

1 - BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

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3 Rocky Mountain Power's) DOCKET NO. 24-035-01
4 Application for Approval of)
the 2024 Energy Balancing)
Account)
5 _____)

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8 ** REDACTED **

9 PUBLIC HEARING TRANSCRIPT

10
11 Wednesday, January 22, 2025

12 At 9:02 a.m. MT

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14
15 At Heber M. Wells Building

16 160 East 300 South

17 Room 403

18 Salt Lake City, Utah 84111

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25 Reported by: Brooke Simms, RPR, CCR, CSR

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

2 CHAIR FENN: Okay. Good morning. Let's go on
3 the record. It's a little bit like deja vu to see
4 everybody here again. We're going to have a hearing
5 today on the Rocky Mountain Power's application for
6 approval of the 2023 energy balancing account Docket
7 Number 24-035-01, and we'll take appearances of counsel.

8 Let's start with Mr. Kumar.

9 MR. KUMAR: Thank you, Chairman. On behalf of
10 the company Rocky Mountain Power. My name is Ajay
11 Kumar. Appearing with me is Ms. Katherine Smith and
12 Mr. Matt Moscon of the firm Mayer Brown.

13 CHAIR FENN: Okay. Thank you very much.
14 Let's go to the Division.

15 MR. GRECU: I just have a quick question. Do
16 you want us to introduce our witnesses as well?

17 CHAIR FENN: I think we know who they all are.
18 We're going to do this like a regular proceeding, and
19 you don't need to do that right now.

20 MR. GRECU: Okay. Thank you.

21 Patrick Grecu and Patricia Schmid as assistant
22 attorneys general representing the Division of Public
23 Utilities.

24 CHAIR FENN: Okay. Go ahead.

25 MR. MOORE: Robert Moore, assistant attorney

1 general, representing the Office of Consumer Services.

2 CHAIR FENN: Okay.

3 MR. RUSSELL: Phillip Russell representing
4 Utah Association of Energy Users.

5 CHAIR FENN: Okay. Now, do we have any
6 lawyers for parties that are on virtually? Okay. Just
7 witnesses.

8 One of the -- the first item we need to do
9 preliminarily is approve the motion to have one of the
10 witnesses appear virtually. I think we already approved
11 one for Rocky Mountain Power's. We issued an order on
12 that, but, Ms. Schmid, would you address that?

13 MS. SCHMID: The order for Rocky Mountain
14 Power also permitted the Division's witness to
15 participate remotely, and that's Mr. Philip DiDomenico.
16 I believe that the Office recently filed a motion
17 requesting permission for its witness to appear remotely
18 because he is trapped back east due to a snowstorm.

19 CHAIR FENN: That was Mr. Moore. I saw you
20 shaking your head. I thought you wanted to be
21 acknowledged. So I acknowledged you first.

22 MR. MOORE: Yes. Ms. Schmid is correct. Our
23 witness was at the airport when his flight was canceled,
24 and there was a whiteout in Atlanta, and he was unable
25 to travel to Utah. So we filed an emergency motion for

1 him to testify virtually, and he's on the line now.

2 CHAIR FENN: And the name of that witness is?

3 MR. MOORE: Phil Hayet.

4 CHAIR FENN: Mr. Hayet. Okay. All right. I
5 don't think we have any objection to that. So we're
6 going to grant the motion. What are we going to do at
7 this point? So that motion is granted, and we
8 appreciate Mr. Hayet trying to make the effort to get
9 here.

10 Pretty unprecedented storm if you looked at
11 the weather patterns of everything along the Gulf Coast
12 having several inches of snow. So we can understand why
13 he would not be able to travel here.

14 All right. Are there any other preliminary
15 matters we want to discuss before we proceed with
16 calling witnesses? Anything?

