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- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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Rocky Mountain Power's 2023)
Wildland Fire Cost and)
Compliance Report)
) DOCKET NO. 23-035-27
)
_____)

Public Hearing
Taken on Tuesday, October 11,
2023
At 1:30 p.m. MT
At Heber M. Wells Building
160 East 300 South
Room 403
Salt Lake City, Utah 84111

Reported by: Brooke Simms, RPR, CCR, CSR

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A P P E A R A N C E S

The Public Service Commission:
Presiding Chair Thad LeVar
Commissioner Dr. John Swenson Harvey
Commissioner David Clark

For The Division of Public Utilities:

Patricia Schmid
Patrick Grecu
UTAH ATTORNEY GENERAL'S OFFICE

For The Office of Consumer Services:

Robert Moore
UTAH ATTORNEY GENERAL'S OFFICE

For Rocky Mountain Power:

Carla Scarsella
ROCKY MOUNTAIN POWER

Also Present:

Melissa Paschal
Amy McCluskey
Robert Meredith (telephonically)
Bela Vastag
Tyler McIntosh

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

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3 PRESIDING CHAIR LeVAR: Okay. Good afternoon.
4 We are here for a Public Service Commission hearing in
5 Docket 23-35-27, Rocky Mountain Power's 2023 Wildland
6 Fire Cost and Compliance Report. This is the phase II
7 hearing.

8 From the Commission, I'm participating,
9 Commissioner David Clark, and Commissioner John Harvey
10 in his first hearing with us since he was appointed. So
11 we want to welcome him here.

12 And we appreciate everyone's flexibility on
13 moving this hearing to this afternoon so that I could go
14 up to the Capital and sit through a meeting and do
15 nothing and go back next month, but that's how it works.

16 Why don't we move ahead to appearances. So
17 we'll start with appearances for Rocky Mountain Power.

18 MS. SCARSELLA: On behalf of Rocky Mountain
19 Power, Carla Scarsella. Also with me today is Amy
20 McCluskey. She's vice president of wildfire safety and
21 asset management for PacifiCorp. She will be our
22 witness this morning -- this afternoon.

23 Also appearing telephonically is Robert
24 Meredith. He's the director of pricing and tariff
25 policy. However, I don't expect to call him as a

1 witness, but if there are questions about rate design or
2 rates, he could answer those questions.

3 PRESIDING CHAIR LeVAR: Okay. I should have
4 written your name down the first time you said it.

5 MS. SCARSELLA: Carla. And the last name is
6 Scarsella.

7 PRESIDING CHAIR LeVAR: Okay. Thank you.
8 For the Division of Public Utilities?

9 MS. SCHMID: Good afternoon. Patricia E.
10 Schmid with Patrick Grecu, assistant attorney generals,
11 representing the Division of Public Utilities. The
12 Division's witness today is Tyler McIntosh. Thank you.

13 PRESIDING CHAIR LeVAR: Okay. Thank you.
14 For the Office of Consumer Services?

15 MR. MOORE: Robert Moore of the Attorney
16 General's Office representing the Office of Consumer
17 Service. Our witness today is Bela Vastag.

18 PRESIDING CHAIR LeVAR: Okay. Thank you.
19 Any other preliminary issues before we go to
20 Rocky Mountain Power?

21 MS. SCHMID: One.

22 MS. SCARSELLA: Go ahead.

23 PRESIDING CHAIR LeVAR: Okay. Go ahead.

24 MS. SCHMID: Would you like the witnesses to
25 go to the stand, or may they testify where -- at counsel

1 table as they mostly are sitting?

2 PRESIDING CHAIR LeVAR: I'm going to refer to
3 the court reporter on that. Do you have any problem if
4 they stay at the tables there?

5 (Reporter clarification.)

6 PRESIDING CHAIR LeVAR: Okay.

7 MS. SCHMID: Thank you.

8 PRESIDING CHAIR LeVAR: Okay. Anything else?

9 Okay. Ms. Scarsella?

10 MS. SCARSELLA: The company calls Amy
11 McCluskey.

12 PRESIDING CHAIR LeVAR: Okay. Ms. McCluskey,
13 do you swear to tell the truth?

14 THE WITNESS: Yes.

15 PRESIDING CHAIR LeVAR: Okay. Thank you.

16 AMY McCLUSKEY

17 was sworn and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. SCARSELLA:

20 Q. Ms. McCluskey, can you state and spell your
21 name for the record?

22 A. Sure. My name is Amy McCluskey, A-m-y
23 M-c-C-l-u-s-k-e-y.

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

25 A. I'm employed by PacifiCorp, and my role is the

1 vice president of wildfire safety and asset management.

2 Q. And what is your business address?

3 A. My business address is 825 Northeast Multnomah
4 Street, Portland, Oregon. ZIP code 97232.

5 Q. Please explain the roles you held leading up
6 to your current position.

7 A. Previous to my employment at PacifiCorp, I
8 worked in the oil and gas industry for approximately
9 nine years. Since joining PacifiCorp about six and a
10 half years ago, held various titles -- first, as a
11 project manager, then director of asset management, then
12 managing director of wildfire safety and asset
13 management, and now vice president of -- at wildfire
14 safety and asset management.

15 Q. What is your educational background?

16 A. My background -- I have a bachelor's of
17 science in mechanical engineering from the Ohio State
18 University.

19 Q. What has been your involvement with the Utah
20 wildland fire protection plan?

21 A. It currently -- my role -- I am responsible
22 for developing, overseeing, and implementing our
23 wildfire mitigation program and plans, which includes
24 the Utah wildland fire protection plan.

25 Q. Have you testified before the Utah Public

1 Service Commission before?

2 A. No, I have not.

3 Q. Have you reviewed the Utah wildfire protection
4 plan cost and compliance report which includes
5 attachments A, B, and C and the company's phase II reply
6 comments that were filed on September 22nd, 2023?

7 A. Yes, I have.

8 Q. Do you adopt those reply comments as your
9 testimony?

10 A. I do.

11 MS. SCARSELLA: At this time, Chair, I would
12 like to move our reply comments into the record.

13 PRESIDING CHAIR LeVAR: Okay. Thank you.

14 If anyone objects, please indicate your
15 objection.

16 I'm not seeing any. So the motion is granted.

17 MS. SCARSELLA: Thank you.

18 Q. (BY MS. SCARSELLA) Ms. McCluskey, can you
19 provide a summary of your testimony?

20 A. Yes.

21 Good afternoon, Chair LeVar, Commissioners
22 Clark and Harvey, Counsel, and parties.

23 On June 1st, 2023, Rocky Mountain Power, which
24 I will refer to as "the company," filed its 2023
25 wildland fire cost and compliance report -- or "report."

1 Included in the report was a request to initiate rates
2 under Schedule 97 to collect the deferred balance in its
3 wildland fire balancing account, or WBA, associated with
4 incremental revenue requirement for capital investments
5 and expenses to implement its approved 2020 wildland
6 fire protection plan -- or "plan" -- that is not
7 included in base rates.

8 It is this rate recovery request that is the
9 subject of phase II of this proceeding. Specifically,
10 the company is requesting to place into rates
11 approximately 6.8 million to be collected over one year
12 beginning November 15th.

13 Despite effective fire suppression efforts by
14 agencies and increased suppression budgets, wildfires
15 have grown in number, size, intensity, and impact. The
16 company has been increasing its wildfire mitigation
17 efforts in response to the growing risk of wildfires.
18 To protect its customers and facilities, the company
19 developed the plan which provides mitigation strategies
20 that are deployed in Utah. Following the filing of the
21 plan, the company continued to evaluate an increase,
22 when necessary, its mitigation efforts to make long-term
23 investments to reduce the risk of wildfire.

24 My testimony focuses on responding to several
25 areas of concern raised by the Office of Consumer

1 Services, or OCS, regarding wildfire mitigation, capital
2 investments and expenses. First, the OCS questioned
3 whether the cost of labor, materials, and travel
4 expenses related to patrolling, conditions corrections,
5 and fire high consequence areas, or FHCA, area
6 inspections are being counted in the WBA and base rates.

7 These operating and maintenance expense
8 recorded in the WBA are incremental to what is already
9 included in base rates. This is demonstrated by how the
10 company records the costs, namely, all costs associated
11 to implement the plan are tracked and each month are
12 compared to the base amount with the incremental
13 difference deferred to the WBA.

14 Further, the increase in these costs is due to
15 the increased frequency of inspections in the FHCA,
16 resulting for better information from the company's new
17 meteorology department, new weather stations, and
18 modeling enhancements.

19 Second, OCS also questioned whether the costs
20 associated with the company's inspection activities of
21 transmission lines and weather stations, in accordance
22 with internal policies, are being double counted in the
23 WBA and base rates. These costs are incremental to what
24 is included in base rates. Even though earlier versions
25 of the company's internal policies existed prior to the

1 plan, they were augmented for the incremental activities
2 for the wildfire mitigation efforts.

3 These incremental costs were incurred to
4 deliver the wildfire mitigation efforts under the plan.
5 The total deferred costs were prudently incurred to
6 deliver the plan activities -- are incremental to base
7 amounts and are properly included in the recovery
8 requested by the company.

9 Third, OCS recommended that contributions to
10 HawkWatch International and Pheasants Forever be removed
11 from the WBA. However, donations to these organizations
12 do not represent charitable giving. Instead, the
13 company partners with HawkWatch International and
14 Pheasants Forever on wildfire mitigation efforts,
15 including the management of nests and vegetation
16 management outside of its right-of-way respectively.

17 These partnerships support goals set forth in
18 the plan and are newly created in the plan. These
19 partnerships are an effective and efficient way to meet
20 the goals of the plan that protects the company's
21 customers and facilities from wildfire risk.

22 And, finally, as described in the plan, the
23 company installed 14 cameras with plans to evaluate the
24 effectiveness of the cameras after three years. The OCS
25 expressed concerns over the functionality of the

1 company's wildfire alert cameras, claiming they were not
2 functioning or poorly positioned based on its access of
3 the public facing platform on August 31st, 2023.

4 The company confirms that all 14 of the
5 cameras were in operation on August 31st, 2023, but may
6 have appeared to be offline on the public-facing website
7 because the -- because the wildfire camera supplier had
8 migrated the cameras to their new online platform to
9 address an intellectual property dispute with another
10 entity.

11 Despite the issues with the public-facing
12 website, the cameras have been working and accessible to
13 the company for monitoring wildfire conditions.
14 Further, it is important to note that the cameras rotate
15 360 degrees, and the pictures included in OCS's
16 supplemental comments only show a moment in time. The
17 rotating function of the cameras allows the company to
18 monitor conditions from multiple camera angles and
19 facilitates full view of the conditions. The Commission
20 should reject the claim that the expenditures for the
21 camera were not prudent.

22 In summary, the Commission should approve the
23 requested recovery of approximately 6.8 million in the
24 WBA, as these costs represent incremental costs and were
25 prudently and reasonably incurred to implement the

1 company's plan.

2 MS. SCARSELLA: At this time Ms. McCluskey is
3 available for cross-examination and questions.

4 PRESIDING CHAIR LeVAR: Thank you.

5 Ms. Schmid, do you have any questions for Ms. McCluskey?

6 MS. SCHMID: I do. My intent is to provide
7 clarification to a couple of things for the record.

8 CROSS-EXAMINATION

9 BY MS. SCHMID:

10 Q. My topic covers Pheasants Forever and
11 HawkWatch. In your summary today, you said that the
12 moneys that went to Pheasants Forever and HawkWatch were
13 not charitable giving. Did I state that correctly?

14 A. Correct. The money provided or the payment
15 provided to HawkWatch and Pheasants Forever is not a
16 charitable donation.

