has observed the expansion of
15 demand-side resources, such as a recent proposal from
16 Rocky Mountain Power to add commercial and industrial
17 customer interruptibility to Rocky Mountain Power's
18 Schedule 114 that are likely to continue, especially with
19 the expansion of markets in the West.

20 The OCS continues to advocate that the
21 acquisition of these resource needs -- these resources
22 needs to be more transparent, that's these demand-side
23 resources need -- their acquisition needs to be more
24 transparent, consistent, and available for more of Rocky
25 Mountain Power's customers.

1 Q. Good morning, Mr. Vastag.

2 A. Good morning.

3 Q. We've talked a lot about this late-filed
4 revision to the reply comments.

5 Were you aware of the misstates before we filed
6 our revisions?

7 A. Yes. We reached out and contacted personnel at
8 Rocky Mountain Power, that we thought their .5 percent
9 figure was incorrect.

10 Q. And the Company had confirmed that you,
11 correctly, identified that error before we filed our
12 revision; isn't that right?

13 A. That's right.

14 Q. So you had some time to digest the mistake
15 before the end of the day yesterday, right?

16 A. Right. But I didn't know how Rocky Mountain
17 Power's reply comments would be altered and changed and
18 how the tone would change in the correction.

19 Q. Thank you. You're generally familiar with the
20 development of what --

21 Actually, first, before I get started on this,
22 let's turn to what I believe was admitted as OCS
23 Exhibit 2 in Mr. Eller's cross-examination. It's the
24 spreadsheet that's in the cross-examination exhibit that
25 your counsel provided, Mr. Moore provided.

1 A. Mr. Moore didn't send that to me.

2 THE WITNESS: Could you email that to me,
3 Robert?

4 MR. MOORE: Yeah, I'll do that right now.

5 THE WITNESS: I could probably find it from
6 another source, but I'd like to get the actual exhibit.

7 MS. WEGENER: I can probably ask just some
8 general questions while you're getting it over to him.
9 My line of questioning relates to cost of service, but
10 I've got a few starter questions.

11 MR. MOORE: You should have that any moment now.

12 THE WITNESS: Yep, I got it.

13 Q. (BY MS. WEGENER:) Okay. So do you have that
14 exhibit in front of you?

15 A. Just a second. Okay. I'm looking at it. So
16 what page?

17 Q. I don't know what page. On my PDF, it is
18 page 18.

19 A. Okay. I'm there.

20 Q. Okay. You are generally familiar with -- well,
21 are you generally familiar with how the Company
22 calculates the numbers that are on this schedule?

23 A. I typically don't work on revenue requirement
24 and cost of service. I'm very high-level --
25 high-level --

1 Q. Are you aware that the formula to determine
2 whether a customer is -- or group of customers is above
3 or below the cost of service takes into account the
4 customers' coincident peak, so basically their demand,
5 and their energy. And those are the inputs to determine
6 where they fall for cost of service.

7 Is that something you're aware of, or is that
8 too in the weeds?

9 A. I am aware of that, yes.

10 Q. Okay. And looking at this spreadsheet, would
11 you agree with me that lines 1 through 9 relate to groups
12 of customers rather than individual customers?

13 A. That's correct.

14 Q. And typically a cost-of-service study is done
15 for a group of customers, not for an individual customer;
16 is that right?

17 A. Right.

18 Q. The coincident peak number, when you're dealing
19 with an individual customer, do you think it's more
20 likely that their coincident peak is going to vary year
21 to year compared to a group of customers?

22 A. Right. And from a general statistical point of
23 view, that would be correct. An average would be less
24 volatile, as Mr. Eller, I think, discussed in his opening
25 statement or

1 Q. So it's more likely that a cost-of-service
2 number developed for an individual customer is going to
3 bounce around year to year than a group of customers; is
4 that right?

5 A. That's true.

6 Q. Okay. Looking at Column M on this spreadsheet,
7 the "Percentage Change from Current Revenues," is it your
8 understanding that the numbers there are the amounts that
9 a particular group of customers that were, in the case of
10 the last two lines, specific customers differ from
11 cost-of-service?