17 Okay. Let's turn to Rocky Mountain Power and
18 call your first witness.

19 MS. SMITH: Yes. The Company would like to
20 call Jack Painter as its first witness.

21 CHAIR FENN: Okay. Mr. Painter, if you'll
22 come forward. Welcome, Mr. Painter.

23 THE WITNESS: Good morning.

24 CHAIR FENN: If you'll raise your right arm.

25 JACK PAINTER

1 was called as a witness, and having been first duly
2 sworn to tell the truth, testified as follows:

3 CHAIR FENN: Thank you. You may be seated.

4 Ms. Smith?

5 MS. SMITH: Yes.

6 DIRECT EXAMINATION

7 BY MS. SMITH:

8 Q. Mr. Painter, can you state and spell your name
9 for the record.

10 A. Yes. My name is Jack Painter, J-a-c-k
11 P-a-i-n-t-e-r.

12 Q. And what is your role with the Company?

13 A. I'm a net power cost advisor.

14 Q. Did you cause to be filed direct, rebuttal,
15 and surrebuttal testimony in this proceeding?

16 A. I have.

17 Q. Do you have any changes or corrections you'd
18 like to make?

19 A. I do not.

20 Q. And if I asked you the same questions stated
21 in your testimony, would you provide the same answers?

22 A. I would.

23 MS. SMITH: Okay. At this time the Company
24 would like to move for admission of Mr. Painter's
25 testimony and correlating exhibits.

1 CHAIR FENN: All right. Seeing no objections
2 to that, we will accept the testimony and the
3 corresponding exhibits into the record.

4 (Jack Painter's prefiled testimony and
5 exhibits were admitted into evidence.)

6 Q. (BY MS. SMITH) Mr. Painter, did you prepare a
7 summary today?

8 A. I have.

9 Q. Please proceed.

10 A. Good morning, Chair Fenn, Commissioner Clark,
11 and Commissioner Harvey. My name is Jack Painter, and
12 I'm a net power cost advisor for Rocky Mountain Power.

13 The Company filed its annual EBA application
14 on May 1st, 2024, for the deferral period of
15 January 2023 through December 2023. The Company
16 requested recovery of \$455 million, which consisted of
17 450.9 million for the deferral excess EBA costs
18 calculated as the difference between actual cost and
19 base rates for net power cost, wheeling revenue, and
20 production tax credits; a \$41.5 million credit for sales
21 made to a special contract customer; and 45.5 million in
22 other costs, credits, and interest which included
23 interest accrued through the rate effective period.

24 At the interim rates hearing, the Commission
25 declined to approve the inclusion of interest through

1 the rate effective period in the Company's application
2 and instead have the Company include carrying charges
3 that accrue during the collection period in the next EBA
4 filing. With this change, the Company decreases interim
5 rate EBA recovery by \$24.2 million.

6 The DPU, OCS, and UAE filed testimony in this
7 proceeding with various recommendations. Through the
8 various rounds of testimony, parties have revised and
9 withdrawn some of the recommendations. At this point
10 the remaining proposed adjustments in this case that are
11 in front of the Commission today are an adjustment of
12 0.6 million, including interest for replacement power
13 cost associated with outages at the Company's thermal
14 generating plants -- the Company's response to this
15 adjustment will be addressed by Company witness
16 Mr. Richards; an adjustment of 19.4 million, including
17 interest for Washington CCA cost, which will be
18 addressed by Company witness Mr. Wilding; an adjustment
19 of 72.3 million, including interest for trading
20 activities on the west side of the Company system, which
21 will also be addressed by Company witness Mr. Wilding;
22 and, finally, an adjustment of 4.8 million for prior
23 period Schedule 137 costs that I will address.

24 My testimony demonstrates and supports the
25 inclusion of prior period Schedule 137 costs in this EBA

1 filing. Prior period costs are permissible under Utah
2 Code through the EBA. I have provided multiple examples
3 of prior period adjustments, including current and prior
4 EBA filings. Most importantly, in my surrebuttal
5 testimony, I provided an example of prior period costs
6 that were not previous included in an EBA filing due to
7 an error which was acknowledged by the DPU and
8 ultimately approved by the Commission.

9 On behalf of Rocky Mountain Power, I
10 respectfully request the Commission approve the EBA as
11 adjusted through the interim rates hearing and issue an
12 order approving the Company's requested recovery of
13 431.6 million in EBA costs, making the interim rates on
14 Schedule 94 final.