17 Q. So then is it true that Rocky Mountain Power
18 is not planning to seek a tax deduction for those
19 moneys?

20 A. My area of subject matter expertise is not in
21 tax policy, and I do not have the answer to that
22 question.

23 Q. Okay. Moving on, why did you choose Pheasants
24 Forever to receive moneys?

25 A. So the -- the plan itself outlines goals and

1 programs, and the company committed to implementing
2 those programs, which include habitat restoration and
3 fuels management, both on our right-of-way and where
4 partnerships allow us to off our right-of-way.

5 And so the company selected Pheasants Forever
6 because they were strategically positioned to do just
7 that, to implement fuels management and forest
8 restoration, or more fire-resilient habitat restoration,
9 off the right-of-way where the company does not have the
10 authority to do so.

11 Q. Were there -- were there other entities that
12 could have performed that role?

13 A. I do not have the -- the answer to that
14 question. I do know the entity we selected was well
15 positioned and could make efficient use of the funds,
16 and so that is why we -- we chose to partner with them.

17 Q. Turning now to HawkWatch, I'll repeat some of
18 the questions. Why did you choose HawkWatch?

19 A. I think, as I mentioned before, very similar
20 answers. So our plan outlines programs and commits the
21 company to implementing programs to manage and relocate
22 nests that may be near our infrastructure or adjacent to
23 our infrastructure, and HawkWatch, another nonprofit,
24 was strategically positioned to bring that expertise and
25 make efficient use of funding. And so we selected them

1 to implement these programs because they could do so in
2 a prudent and efficient way.

3 Q. Were there other entities or organizations
4 that could have performed that role?

5 A. I do not have the answer to that specific
6 question. I do not have a memory of -- of any, you
7 know, specific lists of options or anything like that.

8 MS. SCHMID: Those are all my questions.
9 Thank you.

10 PRESIDING CHAIR LeVAR: Thank you.
11 Any redirect?

12 MS. SCARSELLA: No, Your Honor.

13 PRESIDING CHAIR LeVAR: Okay. Thank you.

14 Mr. Moore?

15 MR. MOORE: Yes. Thank you.

16 CROSS-EXAMINATION

17 BY MR. MOORE:

18 Q. Ms. McCluskey, I first want you to turn to
19 page 2 of your September 22nd, 2023, reply comments.

20 A. Will you please state the page number again
21 for me?

22 Q. Page 2.

23 A. Thank you.

24 Q. For the purposes of a clean record and the
25 matter of housekeeping, I'm going to ask you to read to

Page 15

1 yourself the first sentence in the second paragraph
2 below the heading "Summary of Rocky Mountain Power's
3 Rate Request" and read footnote four.

4 A. I have read footnote four.

5 Q. In the portion of your comments you just read,
6 Rocky Mountain Power admits to a mistake identified by
7 the OCS with a double entry of \$45,000 and states that
8 this amount has been removed from the amount requested
9 for recovery in this docket; isn't that correct?

10 A. That is correct. We have a footnote here that
11 mentions Rocky Mountain Power has removed \$45,000 to
12 account for double entry identified by the OCS.

13 Q. And now Rocky Mountain Power is seeking
14 \$6,789,479 in this docket, and this amount differs from
15 the amount contained in the initial filing; correct?

16 A. That is correct, subject to check.

17 Q. I believe the number is on the first page --
18 on the second page of your reply comment, first sentence
19 under "Summary of Rocky Mountain Power's Rate Request."

20 A. My apologies. Can you rephrase the question?

21 Q. Where I got the number from was the second
22 page of your reply comment, specifically the first
23 sentence underlined under the heading "Summary of Rocky
24 Mountain Power's Rate Request." In that sentence, you
25 state that you are seeking for recovery the \$6,789,000

1 recovery. I just wanted to double check that with you.

2 A. Yes, that is the number on -- on page 2 of our
3 reply comments, and that is the number we are seeking
4 recovery for.

5 Q. Thank you. Ms. McCluskey, the OCS raised
6 concerns in this case regarding the sufficiency of the
7 information Rocky Mountain Power provided in its initial
8 application and its initial discovery response; isn't
9 that true?

10 A. As documented in OCS's reply comments or
11 comments, that is correct.

12 Q. Could you please turn to page 4 -- yes, could
13 you please turn to page 4 of Rocky Mountain Power's
14 Phase II Reply Comment. And may I direct your attention
15 to the last sentence in the second paragraph under the
16 heading "Discovery Process and Supporting Information,"
17 starting with, "The company believes," and have you read
18 that sentence into the record, please.

19 A. "The company believes this detail -- this
20 level of detail was adequate for the initial application
21 to provide parties with enough information to commence
22 reviews and identify areas for which it would like more
23 information through the discovery process."

24 Q. Thank you. Now, could you turn to page 5 of
25 your phase II reply comments and read into the record

1 the first second of the second paragraph, starting with
2 the phrase -- phrase "The company provided"?

3 A. I do apologize. Is it the second paragraph at
4 the top of the page there on page 5?

5 Q. Let me double check. Yes.

6 A. Yes. Okay. The first sentence only?

7 Q. Just the first.

8 A. Okay. "The company provided sufficient detail
9 through the initial filing and discovery to support its
10 requested recovery of costs associated with
11 implementation of its plan."

12 Q. The two sentences you just read, Rocky
13 Mountain Power takes the position that it submitted
14 sufficient information for the PSC to determine the rate
15 request was just and reasonable only after the
16 completion of discovery; is that true?

17 A. The company believes the level of detail was
18 adequate for the initial application that allowed for
19 the proper discovery process.

20 Q. But that's not what was provided in the two
21 sentences you just read; isn't that correct?

22 A. I don't know that that is correct. If I could
23 read the -- the sentence from page 4 again, it says,
24 "The company believes this level of detail was adequate
25 for the initial application," which was my previous

1 response.

2 Q. "The company believes this level of detail was
3 adequate for the initial application to provide parties
4 with enough information to commence review and identify
5 areas for which it would like more information through
6 the discovery process." Is that the whole sentence?

7 A. That is the whole sentence, yes.

8 Q. And the second sentence you read: "The
9 company provided sufficient detail through the initial
10 filing and discovery to support the requested recovery
11 and costs associated with the implementation of the
12 plan."

13 Again, in both of those sentences, you relied
14 on discovery as well as your initial application; isn't
15 that correct?

16 A. In both of those sentences, yes.

17 Q. Do you know of anywhere else in your reply
18 comments you refer to the initial -- the adequacy of the
19 initial filing?

20 A. I'm not aware at this time, no.

21 Q. It's true, then, that you disagree with the
22 contention posed by Mr. Vastag of the OCS in his initial
23 comments that Rocky Mountain Power has the
24 responsibility to -- to, quote, "Proactively provide the
25 necessary information and analysis in its initial

1 application for wildfire mitigation cost recovery to
2 demonstrate that it -- that it acted prudently in
3 incurring these costs"?

4 A. Could you state the question one more time,
5 please?

6 Q. Sure. It's true, then, that you disagree with
7 the -- with the contention posed by Mr. Vastag in the
8 OCS initial comments that Rocky Mountain Power has a
9 responsibility to, quote, "proactively provide the
10 necessary information and analysis in its initial
11 application for wildfire mitigation recovery to
12 demonstrate that it acted prudently in incurring these
13 costs"?

14 A. We do not disagree necessarily. You know, the
15 company, absolutely, you know, needs to provide
16 information, but often the discovery process allows for
17 clarity and additional information that can make that
18 easier. We do believe we provided sufficient
19 information with our filing, but certainly respect
20 the -- the discovery process that allows for additional
21 information and clarification.

22 Q. I'm going to read you a quote from a Utah
23 Supreme Court case and then ask you a question about it.

24 The quote states, "The Public Utilities Act
25 does not permit the Commission to abdicate its regular

1 responsibilities simply because the Division of Public
2 Utilities or interested party" -- in an -- "intervening
3 in a rate proceeding do not challenge or question what
4 is improper, illegal, unfair, unjust or discriminatory."

5 The quote I just read indicates that the
6 Commission's responsibility to set just and reasonable
7 rates is not dependent on the parties efforts in
8 discovery, wouldn't you agree?

9 A. I do not know that I have the expertise in
10 kind of rate recovery, rate setting. I'm here to
11 describe the program and speak to the operating expenses
12 and implementation.

13 Q. But in your reply comments, which you've taken
14 as your testimony, you discuss the adequacy of your
15 showing -- that's what I wanted to get into -- isn't
16 that correct?

17 MS. SCARSELLA: I'm going to object at this
18 point. If -- if counsel for OCS would like us to
19 provide legal briefs on this -- on the topic of burden,
20 we're happy to do so, but I think we're crossing into
21 asking this witness legal opinions, which she is not
22 qualified to do.

23 PRESIDING CHAIR LeVAR: Thank you.

24 Mr. Moore, do you want to respond to the
25 objection?

1 MR. MOORE: Yes. Two things. One, I don't
2 think this is a legal question. It's just one sentence
3 out of context. That's not a legal -- it's not -- you
4 know, it doesn't require a legal analysis.

5 And I think as an expert or a witness
6 presented to speak about whether their initial
7 application was adequate, just as any utility expert
8 would do, I think she can answer this question without
9 getting into legal -- to legal issues. If it is a legal
10 issue, this is an alternative argument. She already
11 made these arguments in her reply comments that the
12 filing was adequate with discovery, and I think she
13 opened the door for me to ask whether that is correct
14 under this case.

15 PRESIDING CHAIR LeVAR: You know, in our
16 proceedings, the line between legal issues and factual
17 issues is not always entirely clear. In this instance,
18 I think the questions you're asking her about the text
19 of the comments are fair game, but I think I agree that
20 asking her to apply a sentence from a Utah Supreme Court
21 case to her comments does cross that line. So I'm going
22 to sustain the objection.

23 Q. (BY MR. MOORE) Ms. McCluskey, I would like
24 you to turn your attention to page 5 of your phase II
25 reply comments, and the discussion of costs under the

1 heading "Internal Labor and Material Changes for
2 Patrolling Condition, Corrections, Fire High Consequence
3 Area Inspections."

4 Are you with me?

5 A. I am.

6 Q. In this section, Rocky Mountain Power responds
7 to the OCS phase II supplemental comments concerning
8 changes for labor and material for increased inspection
9 costs where the OCS states that Rocky Mountain Power has
10 not demonstrated that it hired more employees to conduct
11 these inspections and that Rocky Mountain Power has not
12 demonstrated the costs for these employees -- these
13 employees are not already in rate base; is that true?

14 A. That is my understanding of OCS's comments,
15 yes.

16 Q. In your reply comments, you do not state that
17 Rocky Mountain Power hired new employees to conduct
18 these inspections; isn't that correct?

19 A. That is correct, that we do not state that we
20 specifically hired new employees, but we did outline
21 that the work is incremental and requires additional
22 resources.

23 Q. You also didn't state that the existing
24 employees were paid significant overtime; correct?

25 A. We did not state anything in our comments that

1 says that, no.

2 Q. You didn't state whether the employees who
3 conducted the inspection had other duties that were not
4 related to wildfire mitigation; correct?

5 A. We did not state that in our comments.

6 Q. In fact, you do not provide any information or
7 documentation concerning the workers who performed these
8 inspections; isn't that true?

9 A. We did not provide details regarding the
10 workers, but we did provide details regarding the work.

11 Q. You stated -- actually, I believe you stated
12 on page 6, line 4 from the top, and I'll read this for
13 you. Are you there?

14 A. I am.

15 Q. The plan increased the frequency of
16 inspections in high -- in fire high consequence areas
17 and allocated funds for patrolling the line during
18 elevated risk of fire conditions -- paraphrased. Is
19 that what you stated?