12 A. Right. That's the, I believe the increase in
13 their annual revenue that's required to bring them up to
14 cost-of-service --

15 Q. Correct. Thank you.

16 And a negative number in that column would mean
17 that they are paying more than their cost-of-service; is
18 that right?

19 A. Right.

20 Q. And a positive number would mean they're paying
21 less?

22 A. Right.

23 Q. I want to direct your attention to line 5, which
24 is Schedule 9.

25 And would you agree with me that Schedule 9 is

1 the schedule that Nucor would be on if it were not under
2 a special contract with the Company?

3 A. I'm not that familiar, but -- with the details
4 of schedules, but Schedule 9 is often referenced when we
5 talk about these large customers. So I can generally
6 agree with that. I'm not exactly sure.

7 Q. I won't ask you to assign them to a rate
8 schedule. That's fine.

9 Looking at line 5 under M, is Schedule 9 above
10 or below its cost of service?

11 A. Yes. It's like Nucor, it's below its cost of
12 service.

13 Q. And would you agree with me that that 8.77
14 percent number there is roughly similar to the amount
15 that Nucor is considered below its cost of service for
16 the year that we're evaluating here?

17 A. It is roughly. However, at the time of every
18 rate case, there's the opportunity to adjust Schedule 9
19 rates to try to move them closer to cost of service.

20 If we have a ten-year contract with Nucor, that
21 opportunity to nudge them closer to cost of service could
22 be more difficult.

23 Q. You've -- obviously, you've reviewed the ESA in
24 preparation for this hearing.

25 Would you agree with me that Nucor will be

1 subject to base rate changes and its retail prices will
2 be uniformly adjusted by the average price change for all
3 Utah customers in the event of a rate case?

4 A. Well, that's true. But as we just discussed
5 earlier, there's potential volatility in -- between rate
6 cases as to where Nucor comes in with their cost of
7 service, especially now that the structure of their rates
8 has been changed from the previous ESA.

9 So in two years, we may review this analysis,
10 and Nucor could, again, be drastically -- their level of
11 cost-of-service coverage could be different.

12 Q. Thank you. You -- you would agree with me that
13 the proposed ESA has a provision for a revision to base
14 rates if Nucor's 36-month historical usage dipped below a
15 certain level, right?

16 A. Right.

17 Q. And so that's one way the rate structure might
18 change in addition to the rate during the ten-year term
19 of the contract; isn't that right?

20 A. That's one way, and it could go either way.

21 Q. Correct. Another one of your arguments that you
22 talk about is your preference or the thought that Nucor
23 could move to an existing tariff, including an
24 interruptibility tariff that might be generally
25 applicable; is that right?

1 A. Right, in the future.

2 Q. In the future.

3 And that's your concern with the term, because
4 you want to preserve the ability to move them on to a
5 more generally applicable tariff, right?

6 A. Right. And again, we -- our position in general
7 is that, you know, these interruptibility resources and
8 opportunities, you know, should be available to more
9 customers and not, kind of, set aside in some of these
10 special contracts for certain customers.

11 Q. You would agree with me that it's a pretty
12 unique customer, though, that can provide
13 interruptibility to the company?

14 A. I'm not sure if that is true.

15 Q. I guess maybe I should rephrase it.

16 That can provide interruptibility in a way that
17 provides value to the system. I suppose I could probably
18 provide interruptibility to the system by telling Rocky
19 Mountain Power they can shut of my switch anytime they
20 want.

21 But to be able to provide value to the system,
22 you need to have relatively large customers that's
23 willing to be interrupted?

24 A. I'm not sure what the evidence is, you know, in
25 this case on that topic.

1 Q. Fair enough.

2 A. So I can't -- I don't think it's fair to make
3 that statement.

4 Q. On a general level, would you agree that a
5 customer who can provide a whole lot of electricity to be
6 interruptible -- so we can shut off the switch at peak
7 times, and it will actually shave peak in an appreciable
8 way -- provides more value to the system than someone
9 like me, like my residential home, would provide the
10 system for the same interruptibility?

11 A. Well, I mean, looking at that simple,
12 straightforward example, that could be true.

13 But if you aggregate a lot of smaller customers,
14 you could have the same or even more benefits as what
15 Nucor could provide in an interruptibility event.