20 A. Correct. The -- the plan does set forth
21 increased frequency of inspections in the FHCA areas.

22 Q. You do not show if the workers' time has
23 shifted from work not associated with the wildfire
24 mitigation plan to work associated with wildfire
25 mitigation, result that -- that resulted in an increase

1 in the frequency of wildlife inspections; isn't that
2 true?

3 I kind of murdered that. Do you want me to
4 say it again?

5 A. If you could state it one more time, that
6 would be helpful. Thank you.

7 Q. You do not show that the worker -- if the
8 workers' time was shifted from work not associated with
9 wildfire mitigation to work associated to wildfire
10 mitigation and this shift resulted in increase of
11 frequency of wildfire inspections which you referred to;
12 isn't that true?

13 A. I would not say that's true. What we did
14 document is funding and resources in base amounts, and
15 because of the way we track these programs, we track
16 them separate, and so when a worker performs an FHCA
17 inspection, their time is coded appropriately. In
18 determining which funds go into the differed spending
19 account, we take our incremental work and compare it to
20 base and net out that base. So that equation is one way
21 of describing the incremental work that is not "instead
22 of." It's incremental to -- to what is in base.

23 Q. All right. But nothing in your reply comments
24 makes -- refutes the possibility that this increase in
25 frequency of inspections coincided with workers

1 decreasing the amount of work they do, not -- not
2 associated with the wildfire mitigation plan, and then
3 with their extra time increased the amount of work they
4 did associated with the wildfire mitigation plan. You
5 do not foreclose that possibility, did you?

6 A. It's a relatively long statement. Can you
7 restate it for me?

8 Q. Yes. I'm sorry. This is kind of complicated.
9 Let me see if I can say this in another way.

10 There's been an increase of the frequency of
11 inspections; correct?

12 A. Correct. We have an increase in frequency of
13 inspections.

14 Q. And you haven't stated that you've hired more
15 employees; correct?

16 A. We have not explicitly stated that, no.

17 Q. Then it's possible, isn't it, that the
18 increase in inspections results from workers who do
19 these inspections also do work not associated with the
20 wildfire protection plan but they decrease the work in
21 that area and then increase their work in the wildfire
22 inspection plan. That's a possibility from your -- from
23 your comments; isn't that true?

24 A. I absolutely agree that there is a possibility
25 that a worker or an employee or a resource could do

1 wildfire mitigation activities as well as non-wildfire
2 mitigation activities.

3 To answer your question on reduction, the way
4 we -- we account for these costs and the way we net out
5 what's in the traditional programs and in the base rates
6 would accommodate if that were to happen where, let's
7 say, there was a reduction in work on a base -- base
8 amount or a base program, to facilitate this incremental
9 program. We would not then double count that. It would
10 be netted out of what was incremental.

11 Q. All right. I want to make a distinction about
12 what I'm asking. I'm not asking about what you refer to
13 as the "base amount" that is in the wildfire protection
14 plan. I'm referring to work that these people may
15 perform that is not related to the wildfire protection
16 program, related to something completely different with
17 the company. And they decrease the work related to the
18 different -- the work associated -- that is not
19 associated with wildfire protection plan and increase
20 their work that is associated with the wildfire
21 protection plan. That's possible, isn't it?

22 Do you see the distinction I'm trying to make
23 between what you referred to as "base amounts" and what
24 I'm referring to as "base rates"?

25 A. Do I see -- can you ask the question again?

1 Do I see the distinction? Is that the question?

2 Q. Yes.

3 A. Between --

4 Q. Base rates, which are not related to the
5 wildfire protection plan, and base amounts, which are
6 related to the wildfire protection plan. Those are two
7 different things; correct?

8 A. I believe so. So base amounts -- at least the
9 way we've outlined it in our reply comments here -- is
10 the base amount approved for the wildfire mitigation
11 work that was approved through the 2021 general rate
12 case.

13 Q. Thank you. It's also true, is it not, that
14 the last general rate case, the PSC approved labor costs
15 for work that is not associated with the wildfire
16 balancing account, and the amount of costs that was --
17 and this amount of costs will stay the same until the
18 next general rate case, regardless of whether the actual
19 work performed was more or less than predicted in the
20 last general rate case?

21 A. Can you repeat the question?

22 Q. I'm sorry this is so confusing, but I think
23 there's a problem in your balancing account I'm trying
24 to get to.

25 It's also true, is it not, that during the

1 last general rate case, the PSC approved labor costs for
2 work done that is not associated with the wildfire
3 mitigation plan?

4 A. Unfortunately, I'm not able to speak to that,
5 you know, what was approved or not approved in the last
6 general rate case that isn't related to the wildfire
7 mitigation plan or the wildland protection plan.

8 MS. SCARSELLA: I'm going to object at this
9 point. Looking back at OCS's supplemental comments, all
10 they state is that they question whether these costs are
11 already in customer rates and whether RMP is
12 double-charging Utah rate payers by also including --
13 including them in the WMBA. In our reply comments,
14 we -- we took -- we compared it to what is included in
15 the base amount that was approved for these activities
16 and compared it to the WBA.

17 So I think this is almost outside the scope of
18 the comments that -- that the OCS submitted, because now
19 we're talking about base rates outside of the base
20 amount related to these activities.

21 PRESIDING CHAIR LeVAR: Okay. Mr. Moore, do
22 you want to respond to the objection?

23 MR. MOORE: Yes. My cross does not concern
24 our comments. It concerns their comments, and their
25 comments talked about a shifting of work. And our

1 position is simply this -- and I'll just state it. If
2 you shift work from work that is associated outside the
3 balancing account, just approved labor costs, and if
4 that work decreases because it's just in the general
5 rate case and not associated with the rate cost, the --
6 the amount of -- recovered from rate payers will be
7 the -- will not change, despite the fact that work
8 decreased.

9 Whereas, if work then -- the work decreases in
10 base rates, increases in the wildfire account, then the
11 actual amount of -- of costs attributable or costs
12 charged to rate payers will go up. And if you add the
13 rate base to the cost associated in the balancing
14 account, you get an amount that is greater than the
15 actual work performed. Do you follow me?

16 PRESIDING CHAIR LeVAR: I do. I'm inclined to
17 overrule the objection. And, if it's okay, I might
18 restate the question a little bit differently or one
19 that's easier for me to understand. I -- if -- and tell
20 me, Mr. Moore, if I'm getting this wrong.

21 So maybe another way to say this is if
22 there's -- take one single employee whose salary was
23 approved in the last general rate case, not associated
24 with wildfire, but that employee's salary was just part
25 of base rates. If -- if that employee -- if, say,

1 40 percent of that employee's time in the year at issue
2 here was devoted to wildfire work, even though the
3 salary wasn't dedicated to it in the general rate case,
4 Mr. Moore is asking if that's a double recovery. Am I
5 summarizing that accurately, or am I missing a lot when
6 I say that?

7 MR. MOORE: No, you summarized that
8 adequately.

9 PRESIDING CHAIR LeVAR: Okay. I think it's a
10 safe -- it's within the bounds of the comment -- the
11 question. Sorry. Mr. Moore, I cut you off.

12 MR. MOORE: No, that's fine.

13 PRESIDING CHAIR LeVAR: Mr. Harvey, do you
14 want to add anything?

15 COMMISSIONER HARVEY: I'll just add, to the
16 extent you have Mr. Meredith who's capable of talking
17 about rates --

18 MS. SCARSELLA: Yes, he's -- but he's -- he's
19 more -- he can speak to rate design, so how the amount
20 here will then be collected among the customer classes,
21 not so much the revenue requirement that was set in the
22 last case that included these costs.

23 PRESIDING CHAIR LeVAR: Okay. So with that, I
24 think I'll go back to Ms. McCluskey.

25 THE WITNESS: The question? Sure. I think,

1 you know, as we mentioned in our summary, and I think we
2 have a few places in comments where it comes up. The
3 company is not double counting those -- those resources.
4 Those resources tend to be paid hourly; so they
5 generally are not salaried employees. They're paid
6 hourly. So if there's eight hours of work, they're paid
7 for eight hours of work. If there's 15 hours of work,
8 they're paid for 15 hours of work.

9 And so we wouldn't describe it as a shifting
10 of resources. We would describe it as incremental
11 resources. And to make sure we're not double counting
12 when we -- we, you know, capture the costs of their time
13 when the program completes, let's say at the end of the
14 year, we compare that to what is in base and only look
15 to additionally recover on the difference. And so that
16 incremental, that difference, is what gets put in the
17 WBA.

18 PRESIDING CHAIR LeVAR: Mr. Moore?

19 I wasn't meaning to rush you. Take your time.

20 MR. MOORE: I'm just wondering whether I -- I
21 think I've -- I don't want to argue with the witness.
22 Maybe we should just move along.

23 Q. (BY MR. MOORE) Now, Ms. McCluskey, I'm going
24 to ask you to turn to page 14 in your phase II reply
25 comments and review the section under the heading

1 "Meteorology Department."

2 A. I'm with you.

3 Q. Isn't it true that the meteorology department
4 existed prior to the implementation of the wildfire fire
5 protection plan?

6 A. Correct. The meteorology department existed
7 prior, potentially in a different capacity, and was not
8 established specifically for the plan.

9 Q. It's true, is it not, that although Rocky
10 Mountain Power stated on page 15 of your reply comments
11 that it hired new employees to work in the department
12 after the last general rate case, the department had
13 employees prior to the general rate case?

14 A. Kind of as I said before -- I'll restate. We
15 did have a meteorology department prior. It, you know,
16 functioned in a different capacity. May have also
17 included external consultants, so different resources.
18 And what you see outlined on page 15 is us hiring
19 specific meteorologists internal and adding those
20 employees, which is different than it may have looked in
21 2020.

22 Q. But there are still employees who worked in
23 the department prior to the general rate case; isn't
24 that true?

25 A. There would have been employees. They -- they

1 would have, potentially, had shared roles in
2 different -- different groups, but there -- there may
3 have been, yes.

4 Q. Then it's possible, therefore -- and for --
5 that the same issue arises here that was present in the
6 patrolling and inspection of high fire consequence
7 areas? That is, workers shifting from work not
8 associated with the wildfire mitigation to work
9 associated with the wildfire mitigation leading to the
10 costs charged to rate payers that is greater than the
11 cost of the actual work performed; isn't that correct?

12 A. I would not say that is correct. It is
13 similar to what we've just described. The company's
14 meteorology department was not necessarily specifically
15 established as part of the plan, but a majority of the
16 work they do implements the plan. And so when they do
17 work that helps to gather, analyze, and apply data and
18 risk assessments for our system, they charge their time
19 to the wildfire mitigation plan, and then those costs
20 are compared to base amounts, and the incremental is
21 deferred.

22 Q. That's how it works inside the balancing
23 account. What if the workers worked and there are
24 charges on labor, or whatever, to something that was
25 outside the balancing account completely, wouldn't we

1 have the same situation that I tried to explain to the
2 Commission earlier?

3 A. I'm sorry. Can you ask the question again?

4 Q. Let me ask it this way.

5 If I was right with regard to the fact that
6 because of the way the balancing account is constructed
7 and designed when you have people leaving, shifting from
8 work outside of the balancing account to inside the
9 balancing account, you result in costs being charged to
10 the rate payers greater than the cost of the work
11 actually performed -- if I was right about that, then
12 the same analysis would apply here? If I was wrong
13 about that, conversely, then I'm wrong here, as well?

14 MS. SCARSELLA: I'm going to object. We're
15 quite a few hypotheticals there. He's asking if he was
16 right, then he would have been -- he would be right. If
17 he was wrong, he would be wrong here. I don't
18 understand what that question gets at. I'm not sure
19 what Ms. McCluskey is supposed to say. Well, if he's
20 right in one assumption, then his assumption is right
21 here? I'm not sure she can agree to that.

22 PRESIDING CHAIR LeVAR: I think I agree that
23 the question puts her in a difficult position, but I
24 think the concept you're getting at is -- is within the
25 bounds of what we should be doing. So if I could ask

1 you to maybe try to break that up into multiple
2 questions -- or maybe not multiple questions. I
3 think -- I think the question really is does the same
4 concept apply in both situations? Is that --

5 MR. MOORE: That's -- that's the question.
6 Thank you, Commissioner.

7 THE WITNESS: And so if my understanding is
8 the -- the concept, meaning we may have employees that
9 some of their time they work on non-wildfire mitigation
10 and some of their time they work on wildfire mitigation,
11 that concept does apply. The inspectors, that is how
12 they work. Our meteorologists, that is how they work.
13 It is structurally set up very similar. When someone
14 works on wildfire mitigation, they charge their time to
15 specific orders, which we then track and -- and account
16 for separately than we do base functions. And so
17 that -- that concept is the same for those two groups.

18 MR. MOORE: I'm ready to move on.

19 Q. (BY MR. MOORE) Now, Ms. McCluskey, could you
20 please turn to page 10 in your reply comments under the
21 heading "Pheasants Forever/Forest Habitat Resiliency
22 Projects."

23 A. I'm with you.

24 Q. You stated in this -- in this section, you
25 stated that your donations to Pheasants Forever remained

1 for the purpose of working with partners to clear fuel
2 and restore fire resilient habitats in or adjacent to
3 Rocky Mountain Power's right-of-ways; is that correct?

4 A. We did make a payment to Pheasants Forever to
5 implement those programs. Yes, we made a payment.

6 Q. In the OCS supplemental comments, the OCS
7 noted that these footprints address much larger land
8 area than the footprints of Rocky Mountain Power's
9 right-of-way, and I believe Rocky Mountain Power's
10 response can be found on page 10, paragraph 2, of your
11 reply comments. Am I correct about that?

12 A. I'll need a moment to read to verify. There
13 is discussion there, yes, on the bottom of page 10.

14 Q. I'm going to ask you to read into the record
15 two sentences in that paragraph, starting on the third
16 line, second full sentence, beginning with
17 "Consequently, project footprints" and ending with
18 "particularly vulnerable to wildfires."

19 A. "Consequently, project footprints will not all
20 overlap with RMP right-of-ways. However, the overall
21 projects fall within RMP's service territory boundaries,
22 and individual habitat treatments are occurring within
23 or directly adjacent to RMP transmission and
24 distribution right-of-ways. These treatments are
25 located in strategic areas, where right-of-ways cross

1 foothill areas in the wildland-urban interface that are
2 particularly vulnerable to wildfires."

3 Q. It's true, isn't it, that pheasant habitat
4 exists where Rocky Mountain Power's transmission --
5 where there are no Rocky Mountain Power's transmission
6 or distribution lines; correct?

7 A. Pheasant habitats can exist, yes, where Rocky
8 Mountain Power's transmission lines do not. In terms of
9 this particular program and what we're discussing, the
10 habitats do still occur within our service territory,
11 but maybe some distance from our physical
12 infrastructure.

13 Q. But in your service territory, which is most
14 of Utah; correct?

15 A. It is a large portion of Utah, yes.

16 Q. It's also true that you have not provided any
17 contract or written agreement between Rocky Mountain
18 Power and Pheasants Forever describing the area where --
19 where the money you donated must be spent or accounting
20 records indicating how the money was spent; correct?

21 A. We've not provided records that explicitly
22 outline that. We have provided a summary of the work
23 here in reply comments that is available.

24 Q. Then we don't know if the money donated was
25 spent creating or restoring pheasant habitats in areas

1 that are not within or reasonably adjacent to Rocky
2 Mountain Power's right-of-way from reading your
3 comments; isn't that correct?

4 A. I do believe in -- in our comments, we do
5 state that project footprints will not always all
6 overlap with RMP right-of-ways. However, the overall
7 projects fall within RMP service territory boundaries.
8 So as -- as stated before, they may not be directly
9 underneath a transmission line or a piece of
10 infrastructure, but they will be within our service
11 territory.

12 MR. MOORE: Thank you. And you'll be happy to
13 know I have no more questions.

14 PRESIDING CHAIR LeVAR: Thank you, Mr. Moore.
15 You're welcome to ask as many questions as you like.

16 Any redirect?

17 MS. SCARSELLA: Just a couple questions, Your
18 Honor.

19 REDIRECT EXAMINATION

20 BY MS. SCARSELLA:

21 Q. First, on that last line of questioning, can
22 you tell me what steps -- the last line of questioning
23 concerning Pheasants Forever, Ms. McCluskey, can you
24 tell me what steps Rocky Mountain Power takes to ensure
25 the payments that they make to Pheasants Forever or HWI

1 is spent in the manner that we have engaged those
2 organizations for?

3 A. We do certainly actively communicate with
4 those organizations and get feedback and collaborate on
5 those projects. You can see a lot of that outlined in
6 the comments itself, pictures of where projects are
7 occurring near transmission lines as well as different
8 corridors. So I will point you to the reply comments --
9 are a great example to see where we're accurately
10 collaborating and getting that two-way communication.

11 Q. One other question. Regarding a line of
12 questioning about the inspection, expenses, and the cost
13 related to the new meteorologist area, did the company
14 establish a base amount to collect, in rates, related to
15 those activities to be conducted under plan in its last
16 rate case?

17 A. It did not.

18 Q. Let me ask that again.

19 PRESIDING CHAIR LeVAR: Let me just interrupt.
20 I think your microphone is not picking you up. We can
21 hear you fine, but the stream might not be picking you
22 up.

23 MS. SCARSELLA: All right. Hopefully this is
24 better.

25 Q. (BY MS. SCARSELLA) In our last rate case, the

1 2020 rate case, did the company establish base amounts
2 for the activities of -- of -- of inspections and the
3 new meteorologist to collect with regard to the costs
4 under the plan?

5 A. We did establish base amounts. Specific to
6 this particular program, that -- that was zero in the
7 base amounts -- established it was zero.

8 Q. If you turn to your testimony or the company's
9 reply comments on page -- for example, 5, at the bottom
10 of page 5, table 2. So for patrolling costs, conditions
11 and corrections, FHA -- FHCA inspections, the company
12 created those base amounts to collect in its last rate
13 case. Were those activities conducted under the
14 wildfire plan?

15 A. In table 2 --

16 Q. Yes.

17 A. -- to clarify. Those activities were
18 conducted under the wildfire plan, yes.

19 Q. Yep. And those are the amounts currently
20 included in rates; correct? The base amounts?

21 A. Yes, they are.

22 Q. Now, those same employees have other
23 non-wildfire plan activities that they conduct; is that
24 right?

25 A. In many instances, yes.

1 Q. How do you know what activities they're
2 working on? How do they charge their time to the
3 company to those -- to record those costs?

4 A. We do set up specific orders depending on what
5 the employee is doing. It could be a transmission
6 inspection. It could be a distribution inspection. And
7 we specifically set up separate orders for fire
8 mitigation activities or wildfire mitigation activities.

9 Q. If -- if there is an increase, like for -- for
10 this category of costs, the inspections, patrolling
11 costs, conditions corrections, FHA -- FHCA
12 inspections -- if there's an increase of inspections
13 that needed to be conducted, would that excuse those
14 employees from conducting their non-plan work?

15 A. No, it would not.

16 Q. So they would still continue to conduct that
17 work?

18 A. Correct. The wildfire mitigation activity
19 would be incremental.

20 MS. SCARSELLA: That's all the questions I
21 had.

22 PRESIDING CHAIR LeVAR: Thank you.

23 Any recross, Mr. Moore?

24 MR. MOORE: Just briefly.

25 RE CROSS-EXAMINATION

1 BY MR. MOORE:

2 Q. Again, we covered this earlier. You haven't
3 provided any information regarding whether there were
4 new employees or any information stating that the
5 existing employees got paid significant overtime. I
6 believe you answered prior that, no, you did not provide
7 any of that information. Is that still your testimony?

8 A. That is still my testimony, that per employee,
9 we have not provided that specific breakdown. We've
10 provided the breakdown of costs incurred in base and
11 then incremental costs incurred for wildfire mitigation
12 activities.

13 MR. MOORE: I have no further questions.

14 PRESIDING CHAIR LeVAR: Thank you.

15 Commissioner Harvey, do you have any questions
16 for this witness?

17 MS. SCARSELLA: May --

18 PRESIDING CHAIR LeVAR: Did you want to do a
19 recross?

20 MS. SCARSELLA: I have one redirect question.
21 Well, maybe two.

22 FURTHER REDIRECT EXAMINATION

23 BY MS. SCARSELLA:

24 Q. Is -- is the number of employees the only
25 reason why there might be increased costs related to

1 these -- to this inspections?

2 A. No. Employees could be a cost, but they are
3 not necessarily the only cost.

4 Q. What, for example, could cause an increase in
5 costs under the plan?

6 A. We could require contracted services, could
7 require different instrumentation, use of helicopters.
8 All of those would be potential reasons we might see
9 incremental costs specifically for inspections.

10 MS. SCARSELLA: That's all I have.

11 MR. MOORE: One more. I'm sorry.

12 PRESIDING CHAIR LeVAR: Okay. Go ahead.

13 FURTHER RECROSS-EXAMINATION

14 BY MR. MOORE:

15 Q. You did not provide a breakdown of employee
16 costs, contractor costs, helicopter costs, et cetera, so
17 that we can do an analysis to segregate out the employee
18 costs, did you?

19 A. We have not provided any details to that
20 extent, no.

21 MR. MOORE: Thank you.

22 PRESIDING CHAIR LeVAR: Okay. Thank you.

23 Commissioner Harvey, do you have any questions
24 for Ms. McCluskey?

25 COMMISSIONER HARVEY: I do. Well, for the

1 witness or possibly just the company. I'm a little bit
2 uncertain as to whether you'll be able to answer these
3 or not.

4 EXAMINATION BY THE COMMISSION

5 BY COMMISSIONER HARVEY:

6 Q. To begin with, it seems to me there's a very
7 interesting process that legislation set up here that
8 puts the Commission, at least in my mind -- it's purely
9 speaking for me -- in a bit of a bind. We have a
10 wildfire plan that we approved, and, to your credit, it
11 does mention habitat restoration and all these things
12 we've been talking about, but obviously the amount you
13 spent is considerably more than the amount that was
14 initially presented to us. You okay so far?

15 A. Yeah. Sorry. Just had to scratch.

16 Q. And in reviewing the order that we issued, it
17 does say that Rocky Mountain -- I'm paraphrasing --
18 Rocky Mountain Power would need to report additional
19 expenditures in the report that's set up, and that's
20 what you are attempting to do here.

21 But my difficulty and why I view myself as in
22 a bit of a bind is we are charged with just,
23 reasonable -- setting just, reasonable rates based on
24 prudent expenditures. You're coming in, after the fact,
25 and saying, "We think this was prudent. Pay us." But

1 then the type of evidence that the parties have asked
2 for, you've just said, "We're not providing that," and
3 that strikes me as a tad odd.

4 So I'm wondering why, since you have an
5 increased labor expense as one of the incremental
6 expenses, you haven't provided an employee count pre-
7 and post-rate base versus wildfire.

8 A. You know, in terms of why, it wouldn't --
9 something -- be something that we would traditionally
10 track in that way. It's just not how we've been
11 managing the program. It's generally more of an hourly
12 effort. So beyond that, I'm not sure I know a specific
13 reason why. Just that that's --

14 Q. Let me ask a follow-up. Can the company
15 provide that information? Not necessarily in this
16 hearing, but as a supplemental filing.