16 And actually, the volatility of the service
17 could be less. As we discussed earlier, if you aggregate
18 a large number of customers, you're going to get a more
19 uniform, dependable -- possibly more uniform and
20 dependable interruptibility product.

21 Q. Would you agree with me that the timing of when
22 a customer agrees to be interrupted could affect the
23 value that interruptibility provides to the system?

24 A. Well, obviously, that's the whole point of an
25 interruption.

1 Q. And the frequency that a customer is willing to
2 be interrupted probably affects the value to the system
3 as well, right?

4 A. Exactly. The more opportunity to address system
5 needs would have more value up to a certain point. It's
6 like anything, more of something necessarily doesn't
7 increase the benefited to the point you reach a level of
8 diminishing returns.

9 Q. Would you agree with me that, of the customers
10 that can offer interruptibility, that the benefits that
11 that they could offer the system are likely going to vary
12 in scale, timing, frequency, and duration among the
13 customers?

14 A. Could you repeat that.

15 Q. Let me give you an example. So, like, if you've
16 got three customers that can be interruptible, one might
17 be able to be interruptible for a lot of electricity in a
18 narrow amount of time with little frequency. While
19 another one might not be able to offer as much scale,
20 maybe their load isn't as big, but they can be
21 interrupted more frequently or for a longer duration.
22 There's going to be variations among interruptible
23 customers, is what I'm asking.

24 Would you agree with me that there would be?

25 A. Yes. But I would assume that -- let's say -- if

1 you're saying this is a demand-side management product
2 that's offered through -- you know, as other demand-side
3 opportunities are offered through Rocky Mountain Power's
4 existing tariffs, the -- you know, the conditions and the
5 design of it would, you know, would dictate what was
6 needed, and the customers that could respond at those
7 times would be able to participate to match those needs,
8 so

9 Q. So customers who could fall under the tariff
10 would be able to take advantage of it.

11 But isn't it possible that a unique
12 interruptibility product, like the one included in the
13 ESA, could provide more benefits than a general
14 one-size-fits-all approach?

15 A. It's possible, but once again, there's been no
16 study and no evidence provided as to, you know, whether
17 that exists for this specific contract or any other
18 aggregate product. So without that information, you
19 can't make a determination, I don't think.

20 Q. Thank you.

21 You would agree with me that the curtailment
22 credit is a system resource, right? Benefits the system?

23 A. That benefits the system, or is it treated as a
24 system resource? What are you ...?

25 Q. Either one. A system resource, one that

1 benefits system? You can answer them individually, if
2 you'd like.

3 A. Right. I think that's the language that's
4 included in every one of these contracts renewals.

5 Q. Isn't it true that the Company frequently enters
6 into agreements for system resources, such as power
7 purchase agreements, that have terms of longer than ten
8 years?

9 A. Yes. Yeah, those are supply-side resources.

10 Q. And the QF term in Utah is 10 years, right?

11 A. Right. And in a docket not too many years ago,
12 Rocky Mountain Power advocated for a, I believe a two- or
13 a three-year term for QFs because the term of PPAs was
14 too long. So it doesn't make sense that Rocky Mountain
15 Power would advocate for a ten-year term in this
16 situation.

17 Q. Rocky Mountain Power's position was rejected by
18 the Commission, right --

19 A. Right.

20 Q. -- the 15-year term?

21 The recent All Source RFP that we issued
22 considers PPAs that are as long as 30 years, right?

23 A. I believe that's correct, yes.

24 Q. Thank you. To arrive at terms for those
25 contracts, there has to be some sort of forecasting about

1 the Company's capacity need, right?

2 A. I'd like to say that, you know, the supply-side
3 resources that are either purchased or contracted for go
4 through a robust RFP and market evaluation process,
5 unlike, you know, this curtailment product resource that
6 we're discussing today. I mean, there's major
7 differences between procuring supply-side resources that
8 go through these processes, including extensive analysis,
9 you know, often through energy resource decision
10 proceedings, or, you know, other types of regulatory
11 proceedings. So I mean, they're not -- we're not
12 comparing apples to apples.

13 Q. Would you agree with me that the Company has
14 quite a bit of experience conducting extensive analyses
15 about the capacity of its system -- or capacity needs of
16 its system? Excuse me.