17 A. I think we probably could through a request or
18 something like that. It would -- what we have to do
19 is -- you know, some of that is going back in time and
20 making sure we understand at the time of different
21 filings what different head counts looked like. It
22 seems like we would have records to be able to provide
23 something like that.

24 Q. Because, in my mind, a lot of the conceptions,
25 whichever these pieces we're talking about, it's not a

1 question of whether it's in the base rate of the
2 wildfire protection plan. It's whether it's included in
3 rates already.

4 So if you have X hundred-thousand, or whatever
5 employees it is -- and I apologize I don't remember the
6 number -- yeah, if you absolutely document that there's
7 an incremental increase from what you had in your fire
8 protection base, that's what you've done, but that
9 literally gives us no information at all about where
10 they came from and if they were just employees that
11 moved over, then we have been double charged. And I
12 think there's a burden to prove that that didn't happen,
13 and I don't see how you can prove that without an
14 employee count.

15 A. You know, I think what we have provided -- and
16 some of it is just because not all of the costs are
17 driven by specific employees or employee counts --

18 Q. Right. I'm just saying for the labor part,
19 and the same logic to every other piece, I don't see
20 where you've given us evidence, other than just saying
21 "trust us" that any of this actually is incremental in
22 the sense of truly new resources, employees, whatever,
23 that have been purchased versus just shifting. And that
24 seems a fundamental burden to me that has not been met.

25 A. You know, I can speak to -- certainly the

1 programs are incremental. The work is incremental. I'm
2 not sure I'd be able to give you a clear answer right
3 now on the way the rate base was created and the revenue
4 calculations there. I can tell you, in general, though,
5 we're always comparing to base amounts to avoid double
6 counting.

7 Q. When you say "base," you're talking about
8 wildfire base?

9 A. I am talking about --

10 Q. I'm talking about rate case base.

11 A. I do apologize. I just don't have that
12 information in front of me.

13 Q. And that's --

14 A. Yeah.

15 Q. Okay. So a different thing, then. It was
16 mentioned that there apparently is not a contract with
17 the pheasants or the hawks group; is that true?

18 A. I'm not sure that's specifically true. I
19 would need to go back and ask our environmental experts
20 on, you know, exactly how that contract is set up. I do
21 know we have terms of payment.

22 Q. Okay.

23 A. I'm just not sure if it's explicitly a
24 contract.

25 Q. It might just be a memo?

1 A. It could be, yeah, I would need to go verify.

2 Q. There was something that's negotiated that
3 says, "We anticipate you do X, Y, Z"?

4 A. Correct. In agreement, we -- they are set up
5 as a vendor for us, and generally that comes with some
6 sort of agreement. I'm just not sure of the specific
7 terms right here in front of me.

8 Q. Okay. For the meter -- meter -- I'm sorry.
9 My tongue is twisting on me -- the meteorology
10 department, I'm assuming that this is predicting when
11 weather conditions are such that it becomes a high
12 probability of problems in areas?

13 A. Correct. That's a -- that's a correct
14 assumption.

15 Q. Okay. You mentioned there were previous
16 employees in a department that is a predecessor of this?
17 What did they do?

18 A. So we -- we had some employees somewhat
19 managing the activities, and then we had an external
20 consultant Western Weather at the time, and I think if
21 you -- it is -- it is stated in the plan itself. It
22 mentions that component. Since we've evolved and grown
23 since then, it looks a lot different today.

24 Q. Right. I know that what you've currently got
25 looks different. I'm trying to figure out what it's

1 different from and if the company still has that
2 previous function being done by someone?

3 A. We -- the previous function was done by a
4 consultant that is not, we do not currently work within
5 that same capacity, and then we had employees kind of
6 double hatting at the time that were not necessarily
7 meteorologists. So it was very -- our operations
8 folks -- kind of our central operation folks were trying
9 to take on that role.

10 Q. Okay. And then just a final question about
11 the initial filing. Would you anticipate any changes in
12 your future filings based on your experiences of this
13 year?

14 A. Yes, I think so. And we did file the most
15 updated plan just a few weeks ago. So it's relatively
16 new. We do expect some changes, you know, further kind
17 of line rebuilds. You're going to see further expansion
18 of the meteorology and modeling. We're still -- we're
19 still expanding that. As far as the themes, the goals,
20 the objectives -- all very much the same, but just to
21 the extent that we learn more, we're certainly looking
22 to evolve those programs.

23 Q. I appreciate that. I guess I wasn't quite
24 clear. I mean in terms of what you're going to include
25 in your -- the funding that was equivalent to us

1 starting this in terms of the information that parties
2 might want to see.

3 A. My apologies. Our next cost and compliance
4 report.

5 Q. Yeah.

6 A. Absolutely. It seems like more details, more
7 tracking what's incremental would be helpful. We would
8 definitely look to -- to beef those up.

9 COMMISSIONER HARVEY: Thank you.

10 PRESIDING CHAIR LeVAR: Commissioner Clark?

11 BY COMMISSIONER CLARK:

12 Q. I want to just take us back to the discussion
13 we were having about incremental and what it means and
14 how we apply it in this new setting by presenting to you
15 sort of a hypothetical situation.

16 And let's say that in the rate case the
17 company presented information that it needed to inspect
18 200 residential streets for foliage that was threatening
19 to encumber or encompass distribution lines that are
20 above ground in those 200 blocks of -- of residential
21 areas. And I've described it that way so that it's not
22 part of the wildfire plan that we're talking about.

23 And now let's say that that inspector who was
24 going to perform those -- the inspection of those 200
25 streets in 2023 spends half her time inspecting, in

1 connection with the plan, the wildfire mitigation plan.
2 And so what we're left wondering is, okay, did -- did a
3 hundred streets not get inspected? Or did the company
4 spend to hire new employees or a contractor or someone
5 else to perform that work that the inspector who is now
6 allocating time to the wildfire plan did not perform?

7 That's the proof that we're looking for. And
8 so -- so can you -- I'm asking you to provide whatever
9 assurance on that question you can provide from your --
10 any of the materials that you've provided to us today.

11 A. You know, based on the materials we've
12 provided today -- certainly it's been very focused on
13 the incremental work, the wildfire mitigation work -- I
14 can't point a little bit -- with your specific example,
15 it's a very tangible example -- for vegetation
16 management. Had a vegetation management program before
17 the plan, had inspections, had clearing. I can
18 certainly state that that hasn't changed. We track
19 those programs as well. We just also track incremental
20 programs.

21 In terms of kind of documentation on what
22 the -- the -- I'm going to say old stuff, the historic
23 programs and progress, I just don't have that today.
24 We've been very focused on the incremental work, but I
25 can speak to -- and I feel very confident. I look at

1 these reports all the time with my job -- is that the
2 historic work is still getting done. It's just we have
3 brought in new crews, new vegetation crews, some
4 contractors, some foresters to perform the incremental
5 work as well. I just -- I don't think you'll see -- we
6 don't have details here in front of us to that effect.

7 Q. Thank you. And you understand that, I hope,
8 that my question would not just apply to that single
9 function but --

10 A. Broadly.

11 Q. -- to all the functions that are being
12 performed under the plan that also have -- that are
13 drawing on resources that perform other functions in the
14 company's operations?

15 A. I do understand that, yes. Yes, sir.

16 COMMISSIONER CLARK: Okay. Thank you. That's
17 my only question.

18 PRESIDING CHAIR LeVAR: Okay. Thank you. I
19 just have a couple.

20 BY PRESIDING CHAIR LeVAR:

21 Q. Am I correct in my reading of your comments
22 that the amounts that are proposed in this application
23 for HawkWatch and Pheasants Forever are -- represent
24 reductions to what was approved previously in the
25 general rate case; is that correct?

1 A. That is correct, yes, for that line item.

2 Q. And then moving onto the issue that everyone
3 in the room has asked you about several times. The
4 employed work for the incremental costs that we're
5 talking about here -- is that primarily full-time
6 employees or primarily independent contractors or a
7 combination?

8 A. For the work we're specifically talking about,
9 that's primarily internal employees, line patrolman for
10 those inspections, specifically transmission
11 inspections. Those are line patrolman. We can have
12 some contracted labor, but it's primarily internal
13 employees for that work.

14 Q. Okay. For the work that's done by internal
15 employees then, again asking a question that's been
16 asked several times, how can we assure ourselves or what
17 can you give us to assure us that incremental revenue
18 increases in the wildfire area don't represent
19 incremental windfalls in other areas that we approved in
20 the general rate case?

21 A. As far as what we could provide -- similar
22 story to vegetation management -- I don't think you're
23 going to see the information in front of us, you know,
24 specifically in the plan. The types of information, you
25 know, if I was asked, would be reports on -- I'm going

1 to say non-FHCA inspections that were completed,
2 non-fire mitigation work that were completed that shows
3 we're continuing to follow our base programs.

4 With the inspection example, what we'd be
5 talking about is a 20-year detailed inspection on a
6 distribution line or a two-year patrol inspection on a
7 local transmission line. Those would be the types of
8 activities we would look to provide you with.

9 PRESIDING CHAIR LeVAR: Okay. Thank you. We
10 appreciate your testimony today.

11 Why don't we take a ten-minute break, and then
12 we'll -- well, first of all, is there anything else from
13 Rocky Mountain Power?

14 MS. SCARSELLA: Nothing, Your Honor.

15 PRESIDING CHAIR LeVAR: Okay. Then before we
16 move to the Division, let's take a -- why don't we just
17 come back at 2:55, by that clock.

18 (Recess taken from 2:41 to 2:55.)

19 PRESIDING CHAIR LeVAR: Okay. We'll go back
20 on the record. And Ms. Schmid.

21 MS. SCHMID: Thank you. The Division would
22 like to call Mr. Tyler McIntosh as its witness. May he
23 please be sworn?

24 PRESIDING CHAIR LeVAR: Mr. McIntosh, do you
25 swear to tell the truth?

1 THE WITNESS: I do.

2 PRESIDING CHAIR LeVAR: Thank you.

3 TYLER McINTOSH

4 was sworn and testified as follows:

5 DIRECT EXAMINATION

6 BY MS. SCHMID:

7 Q. Could you please state and spell your full
8 name.

9 A. My name is Tyler McIntosh. It's T-y-l-e-r.
10 Last name is M-c-capital I-n-t-o-s-h.

11 Q. By whom are you employed, and what is your
12 title?

13 A. I am with the Utah Division of Public
14 Utilities, and I am a utility analyst.

15 Q. Please provide your business address.

16 A. 160 East 300 South, Salt Lake City, Utah.

17 Q. When did you begin working for the Division of
18 Public Utilities?

19 A. I believe it was April of 2021, I believe.

20 Q. Could you please provide a brief summary of
21 your relevant work experience?

22 A. I -- I particularly work mostly with the
23 energy company -- so Dominion Energy, Rocky Mountain
24 Power. Analyze applications they sent in. If there's
25 rate increases, I look at that. And then, newly, I've

1 been working with this wildland fire protection stuff.

2 So --

3 Q. Before you came to the DPU, did you do any
4 work that could be considered related or educational for
5 what you're doing now for the DPU?

6 A. Yeah. I worked at the Tax Commission, and I
7 had the wonderful privilege of testifying in court. Is
8 that what you were looking for?

9 Q. Exactly. Thank you.

10 A. Okay.

11 Q. Could you please provide a brief summary of
12 your educational background?

13 A. I got a bachelor -- two bachelor's degrees
14 from the University of Utah in finance and also in
15 information systems.

16 Q. Have you, as part of a team, participated in
17 this docket on behalf of the Division?

18 A. I have.

19 Q. Could you please describe the activities that
20 you and the team undertook in this docket?

21 A. I -- well, me and the team analyzed the report
22 that was sent in from Rocky Mountain Power, went through
23 that, asked questions if needed to be asked through DRs,
24 and --

25 Q. And pardon me. Just for the record, so it's

1 clear, what is a DR?