17 A. Yes, and the needs change, you know. The -- the
18 resources that are needed and the -- the -- how the
19 preferred portfolio is, where it lands every three years
20 changes significantly.

21 Q. Do you think that the Company would adequately
22 be able to plan for resource needs if it could only
23 procure resources with a two-year term -- based on
24 two-year projection, I suppose is what I mean. Not with
25 a two-year term, based on two-year projections.

1 A. That's a silly question. But for this contract,
2 the term has been shorter in the past, so obviously it
3 was acceptable in the past for this type of resource.

4 Q. You'd agree with me that the structure of this
5 contract, though, does have some differences from the
6 previous ESA contract?

7 A. Some, yes.

8 Q. Thank you. Your counsel also discussed the
9 IRP -- the Company's 2021 IRP, and you mentioned it in
10 your summary.

11 How long is the planning horizon for the IRP?

12 A. Twenty years.

13 Q. So that's twice as long as the term of the
14 contract, correct?

15 A. Correct.

16 Q. And that shorter-time period, the ten years
17 versus the 20 years, would likely improve the modeling
18 forecast relating to a ten-year contract versus a 20-year
19 planning horizon, right? Your modeling forecasts are
20 more likely to be accurate over ten years than over 20
21 years?

22 A. Right. The farther you go out, the more likely
23 you are to be wrong.

24 Q. And so another one of your concerns is that some
25 of the modeling is based on what you call an "unproven

1 resource" that's included in the IRP modeling; is that
2 right?

3 A. I mentioned that non-emitting peaker, right?
4 But our primary concern is that some of the analysis to
5 justify the value of the curtailment credit looks at
6 changes in the portfolio in 2025 and 2028, so quite a few
7 years out in the future.

8 Q. And when you're talking about that non-emitting
9 peaker being an unproven resource, are you aware that the
10 modeling calculations are based on simple cycle gas
11 plant?

12 A. Yes. As I was just trying to explain, the fact
13 that it's an non-emitting peaker is not a primary
14 concern. It's the fact that the analysis is using data
15 from almost ten years out in the future, so

16 Q. So you'd agree with me that the simple cycle
17 numbers are a proven resource, they're -- but your
18 concern is the -- that we're -- we're looking at capacity
19 needs that are maybe six years out?

20 A. Right, and a lot can change in six years.

21 Q. Okay. You've mentioned a number of concerns
22 about the Company's subjective judgment.

23 Would it be fair to say that the Company, when
24 it does its modeling, has to use some judgment in
25 determining how to come up with modeling assumptions?

1 A. Yes. And the -- since it is judgment, it will,
2 you know, it will be different in -- definitely different
3 within the ten-year term of the contract.

4 Q. Another one of your criticisms of the ten-year
5 term is the current state of MSP negotiations; is that
6 right?

7 A. Yes.

8 Q. Have you been involved in discussions about MSP
9 and the inter-jurisdictional allocation protocol?

10 A. Yes. I've begun to participate within the last
11 year and a half or so.

12 Q. And is it your understanding that those
13 discussions are ongoing, they've been going on for a long
14 time? A year and a half wasn't when the discussions
15 started, but they started many, many, many years ago?

16 A. Right. I've heard people express pain over the
17 length --

18 Q. That's what I --

19 A. -- so

20 Q. The protocol that the parties reached typically
21 has a finite term, right?

22 A. Right.

23 Q. And then the parties go back and renegotiate
24 issues that arise during the term of the contract,
25 correct? For the following iteration, at least.

1 A. Right. They have to come up with a replacement
2 agreement.

3 Q. Would it be fair to say that there's never,
4 like, a final allocation agreement, that there's always
5 terms that are going to be renegotiated at some point in
6 the future?

7 A. Again, my participation is very recent. That
8 sounds correct, but I'm not sure I can agree.

9 Q. In general, would you agree that it would not be
10 prudent for the Company to delay acquiring a prudent and
11 necessary resource because it's waiting for certainty in
12 the MSP allocation process?

13 A. Well, for a supply-side resource that a company
14 typically acquires, I can agree with that.

15 But for this special contract, which is very
16 unique and not modeled like other resources are in an IRP
17 process, and one that goes through an RFP evaluation and
18 all the other things that go along with that, and also a
19 contract that often has a shorter term, I think it is
20 appropriate to have a shorter term so you can understand
21 what the new MSP agreement -- how the new MSP agreement
22 affects it.

23 I mean, I participated in the discussions, and
24 they're confidential, but my opinion is that there are
25 some major changes that are going to happen with how

1 costs are allocated among the states and that they could
2 affect how this resource is allocated or -- or how the
3 system is even operated.

4 So I think it is prudent, since we have the
5 opportunity to not have a ten-year term for this
6 contract, to wait and see what happens.

7 Q. If a resource benefits customers, do those
8 benefits change if the resource's allocation changes?

9 A. Well, if the benefits turn into costs, it's
10 possible that the parties in other states will determine
11 that the costs are now 100 percent assigned to Utah. So
12 there is risk.

13 Q. And that would be part of the negotiations on
14 how to assign contracts to specific states or to the
15 system, correct?

16 A. Yes.

17 Q. I'm going to move on. I think I have one last
18 line of questioning here.

19 When a customer that formerly takes a large
20 amount of electricity from a company's system decides to
21 self-generate, does that adversely affect other
22 customers -- other customers on the system?

23 A. Can you repeat that again.

24 Q. Sure. Maybe I'll rephrase it.

25 When a customer that formerly took a large

1 amount of electricity, they were formally a large
2 customer of the company, leaves the system -- they decide
3 to self-generate or go out of business or leave the
4 system -- that can adversely affect other customers,
5 right?

6 A. Well, I'm not certain whether it would be a
7 negative or a beneficial impact. I mean, Mr. Moore was
8 trying to get at this point in his cross-examination
9 earlier.

10 Again, we are in a period of rapid changes with
11 our system. And, you know, we are -- we see PacifiCorp
12 going into the market to acquire new resources on a very
13 regular basis. So I mean, there hasn't been, to my
14 knowledge, a study provided. What would be the impact of
15 a large customer leaving the system? I mean, it's
16 possible with -- you know, when we have resource
17 deficits, it could in some situations be beneficial. But
18 we don't know, since there's no evidence or study
19 provided in this case as to, you know, how that will play
20 out.

21 Q. Thank you. You would agree with me, though,
22 that if a customer leaves the system, they're no longer
23 paying the fixed costs associated with their service, the
24 costs that the company has to continue to pay, even if
25 they're not serving that customer?

1 A. Well, as we had talked about earlier, Nucor
2 isn't paying its full costs, so I don't know what --
3 where you draw the line between, you know, some of their
4 fixed costs or all of their fixed costs.

5 So I mean, what you're saying is possible, but
6 we're not -- it's not clear in this case what -- what the
7 outcome would be if Nucor stopped paying -- providing,
8 you know, revenue.

9 Q. Thank you.

10 MS. WEGENER: I think that's all the questions I
11 have.

12 CHAIRMAN LEVAR: Okay. Thank you, Ms. Wegener.

13 Mr. Moore, do you have any redirect?

14 MR. MOORE: No redirect. Thank you.

15 CHAIRMAN LEVAR: Okay.

16 Mr. Vastag, I may have a few questions for you.

17
18 CROSS-EXAMINATION

19 BY CHAIRMAN LEVAR:

20 Q. Would you be able to provide any, maybe a couple
21 of hypothetical examples of how future IRPs with
22 different forecasting could impact the curtailment
23 credits maybe in a way that's beneficial to ratepayers
24 and in a way that's detrimental to ratepayers? And if to
25 do so would require discussion of confidential

1 curtailment credit methodologies, we could close it.

2 But would it be possible to come up with a
3 couple of hypotheticals like that?

4 A. I could try. I'm not too well prepared.

5 Q. I know this is an unfair thing to throw on you,
6 but it might help clarify some things.

7 A. Well, I think a lot of it hinges on when the
8 system is -- you know, deficit of resources or powers
9 where there's not enough capacity to meet load. So --
10 and I agree, it could go either way. I mean, so that's
11 why I don't see why Nucor may -- would object. I mean,
12 it's possible that in future contracts the value of
13 curtailment could increase. But we don't think
14 ratepayers should take the risk of it going either
15 direction. It just ought to be what's fair.