2 A. Direct responses -- data requests. Thank you.
3 Sorry. Gosh.

4 Q. So you went -- you developed those and
5 received answers, and then what else did you do?

6 A. Wrote the memo. Wrote the memo and -- yeah,
7 that's what I did.

8 Q. Did you have discussions with your team
9 members?

10 A. I mostly had discussions with my -- with my
11 supervisor, yes.

12 Q. As a result of these activities, did you
13 prepare and cause to be filed on August 11th, 2023, what
14 was entitled the DPU's action request response?

15 A. Yes, but it was actually August 28th. So
16 August 11th was actually the --

17 Q. Phase I?

18 A. Phase I.

19 Q. How embarrassing.

20 A. No. It's fine.

21 So phase II was filed on August 28th.

22 Q. Good catch. Thank you for saving your lawyer.

23 Do you have any changes or corrections to that
24 August 28th filing?

25 A. I have two corrections. So, first off, there

1 was a couple times within the memo where I stated
2 that -- an increase of 6.8 million, and I should have
3 said an increase of approximately 6.8 million instead of
4 6.8 million. So that's one. The other one was in my
5 memo on page 2, paragraph 2, under the discussion
6 section. The effective date is not October 1st. It's
7 actually November 15th, 2023. So those are the two
8 changes.

9 Q. With those changes and corrections, do you
10 adopt that corrected memo as your testimony here today?

11 A. I do.

12 Q. If you were asked to prepare and file the memo
13 today, would the contents be the same as those contained
14 in your corrected file response?

15 A. Yes.

16 MS. SCHMID: The Division would like to move
17 for the admission of its comments dated August 28th,
18 2023, in this docket.

19 PRESIDING CHAIR LeVAR: Thank you. If anyone
20 objects to that motion, please indicate your objection.

21 I'm not seeing any objections. So the motion
22 is granted.

23 MS. SCHMID: Thank you.

24 Q. (BY MS. SCHMID) Mr. McIntosh, do you have a
25 summary to present today?

1 A. I do.

2 Q. Please proceed.

3 A. Okay. In Docket Number 23-035-27, known here
4 as Rocky Mountain Power's -- and I'll refer to that as
5 RMP going forward -- 2023 Wildland Fire Cost and
6 Compliance Report, RMP asks for Commission approval for
7 an increase on Schedule 97, the company's wildland fire
8 mitigation balancing account, WBA. Utah Code 54-24-202
9 outlines the cost recovery for wildland fire protection
10 plan implementation and allows for a balancing account
11 to collect or refund the incremental revenue requirement
12 for capital investment and expense related to the
13 company's wildland fire protection plan.

14 In RMP's last general rate case, Docket Number
15 20-035-04, the Commission approved the WBA and
16 established the collection of estimated amounts and base
17 rates as of January 1st, 2021. RMP's December 2022
18 results of operation reflected a balance of 4.8 million.
19 As of April 2023, the balance has since grown to
20 approximately 6.8 million. For schedule 97, the company
21 has proposed to amortize the balance of approximately
22 6.8 million over one year with rates effective
23 November 15th, 2023.

24 As part of its review and analysis of this
25 application, the Division reviewed actual expenses and

1 asked for additional information from the company
2 through data requests -- not data responses. Data
3 requests. The company provided a more detailed
4 breakdown of the actual expenses compared to the
5 budgeted amounts.

6 For 2023, the company has forecasted to spend
7 95 million on the wildland fire program, which is
8 30 million more than the budgeted amount. The
9 significant increase is primarily due to increased
10 spending for system hardening of both the distribution
11 and transmission lines. System hardening, line rebuilds
12 have been delayed in previous years due to supply
13 chains. The company has indicated in the data request
14 1.2 that delays in the 2020, '21 resulted in significant
15 underspending, and 2023 became a catch up year.

16 The proposed change in Schedule 97 represents
17 an increase of approximately 6.8 million or an increase
18 of 0.3 percent. For a typical residential customer
19 using 775 kilowatt hours per month, the proposed price
20 change would result in an increase of approximately 38
21 cents in their monthly bill.

22 The Division has reviewed the application
23 along with the additional information and finds that the
24 company is addressing potential wildfire concerns and
25 has an active mitigation program. The proposed rate

1 increase appears to be prudent and supported by actual
2 expenses, and the Division believes that an increase in
3 the rate is justified. Because the Division analysis
4 has found that the proposed rates would be just,
5 reasonable, and in the public interest, the Division
6 requests that the proposed rate change be approved with
7 an effective date of November 15th, 2023.

8 That concludes my summary. Thank you.

9 MS. SCHMID: Thank you.

10 Mr. McIntosh is now available for
11 cross-examination questions and questions from the
12 Commission.

13 PRESIDING CHAIR LeVAR: Thank you.

14 Mr. Moore, do you have any questions for
15 Mr. McIntosh?

16 MR. MOORE: Just briefly.

17 CROSS-EXAMINATION

18 BY MR. MOORE:

19 Q. Mr. McIntosh, could you please tell me the
20 number of data requests you served on Rocky Mountain
21 Power in this docket and briefly describe your data
22 requests?

23 A. Yes, I can tell you that. I'm almost positive
24 it was eight requests, but let me just verify that.

25 Yes. There was a total of eight data

1 requests. So you want me to explain each one?

2 Q. Just as briefly as you can, just ask what you
3 asked for.

4 A. Okay. So the main things I asked for were --
5 they were obviously in my summary. I talked about the
6 forecasted of 95 million, which was 30 million more than
7 what was budgeted. So I asked why there was such an
8 increase in that. I also asked them about -- let's see.

9 I asked them about the pandemic. They had
10 stated in their filing that obviously there were --
11 there was some -- what's the word I'm looking for --
12 there was some -- hold on one second. There was some
13 significant underspending, and that's why there was such
14 an increase in spending in this -- in this filing.

15 I asked them about tree trimming. I asked
16 them if they -- if they continued to do tree trimming
17 during the -- during the pandemic, during those years.
18 And I believe those were the main questions I asked
19 them.

20 Q. Thank you.

21 A. Uh-huh.

22 Q. Thank you. Just for clarification, you didn't
23 have eight sets of DRs. You had one set of DRs with
24 eight questions; is that correct?

25 A. That is correct, yes.

1 Q. The DPU did not issue any data requests on O&M
2 expense; is that true?

3 A. That is true.

4 Q. The DPU did not file any reply comments
5 concerning the information the parties received on the
6 last set of OCS data requests; correct?

7 A. That is also correct.

8 Q. Mr. McIntosh, given the current important
9 rising costs of wildfire mitigation, do you believe that
10 this level of review is sufficient going forward?

11 A. I do -- I do believe that -- I mean, this is
12 the first time that I'm aware of -- of an increase like
13 this. I do feel that, going forward, it might be -- it
14 would be beneficial to have maybe a little more detailed
15 information to do some better analysis. But that being
16 said, if there are things that the Division needs or
17 would like to know, they would do that through data
18 requests. So -- yeah.

19 MR. MOORE: I have no further questions.

20 PRESIDING CHAIR LeVAR: Okay. Thank you.

21 Ms. Scarsella?

22 MS. SCARSELLA: No questions.

23 PRESIDING CHAIR LeVAR: Okay. Ms. Schmid, any
24 redirect?

25 MS. SCHMID: No redirect, thank you.

1 PRESIDING CHAIR LeVAR: Okay. Commissioner
2 Clark?

3 COMMISSIONER CLARK: No questions. Thank you.

4 PRESIDING CHAIR LeVAR: Commissioner Harvey?

5 COMMISSIONER HARVEY: I'm going to butt the
6 trend.

7 EXAMINATION BY THE COMMISSION

8 BY COMMISSIONER HARVEY:

9 Q. Can you explain for me -- and I guess I just
10 haven't understood the testimony correctly -- but
11 explain to me how the 30 million that you talk about
12 being above the budget relates to the 6.8. Is that
13 purely the next year, or is it something else?

14 A. So -- so from what I understand, the company
15 forecasted to spend 95 million on wildfire -- on the
16 wildland fire program, but based upon what they had
17 reported to us, their forecasted amount was actually
18 30 million less than that. So they were --

19 Q. Less? Okay.

20 A. So it was -- yeah.

21 Q. All right. I must have misheard you then.
22 That was my problem. Sorry.

23 Okay. So today there's been considerable
24 discussion which you were here in the room for.

25 A. Yeah.

1 Q. About how we know whether something is in rate
2 case, base fire plan, or incremental fire plan, so those
3 three different buckets, and how they relate to each
4 other. Can you just take a few moments and explain to
5 me how the DPU reached a level of comfort that things
6 were in the right buckets or that there hadn't been
7 movement between buckets that was not accounted for?

8 A. So I -- I guess the best way for me to answer
9 that would be, based upon the analysis I did and the
10 data request I asked, I felt -- we felt, as a Division,
11 that the incremental increases were -- were sufficient
12 and correct, and that's why we felt, as a Division, like
13 this was -- that these -- these proposed rates increases
14 were just and reasonable. I'm not sure exactly how else
15 to answer that. I'm sorry.

16 Q. Possibly. I guess I want to drill down a bit.

17 A. Okay.

18 Q. Are you using the word "incremental" in the
19 same way that the company was using the word in their
20 testimony today, meaning incremental to the base fire
21 protection plan?

22 A. Yes. I believe so, yes.

23 Q. So am I hearing, then, that you may not really
24 have dug into the concept of whether it was covered
25 already in the rate base bucket?

1 A. Yeah, that would be correct.

2 Q. Okay. Thank you.

3 A. Yep.

4 PRESIDING CHAIR LeVAR: I don't have any
5 additional questions for you.

6 THE WITNESS: Okay.

7 PRESIDING CHAIR LeVAR: Thank you for your
8 testimony this morning --

9 THE WITNESS: Thank you.

10 PRESIDING CHAIR LeVAR: -- this afternoon.

11 THE WITNESS: Yep.

12 PRESIDING CHAIR LeVAR: Ms. Schmid, anything
13 else from the Division?

14 MS. SCHMID: Yes.

15 REDIRECT EXAMINATION

16 BY MS. SCHMID:

17 Q. I could have misheard, but you were asked a
18 question about an additional \$30 million; is that right?

19 A. Correct.

20 Q. Is it an additional number, or is the amount
21 being reduced by 30 million?

22 A. No. It's -- I said that wrong. It's an
23 additional 30 million. So the company is forecasted to
24 spend 95 million on the wildfire program, which is
25 30 million more than the budgeted amount.

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1 Q. And that is for this year; correct?

2 A. That is for this year.

3 Q. The company is not seeking recovery of that
4 \$30 million at this time or the total of \$95 million at
5 this time; is that correct?

6 A. That is correct.

7 MS. SCHMID: Thank you. Those were all of my
8 redirect questions.

9 PRESIDING CHAIR LeVAR: Okay. Thank you. We
10 typically don't have redirect after Commissioner
11 questions, but I think that was an appropriate
12 clarification, unless Commissioner Harvey disagrees.

13 Do you -- I guess what I'm asking is do you
14 have any follow-up to that?

15 COMMISSIONER HARVEY: Yeah.

16 PRESIDING CHAIR LeVAR: Okay. Go ahead.

17 COMMISSIONER HARVEY: Is my mike on still? I
18 think it is.

19 THE WITNESS: Yeah.

20 FURTHER EXAMINATION BY THE COMMISSION
21 BY COMMISSIONER HARVEY:

22 Q. And this may go back to the very first
23 question I asked to the company, and based on what your
24 attorney just said, we're -- in effect, then, if the
25 forecast holds true, next year's report would have a

1 \$30 million instead of a 6.8 if the predictions were
2 correct that we would be asked to be looking at these
3 incremental?

4 A. No -- no, I don't -- so you're -- you're
5 asking me if -- so this year they're asking for
6 approximately 6.8 million in increase, and you're asking
7 if next year would be a 30 million? Is that what you're
8 asking?

9 Q. If what they're -- I'm trying to understand.
10 You've talked about these two numbers, the 95 and the
11 30, and that it's -- the 30 million is 30 different from
12 the forecast.

13 A. Yeah. The 30 million was basically -- so
14 they -- they had forecasted 95 million, which was
15 30 million more than what they budgeted amount.

16 Q. Right. And what's in the base is the budget;
17 right?

18 A. Yes, I believe that is correct.

19 Q. So we would anticipate that next year's
20 incremental filing would be around 30 million, if the
21 forecast is correct?

22 A. I see what you're saying. Yeah, yes.

23 Q. So I guess my question is, is the DPU
24 comfortable just saying, "Go ahead and spend that, and
25 we'll look at it after the fact"? That seems to be what

1 the recommendation is.

2 A. If -- yeah. I guess -- I guess what -- what I
3 would say to that is if truly it is a \$30 million more
4 increase in the next filing next year, then the DPU
5 would definitely be looking into and analyzing that
6 information and if we have questions asking them why
7 such a higher increase.

8 COMMISSIONER HARVEY: Okay. Thank you.

9 THE WITNESS: Yep.

10 PRESIDING CHAIR LeVAR: Okay. I don't have
11 any additional questions for you. So thank you for your
12 testimony this afternoon.

13 THE WITNESS: Uh-huh.

14 PRESIDING CHAIR LeVAR: Anything else from the
15 Division?

16 MS. SCHMID: Nothing else. Thank you.

17 PRESIDING CHAIR LeVAR: Okay. Thank you.

18 Mr. Moore?

19 MR. MOORE: Yes. The Office calls Mr. Vastag
20 and ask that he be sworn.

21 PRESIDING CHAIR LeVAR: Good afternoon,
22 Mr. Vastag. Do you swear to tell the truth?

23 THE WITNESS: Yes, I do.

24 PRESIDING CHAIR LeVAR: Thank you.

25 BELA VASTAG

1 was sworn and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. MOORE:

4 Q. Could you please state and spell your name,
5 your full name, for the record.

6 A. Yeah. My name is Bela Vastag. That's B-e-l-a
7 V-a-s-t-a-g.

8 Q. What is your business address, and how are you
9 employed?

10 A. My business address is 160 East 300 South,
11 Salt Lake City, and I am employed by the Utah Office of
12 Consumer Services as a utility analyst.

13 Q. In your capacity as utility analyst, did you
14 prepare and cause to be filed phase II initial comments
15 on August 28th, 2023, and did you prepare phase II
16 supplemental comments and exhibits filed with the OCS's
17 motion for leave to file supplemental initial comments
18 filed on September 1st, 2023?

19 A. Yes.

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

22 A. No changes.

23 Q. If I asked you questions concerning these
24 comments, would your answers be the same as the
25 information contained in those comments?

1 A. Yes.

2 MR. MOORE: At this point the Office would
3 move to admit these comments and associated exhibits
4 into the record.

5 PRESIDING CHAIR LeVAR: Thank you. If anyone
6 objects to that motion, please indicate your objection.

7 I'm not seeing any. So the motion is granted.

8 Q. (BY MR. MOORE) Mr. Vastag, have you prepared
9 a statement summarizing your testimony?

10 A. Yes, I have.

11 Q. Please proceed.

12 A. Good afternoon. In this docket, Rocky
13 Mountain Power is requesting a rate increase of
14 approximately 6.8 million for its ongoing wildland fire
15 protection plan activities. The rate increase, if
16 approved, will be implemented through RMP's electric
17 service Schedule Number 97, also known as the wildfire
18 mitigation balancing account, or WBA for short.

19 The WBA base costs were set in RMP's last rate
20 case in Docket Number 20-035-04. The \$6.8 million of
21 costs that are being requested in this docket are
22 additional costs above the costs included in the last
23 rate case.

24 Based on RMP's accounting and tracking, these
25 costs represent the undercollected balance in the WBA as

1 of May 1st, 2023. Utah statute and rule governing the
2 WBA state that the Utah Public Service Commission may
3 approve RMP's request to recover these additional costs
4 if the PSC finds that the costs were prudently incurred.

5 This is RMP's first request for a rate
6 increase through the WBA since it received approval of
7 WBA base costs in the PSC's December 2020 order on RMP's
8 last rate case. Accordingly, this docket is the first
9 time the OCS has undertaken a detailed review of WBA
10 costs. The OCS has focused its detailed review on
11 wildfire plan O&M, or operations and maintenance costs,
12 O&M spending, because O&M expenses are the primary
13 driver of RMP's \$6.8 million requested rate increase.

14 For example, in 2022, wildfire prevention O&M
15 expenses were \$12.3 million, which is over a hundred
16 percent higher than the 4.7 million included in WBA base
17 costs.

18 In its 2023 cost report, RMP projects that O&M
19 costs for 2023 and 2024 will also be over a hundred
20 percent higher than originally budgeted. Therefore, the
21 OCS expects -- excuse me -- expects additional filings
22 in the future from RMP for rate increases through this
23 WBA tracker.

24 RMP's initial filing did not provide any
25 detailed information on the costs being charged to the

1 WBA. The filing only provided costs summarized by high
2 level categories. Therefore, the OCS had to rely on the
3 discovery process to obtain the necessary detail to
4 attempt to perform a reasonable review of the costs.
5 The OCS needed three rounds of discovery responses, that
6 is, OCS one, OCS one supplemental, and OCS two, to
7 obtain enough information to begin a detailed review of
8 the costs.

9 The OCS would have benefited from an
10 additional round of discovery, but the schedule for this
11 docket does not accommodate numerous rounds of
12 discovery. In the future, the OCS believes that the
13 review of the WBA would benefit from a longer process, a
14 process somewhere in between what occurs in the RBA or
15 the REC balancing account, and the EBA, or the energy
16 balancing account.

17 In addition, especially as we see these
18 expenses increasing, the WBA may also benefit from a
19 regular audit by the Division of Public Utilities.

20 So now onto our -- what we found in our
21 review. Our review of the WBA O&M expenses identified
22 the following concerns. Number one, in 2022, RMP
23 charged large amounts to the WBA for patrolling,
24 inspections, and conditions corrections for distribution
25 and transmission lines. RMP responses to discovery show

1 that these expenses include internal labor, materials,
2 and travel. The OCS could not determine if these
3 expenses are truly incremental to the costs that are in
4 RMP's base rates, that is, rate case base rates, not
5 base rates in -- not just base rates in the WBA. For
6 example, it is not clear whether RMP's net number of
7 employees has increased.

8 Number two, RMP's response to discovery stated
9 that RMP's meteorology department existed prior to the
10 WBA, that the department was not set up specifically for
11 wildland fire protection. Again, the OCS could not
12 determine if the meteorology department expenses charged
13 to the WBA are truly incremental, that they're above the
14 costs that are in base rates from the last rate case.

15 Number three, RMP set up 14 wildfire alert
16 cameras to assist with wildfire detection. When the OCS
17 viewed the cameras' live public feeds several times, not
18 just on August 31st, it appeared the cameras were not
19 properly maintained. Therefore, the OCS questions the
20 prudence of costs associated with these cameras and
21 whether the costs should be included in the WBA.

22 And, number four, RMP made donations to
23 nonprofit organizations HawkWatch International and
24 Pheasants Forever. In response to discovery, RMP stated
25 that these organizations conduct projects that improve

1 animal habitats and also mitigate fire risk in those
2 habitats. Those projects encompass large areas outside
3 of RMP's distribution and transmission line rights of
4 ways, and the OCS questions whether rate payers should
5 be asked to fund fire suppression efforts not directly
6 tied to RMP's equipment. The OCS asserts that these
7 costs should be removed from the WBA.

8 In its reply comments and in response to OCS's
9 concern -- concerns, RMP states that all the costs that
10 make up its request for a \$6.8 million rate increase in
11 this docket are incremental to base rates. However, RMP
12 does not provide or attach any supporting detail to back
13 up these statements. The OCS believes that its -- it is
14 RMP's burden to proactively provide the necessary
15 detailed information in its application, showing that
16 WBA expenses are incremental and prudently incurred.

17 The OCS supports RMP making prudent rate payer
18 funding expenditures to reduce the chances its equipment
19 will start a wildfire and to harden its grid against
20 damage from wildfires, but the wildfire balancing
21 account cannot be a blank check for these costs.

22 That concludes my statement.

23 MR. MOORE: Mr. Vastag is available for cross
24 and questions from the Commission.

25 PRESIDING CHAIR LeVAR: Thank you.

1 Ms. Schmid, do you have any questions for
2 Mr. Vastag?

3 MS. SCHMID: I do not. Thank you.

4 PRESIDING CHAIR LeVAR: Okay. Thank you.

5 Ms. Scarsella?

6 MS. SCARSELLA: Just a couple questions.

7 CROSS-EXAMINATION

8 BY MS. SCARSELLA:

9 Q. Regarding the OCS's adjustment to -- regarding
10 the payments to Hawk -- HWI and PF -- you understand
11 that those are the organizations when I use those
12 acronyms?

13 A. Yes.

14 Q. Pheasants Forever and -- all right.

15 Is it OCS's position that if a wildfire starts
16 outside of adjacent to Rocky Mountain Power's easement
17 where its facilities lie, that that wildfire won't cross
18 over into Rocky Mountain Power's easement?

19 A. No. That is, of course, a possibility, but we
20 don't think rate payers are responsible for RMP's
21 territory-wide wildfire suppression mitigation costs. I
22 mean, the responsibility, in our view, should be focused
23 on the right-of-ways and Rocky Mountain Power's
24 equipment itself. Otherwise, we open the door to
25 potentially wide ranging, you know, fire suppression

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1 costs that can be unlimited and -- and may not be
2 appropriate -- probably is not appropriate to be funded
3 through a utilities rate payer customer base.

4 Q. Is it also OCS's position that foreign objects
5 that are outside the company's right-of-way, such as
6 tree branches or other vegetation, would not cross over
7 or be blown into the company's right-of-way and make
8 contact with its facilities and possibly igniting a
9 wildfire?

10 A. That's a possibility. I agree.

11 Q. And do you agree that the company cannot enter
12 adjacent property if it doesn't have rights to enter,
13 like, such as an easement to conduct any type of
14 wildfire mitigation efforts?

15 A. I am not -- I don't understand, you know,
16 those regulations, but my personal guess would be
17 that -- RMP probably would not be allowed, but I really
18 don't know what the utility has a right to do.

19 Q. Would you agree that a utility's actions to
20 mitigate foreign objects from making contact with its
21 facilities to avoid a possible ignition of a fire are
22 prudent and reasonable actions?

23 A. Yes, and the company's vegetation management
24 program is a good example of that process.

25 MS. SCARSELLA: I have no further questions.

1 Thank you.

2 PRESIDING CHAIR LeVAR: Thank you. Any
3 redirect, Mr. Moore?

4 MR. MOORE: No redirect.

5 PRESIDING CHAIR LeVAR: Okay. Commissioner
6 Harvey, any questions for Mr. Vastag?

7 COMMISSIONER HARVEY: Yes.

8 EXAMINATION BY THE COMMISSION

9 BY COMMISSIONER HARVEY:

10 Q. You mentioned that this is the first time that
11 RMP has come in for an incremental recovery with an
12 incremental recovery request; correct?