16 So in the future, we could have a recession or
17 some other impact. You know, we've seen quite a few
18 lately, the war on Ukraine, the COVID pandemic. Before
19 that, we had a major recession due to the housing market
20 crashing. At least those were temporary. But those
21 impacted the load forecast and the level of resource
22 adequacy that we had for the system. So in a negative
23 situation like that, you could see the value of Nucor's
24 curtailment product decrease.

25 On the opposite end, if we see load increasing

1 rapidly, and we -- and front office transactions that are
2 depended upon in the IRP modeling become more scarce,
3 then the capacity needs would move to earlier years, and
4 such a curtailment product could have increased value.

5 So -- and that's the point of our objection to
6 the ten-year term, is that we don't know, you know,
7 what's going to happen. So I think it is prudent to
8 review this special contract. And it is unique. It's
9 specialist, it's not a tariffed product that thousands of
10 customers are participating in. And that -- where a
11 tariff can be changed on a regular basis, we're talking
12 about a ten-year contract.

13 So it would be more prudent to -- with all the
14 uncertainties, you know, that I described in my summary,
15 to not lock it in for ten years but to allow it to be
16 reviewed and adjusted as time goes on.

17 Q. Okay. Thank you. I appreciate that.

18 Just a couple more questions. We've talked
19 about this with a lot of other witnesses.

20 Rocky Mountain's corrected reply comments,
21 there's a confidential number on page 5, and I'll just
22 read the sentence. It says, "Further, the proposed ESA
23 results in an approximately" confidential number "percent
24 price increase before surcharges and a curtailment
25 credit."

1 Do you think that number is roughly accurate, or
2 do you have a basis to have an opinion on the accuracy of
3 that number?

4 A. Well, I did not go into their calculation in
5 detail. But I assume they -- they used -- to derive
6 that, they base it on how Nucor has operated their
7 facility in the past.

8 So if -- if -- if Nucor continues to operate
9 just the way that increase was modeled, then I have
10 confidence. But they're being moved to a different
11 structure, where the demand portion of the rate has now
12 been increased and then the energy, the volumetric
13 portion, has been decreased. It's possible, whether
14 Nucor chooses on its own or maybe the way the industry,
15 the steel industry evolves, they may operate their
16 operation differently. And it could -- I mean, we don't
17 know. It could result in less revenue from them or more
18 revenue from them. So their cost-of-service coverage
19 could vary just based on having a different rate
20 structure and how they respond to that pricing signal.

21 And when you -- it's something that you often
22 see, you change how you price a product and sometimes you
23 get unexpected outcomes because people adjust their
24 behavior based on, you know, the new setup.

25 Or I'm not intimately knowledgeable about how

1 they operate. There wasn't any information provided in
2 this case as to their unique operations and how they
3 operate. It's probably very confidential, so I don't
4 know -- I wouldn't know if -- if the rate structure would
5 change that in any way.

6 Q. Okay. Thank you. Just a couple more questions,
7 then.

8 I had Mr. Einfeldt read a section from Nucor's
9 reply comments. And it starts with, "There are two main
10 benefits of a large interruptible load, neither of which
11 are fully accounted for in a class cost-of-service
12 study." And then they go on to say what those two are.
13 I don't know if you need a moment to review that.

14 But my two questions are: Do you agree with
15 those two benefits generally? And the second one is: Do
16 you agree that they are not fully accounted for in the
17 class cost-of-service study?

18 A. I'll, I guess, give you my understanding of
19 that.

20 Again, I'm not -- my expertise generally isn't
21 with the revenue requirement and the cost-of-service
22 model. But my understanding is that those two attributes
23 are addressed with the curtailment credit. That portion
24 of the contract is the method that Nucor receives
25 compensation for those benefits.

1 The cost-of-service study doesn't dive into, or
2 is maybe not even able to dive into how those benefits
3 should be priced. That's why there is this additional
4 curtailment credit addendum to their ESA. And that's
5 where those -- that's where Nucor should receive
6 compensation, is in that portion of the agreement for
7 those benefits and services.

8 Q. Okay. Thank you. That does give some clarity
9 to my question. That's all I had for you, Mr. Vastag.
10 Thank you for your testimony today.

11 A. Thank you.

12 CHAIRMAN LEVAR: Mr. Moore, anything further
13 from the Office? I think you're muted -- well, you're
14 not showing as muted, but I can't hear you.