13 A. Yes.

14 Q. Okay. And you expressed -- at least the tenor
15 I got from it -- is you expressed a dissatisfaction with
16 both the filing itself but also the amount of time
17 allowed to examine the filing; is that correct?

18 A. Yes. The amount of detail that -- you know,
19 that can be and should be reviewed is fairly
20 substantial. It's certainly quite -- I think quite a
21 bit more than like the RBA review.

22 And the other problem was I think the area
23 within RMP that was, you know, providing the data may
24 not have had experience. And so initially we asked for
25 detail, but we didn't receive detail. So we had to ask

1 a couple more times. So -- so it took longer than
2 expected.

3 Q. Than you anticipated?

4 A. Yeah.

5 Q. I may have missed this in your testimony, but
6 did the OCS or does the OCS have a recommended time line
7 that they're -- you know, that they would like to see
8 going forward?

9 A. We didn't discuss this internally. We think
10 it's, you know, again, somewhere -- not -- and nothing
11 as extensive as the EBA, but certainly, you know, longer
12 than what -- what was allowed in this docket, and
13 especially I mentioned in one set of comments that all
14 parties are new to this particular subject. So we're
15 learning about, you know, the expense areas and the
16 processes that are involved. So initially it's taking
17 more time because it's new. So I don't have a specific
18 answer. Sorry.

19 Q. That's okay. I just wanted to make sure that
20 I understood the testimony.

21 Now, a question relating a bit to what your
22 attorney had asked other parties about earlier and what
23 you mentioned in your summary about how do I determine
24 what's actually incremental. And my question is a more
25 general than any specific account that you might

1 mention, but this idea of -- as I mentioned before,
2 these three buckets -- there's a rate case bucket of
3 what was approved, there's a base fire plan bucket, and
4 then there's this incremental bucket that's going to get
5 trued up in the balancing account.

6 Do you -- based on the filing, your data
7 request, the Division's data request, and any other
8 interactions you've had, do you have confidence that any
9 of those buckets are well defined? Are there records in
10 this docket that would say the actual even rate base
11 bucket stuff got spent or the base as an incremental
12 amount to what would have happened anyway?

13 A. No. We're not satisfied that we understand
14 that, and I mentioned in my summary that we could
15 benefit from additional time in order to pursue that
16 analysis. So as it stands now, we -- we do not
17 understand whether costs are in the right bucket or have
18 been shifted between buckets and are possibly being
19 charged -- essentially double counting. I don't know if
20 that's the right term.

21 Q. So from the OCS's perspective, you have not
22 been given any records or made aware of any procedures
23 that would allow the OCS or the DPU to verify that what
24 was approved in the rate case was actually spent or that
25 what is being asked for now is actually incremental to

1 that rate base?

2 A. No. That's one of our primary frustrations.
3 We have not received any such detail.

4 COMMISSIONER HARVEY: Okay. That's all I
5 have. Thanks.

6 PRESIDING CHAIR LeVAR: Commissioner Clark?

7 COMMISSIONER CLARK: Good afternoon. I have a
8 couple questions for you as well.

9 BY COMMISSIONER CLARK:

10 Q. Regarding the time that might be required in
11 the future to process a docket like this one, I'm aware
12 of one instance in this particular docket in which the
13 OCS asked for some additional time, very short amount of
14 time, to -- for leave to file information outside of the
15 schedule, and -- and that was granted, and the
16 information is received and is part of our record.

17 Well, were there any other requests from OCS
18 for additional time that -- in this docket?

19 A. No. That was the only request for additional
20 time.

21 Q. Thanks. And then on the subject of the kind
22 of information that you might require in the future to
23 conduct an incremental analysis, or an analysis of
24 incremental expenditures, incremental to the -- those
25 that were last approved in a general rate case -- you

1 heard my hypothetical example about the -- the tree
2 inspector, and let's just use that same subject.

3 If we were talking about that function, what
4 kind of information would you need, in that narrow work
5 area, to determine that the work that was being done in
6 furtherance of the wildlife -- or the wildfire
7 protection plan was incremental to the work that had
8 been authorized to be funded in the general rate case?

9 A. Initially, it would be helpful to, in the
10 initial application, have the company provide what I
11 call transaction detail or accounting transaction detail
12 that ties to each category so that we can identify areas
13 to first look at. For example, your hypothetical could
14 be such an area that we would then -- there -- there
15 would be -- there would be substantial amount of data.
16 So, like, any audit would have to be -- things would
17 have to be spot checked but -- but, you know,
18 statistically, if we spot check a few things, then we
19 should feel comfortable that the whole amount is fair.

20 So if we kick start the process by receiving
21 the detailed information initially and then we could ask
22 follow-up discovery about employee counts, possibly time
23 sheet type of information about the employees that work
24 in both -- both of those areas and then compare them to
25 see if -- if -- if it's -- if the costs are reasonably

1 allocated and ask further discovery. Often it takes
2 three or four back and forth requests in order to drill
3 down to the -- the key data that you need to satisfy
4 your investigations.

5 Q. I -- I take some hope from the fact that you
6 say you could -- you could develop a reasonable measure
7 of certainty based on sampling and you wouldn't have to
8 look at every --

9 A. Right.

10 Q. -- every item of data or every accounting
11 transaction. I suppose you could even just sample
12 certain categories of activities?

13 A. Right.

14 COMMISSIONER CLARK: Okay. Thank you very
15 much.

16 PRESIDING CHAIR LeVAR: Thank you. I have a
17 couple of questions.

18 BY PRESIDING CHAIR LeVAR:

19 Q. Mr. McIntosh, do you disagree with the
20 statement from Ms. McCluskey earlier this afternoon that
21 the amounts in this application relating to HawkWatch
22 International and Pheasants Forever represent a
23 reduction from what was previously approved in the
24 general rate case?

25 A. I'd have to refresh my understanding. The

1 amounts that were provided in -- in the rate case for
2 the base amount -- I actually have that exhibit, Exhibit
3 SRM-7R from October 5th, 2020. They are -- I guess
4 there are two -- there's one category -- category
5 labeled "Environmental Wildlife Protection Program
6 Distribution and Transmission." So that's the only
7 information I have to go on.

8 I don't know what -- I asked if -- if the
9 company would provide a breakdown of all these
10 categories, and they said they did not -- you know, to
11 provide the detail of expenses that went into the budget
12 or the base amount, and they said they did not have it.

13 So you could guess, maybe, that -- that if
14 they only spent 45,000 on HawkWatch and 250,000 on
15 Pheasants Forever, that it may be less than those
16 amounts, which are 433 -- yeah, 433,000 for distribution
17 and 33,000 for transmission. I mean, yes, those amounts
18 are less than that total, but I don't know what is
19 included in that budget amount. They were not able to
20 provide that information.

21 Q. Sure, but you it does -- you said you'd have
22 to guess, but you wouldn't have to guess to see that
23 what they're asking for is less than what was approved
24 in the rate case; correct? You might have to guess on
25 how each dollar was spent, but it doesn't require

1 guessing to include --

2 A. For the entire category, but I don't -- I
3 don't know for sure that -- that donations to those
4 organizations were necessarily included in that category
5 or what else is included in the category. So as a
6 whole, the category was -- showed fewer expenditures
7 than budgeted, yes.

8 Q. I'm just trying to figure out what you're --
9 if you're asking us to disallow that reduction and leave
10 the previously approved amount in place? Is that what
11 you're asking us to do with respect to that amount?

12 A. Yes.

13 Q. Okay. So you're asking us to add a hundred
14 thousand or so to -- to the -- to the wildfire fund from
15 what's been requested in here?

16 A. I'm asking for the total of about 295,000 to
17 be removed from the \$6.8 million that they -- that
18 they're requesting reimbursement for.

19 Q. Okay. So your -- you're asking us to disallow
20 a portion of an expense that we previously approved in
21 the general rate case; is that correct?

22 A. Well, the category.

23 Q. The category?

24 A. That the -- those organizations were not
25 identified in the original plan. I mean, there was a

1 general description of -- of habitat restoration with,
2 you know, not -- not the kind of detail that you would,
3 you know, that you would understand what that entailed.
4 So --

5 Q. Okay. Moving on from that question then.
6 Page 3 of your September 1st comments, where you have
7 the photos from your monitoring of the cameras. Is it
8 accurate, as it was stated earlier in the hearing, that
9 those are single point in time photographs? Each of
10 those photographs was at one -- one point in time?

11 A. They -- right. At the -- on that date -- I
12 don't remember what time of day, but I took a
13 screenshot, yes. And I would note that I had accessed
14 the cameras previously on previous days to, you know, to
15 begin this analysis, and the screenshots were
16 essentially the same. So --

17 Q. In your previous screenshots the same cameras
18 were not functioning?

19 A. Yes. And -- and some of the cameras that were
20 showing -- some -- some of the view was obstructed in
21 some of the cameras where the cameras were pointed at,
22 like, the --

23 (Reporter clarification.)

24 A. -- the transmission tower. There's, like,
25 metal infrastructure obstructing some of the views, and

1 those views were the same each time I -- so it appeared
2 to me that the cameras weren't being actively moved
3 around.

4 Q. Okay.

5 A. But I didn't -- I only have screenshots from
6 that particular moment in time that I provided in our
7 comments.

8 Q. Okay. And there was no monitoring of those
9 over periods of hours or days?

10 A. There were -- there was a period of maybe
11 three or four days that I looked at them over -- during
12 the week prior to filing.

13 Q. But you provided this one moment of time in
14 your comment?

15 A. Yes.

16 Q. Okay. So -- I mean is your -- is the
17 inference from your testimony that they're not spending
18 enough on the cameras?

19 A. No, that they've spent money to have this
20 camera system, but it is not providing a benefit to rate
21 payers. So I request whether there -- those expenses
22 have been prudently incurred and whether rate payers
23 should be responsible to reimburse the company for them.

24 Q. Okay. Is there any dispute, in your mind,
25 that the camera expense was incremental to the

1 previously improved wildfire budget?

2 A. Yes. Some of those type of expenses, some
3 weather stations, and other software were --

4 Q. Were incremental?

5 A. -- were truly incremental, not anticipated.

6 PRESIDING CHAIR LeVAR: Okay. That's all the
7 questions I have.

8 THE WITNESS: Okay.

9 PRESIDING CHAIR LeVAR: Thank you for your
10 testimony this afternoon.

11 Let me ask if there's anything from anyone
12 else before we adjourn.

13 Okay. Thank you all. We're adjourned.

14 (This hearing was concluded at
15 3:43 p.m. MT.)

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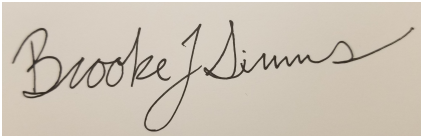
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I, BROOKE SIMMS, an Idaho Certified Shorthand Reporter, Utah State Certified Court Reporter, and Registered Professional Reporter, hereby certify:

THAT the foregoing proceedings were taken before me at the time and place set forth in the caption hereof; that the proceedings were taken down by me in shorthand and thereafter my notes were transcribed through computer-aided transcription; and the foregoing transcript constitutes a full, true, and accurate record of such oral proceedings had, and of the whole thereof.

I have subscribed my name on this 17th day of October, 2023.



Brooke Simms, RPR, CCR, CSR
Idaho CSR No. 1174
Utah CCR No. 12335391-780

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[asking - bit]

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[state - tell]

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[tell - transaction]

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[vastag - wondering]

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Utah Rules of Civil Procedure
Part V. Depositions and Discovery

Rule 30

(E) Submission to Witness; Changes; Signing.

Within 28 days after being notified by the officer that the transcript or recording is available, a witness may sign a statement of changes to the form or substance of the transcript or recording and the reasons for the changes. The officer shall append any changes timely made by the witness.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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