15 MR. MOORE: Nothing further from the office.

16 CHAIRMAN LEVAR: Anything further from anyone?

17 MS. WEGENER: Chair Levar, if it would be all
18 right, I'd like to call Robert Meredith on rebuttal to
19 ask him just a few questions that I think weren't
20 established with other witnesses. Other witnesses didn't
21 know the answer or gave sort of incorrect questions [sic]
22 because they weren't aware of the cost-of-service
23 implications. Would that be okay?

24 CHAIRMAN LEVAR: Well, let me see.

25 Does anyone have an objection to calling

1 Mr. Meredith as a rebuttal witness at this point?

2 MR. JETTER: You know, I think I'm okay with it
3 on the condition, maybe, that I get an agreement from
4 counsel for Rocky Mountain Power that this isn't
5 precedential in a future -- a future case where we might
6 have something akin to live -- I don't want to call it
7 "live surrebuttal testimony."

8 But that's my only real concern is how this
9 might be setting a precedent in the future of a witness
10 who hasn't previously testified or presented comments
11 before the hearing.

12 I think his testimony may make sense in this
13 case, by the way.

14 CHAIRMAN LEVAR: Okay. Before I go back to
15 Ms. Wegener, maybe to respond to that, are there any
16 additional objections that anyone wants to raise?

17 Mr. Moore.

18 MR. MOORE: I am concerned -- it's difficult for
19 me to -- I don't think it's inappropriate for a rebuttal
20 witness to come up if it's true rebuttal testimony. He
21 should be rebutting our witnesses, not his own. That
22 would lead into areas of, you know -- live surrebuttal
23 wasn't called for in the scheduling order. As long as
24 it's true rebuttal. If they can identify something that
25 we said that is incorrect and he wants to rebut, that's

1 appropriate. Just speaking about the topic of
2 cost-of-service generally, outside of the testimony and
3 comments that have been submitted here, we would object
4 to that.

5 CHAIRMAN LEVAR: Okay. Thank you.

6 Before I go back to Ms. Wegener to respond to
7 Mr. Jetter and Mr. Moore, Mr. Cook, did you have anything
8 else to add?

9 MR. COOK: No.

10 CHAIRMAN LEVAR: Okay.

11 Ms. Wegener, could you respond to both
12 Mr. Jetter's -- I wouldn't call his necessarily
13 objections, but his concerns; and to Mr. Moore's -- I
14 think I would refer to yours as an objection, unless it's
15 clearly rebuttal to Mr. Vastag basically, right?

16 MS. WEGENER: Sure. In response to Mr. Jetter's
17 "objection-like," I would say that certainly we agree
18 that it's not precedential. I do think in these more
19 limited proceedings that allowing some rebuttal when
20 there's not so much structured testimony, where you've
21 got rounds of testimony, makes a lot of sense. But I
22 agree that this wouldn't be something that we would point
23 back to, to justify calling a rebuttal witness in the
24 future.

25 And with respect to Mr. Moore, I've got two

1 questions, and they are both related to issues that were
2 raised by other witnesses. So I think we're square.

3 MR. MOORE: I still think the other witnesses
4 have to be our witness, not their witnesses. You can't
5 rebut your own witness. You'd be putting on direct
6 testimony, and we would object to any more direct
7 testimony.

8 We haven't had -- if it's not within the
9 comments or within the testimony, we haven't had time to
10 review it, and we'd be prejudiced by additional direct
11 testimony.

12 Again, if Mr. Meredith would like to point out
13 some mistakes Mr. Vastag may have made, I think that
14 would be appropriate.

15 MS. WEGENER: I apologize. I think I was
16 unclear. When I said "other witnesses," I meant other
17 witnesses who are not Rocky Mountain Power witnesses. He
18 will not be rebutting Mr. Eller.

19 MR. MOORE: Can we short circuit, this,
20 Ms. Wegener, and ask what witnesses you're planning to
21 question him about?

22 MS. WEGENER: Yeah. I'll let you know what two
23 questions I want to ask him, actually.

24 I want to ask him whether interruptibility is
25 taken into account in the 15.51 percent number.

1 Mr. Einfeldt was asked that question. He didn't know
2 that answer, and he speculated in a way that I would like
3 Mr. Meredith to clarify.

4 The other one is Mr. Vastag, who talked about
5 the rate structure and not keeping the -- Nucor close to
6 its cost-of-service. And I want him to rebut that
7 concept.

8 MR. MOORE: We would object to the first and not
9 to the second.

10 We would object to him basically bolstering his
11 testimony of Mr. Eller. We think that would be
12 additional direct.

13 However, challenging Mr. Vastag's testimony we
14 would think would be appropriate.

15 I do want to know -- it's been said that these
16 proceedings are rather limited. I do not believe that --
17 I think they're too limited for the subject matter, and I
18 do not believe that we should be prejudiced by the fact
19 that Rocky Mountain Power chose to bring these matters to
20 the Commission without significant testimony and more
21 procedure. That shouldn't prejudice us. It is their
22 decision.

23 CHAIRMAN LEVAR: You know, considering
24 everything I'm hearing, the first question, if I'm
25 remembering correctly, is primarily in response to an

1 answer Mr. Einfeldt gave to a question from me. And
2 typically, we're reticent to allow further
3 cross-examination after Commission questions, because our
4 questions often could raise a lot of further
5 cross-examination, and there's a reason we save them to
6 the end for clarifications.

7 And considering that, with Mr. Moore's
8 objection, I think I'm inclined to allow the second
9 question you suggested but not the first.

10 In terms of timing, we're at a point where we
11 would normally take a hearing break. We try to give our
12 court reporter a break every hour to hour and a half or
13 so. We're in that point. I don't know how long this
14 question we're talking about will take, Ms. Wegener.
15 Should we take a break, or is it a short enough issue
16 where we can just go ahead?

17 MS. WEGENER: I believe it's short enough that
18 we can just go ahead.

19 CHAIRMAN LEVAR: Okay.

20 Mr. Meredith, are you with us?

21 THE WITNESS: Yes, I am. Can you hear me okay?

22 CHAIRMAN LEVAR: Yes, we can. Great. Do you
23 swear to tell the truth?

24 THE WITNESS: Yes, I do.

25 CHAIRMAN LEVAR: Thank you.

1 ROBERT MEREDITH,
2 was called as a witness, and having been first duly
3 sworn to tell the truth, the whole truth, and nothing
4 but the truth, testified as follows:

5

6 DIRECT EXAMINATION

7 BY MS. WEGENER:

8 Q. Mr. Meredith, good morning.

9 Can you please explain how the rate structure in
10 the Nucor contract keeps Nucor close to its -- closer to
11 its cost-of-service?

12 A. Sure. I think the big benefit from the rate
13 structure that we've negotiated with Nucor is that it
14 does align the demand charges much more closely to the
15 demand costs in the cost-of-service study and the energy
16 closer to the energy-related values in the
17 cost-of-service study. And that is -- I think that does
18 a couple of things.

19 I think that makes it so that way, there's less
20 of a chance that things will get out of whack with the
21 cost of service. So as demands change and energy changes
22 and the load factor of the customer changes, it's far
23 more likely to have less volatility in the
24 cost-of-service study.

25 I think that also just will make the, generally

1 speaking, the revenue more stable, since demand is
2 generally a much more stable component of revenue than
3 volumetric energy charges are.

4 Q. Thank you. That's the only question I have.

5 CHAIRMAN LEVAR: Okay. Thank you.

6 Does anyone have follow-up questions to those --
7 to that question?

8 Mr. Cook, do you have anything to follow up with
9 on that?

10 MR. COOK: Nothing for me.

11 THE HEARING OFFICER: Okay.

12 Mr. Jetter.

13 MR. JETTER: Nothing from me. Thank you.

14 CHAIRMAN LEVAR: Thank you.

15 Mr. Moore.

16 MR. MOORE: Nothing. Thank you.

17 CHAIRMAN LEVAR: Okay.

18 Anything further from anyone? Thank you all for
19 your participation today. We are adjourned.

20 (The matter concluded at 12:31 p.m.)

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 16th day of May, 2022.

15
16 

17 _____
18 Michelle Mallonee, RPR, CCR
19 Utah CCR #267114-7801
20 Expires May 31, 2023
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