15 Thank you.

16 CHAIR FENN: Thank you, Mr. Painter.

17 We'll -- do you have any other questions you
18 want to ask for clarification, Ms. Smith?

19 MS. SMITH: No. Mr. Painter is available for
20 cross-examination and questions.

21 CHAIR FENN: Okay. Let's go to the Division.

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

23 CHAIR FENN: Sure.

24 ///

25 ///

CROSS-EXAMINATION

BY MR. GRECU:

Q. Mr. Painter, in your response testimony, you stated that the Commission has allowed --

(Reporter clarification.)

Q. -- the Commission has allowed prior period adjustments and that prior period adjustments are common in the EBA; is that correct?

A. That is correct.

Q. And you list some examples too, like liquidated damages payments resulting from a wind energy provider who did not meet contract obligations in the EBA true-up of the variance between actual customer collections and the approved EBA for the deferral year from two years prior due to the interim rate structure; is that correct?

A. That is correct.

Q. In these examples, are these prior period adjustments to rectify accounting errors made by the Company?

A. In those examples, no, those are not.

MR. GRECU: Okay. That's all my questions. Thank you.

CHAIR FENN: Okay. Mr. Moore?

MR. MOORE: No questions. Thank you.

1 CHAIR FENN: Okay. Mr. Russell, do you have
2 any questions?

3 MR. RUSSELL: No questions. Thank you.

4 CHAIR FENN: Okay. All right. Thank you.
5 Let's go to Commissioner Harvey.

6 EXAMINATION

7 BY COMMISSIONER HARVEY:

8 Q. Hello and welcome.

9 A. Good morning.

10 Q. Just to follow up on the DPU's question, the
11 implicitness there is that the reason this adjustment is
12 being proposed by the Company -- or not adjustment, but
13 this amount to be included is simply because it was an
14 error on the Company's part rather than an exogenous
15 factor; is that correct?

16 A. Yes. To the DPU's questions about the
17 examples I provided, in those specific examples, those
18 were not related to Company error but more due to
19 timing. In -- in the final example I provided in my
20 surrebuttal testimony, that provides another example of
21 a prior rate adjustment that was due to an error.

22 Q. Okay. And that -- of the adjustments that are
23 at issue in the case that you listed, that's -- this
24 adjustment related to Schedule 137 is the only one that
25 your testimony directly addresses. You mentioned

1 Company witnesses would cover the others?

2 A. My -- my testimony only covers the
3 Schedule 137 adjustment.

4 Q. Okay.

5 A. But all of the different examples I provided
6 through my various rounds of testimony I'm prepared to
7 discuss.

8 Q. Oh, I'm sorry. I don't think I was clear on
9 my question. On the other adjustments --

10 A. Yes.

11 Q. -- that are being proposed --

12 A. Right. Yes.

13 (Cross-talk. Reporter interrupts.)

14 COMMISSIONER HARVEY: Sorry. I should have
15 been more clear. That's all I have. Thank you.

16 CHAIR FENN: Commissioner Clark.

17 EXAMINATION

18 BY COMMISSIONER CLARK:

19 Q. You addressed carrying cost in your summary,
20 and I wonder if you could just go a layer deeper with
21 respect to those. My recollection is that initially the
22 Company proposed recovering the EBA balance for 2023
23 over a two-year period and that the Commission's order
24 for the balance to be recovered over a one-year period
25 affected that -- that carrying cost calculation

1 obviously, but could you describe again how it was
2 affected or to what degree? And what I'm particularly
3 looking for is whether or not the amount that you've
4 described as -- for proposed recovery today includes any
5 carrying charges for the balance of the account.

6 A. Right. So there's a couple of kind of nuances
7 there that I'll explain. When the Company filed its
8 original application, we did propose a 24-month
9 amortization period as an option to help reduce, you
10 know, rate impact. And if I remember accurately,
11 through testimony, other parties suggested or -- to keep
12 the original 12 months. By going from 12 months to 24
13 months, you would increase the amount of carrying
14 charges during that time frame.

15 When -- but the second part of that is, is
16 that when the Company files application, due to the size
17 of the balance, in order to reflect more accurate rates,
18 we calculated what we estimated the carrying charges to
19 be throughout the collection period and included those
20 upfront with the idea being if we didn't do that and we
21 got to the end of the time frame, there could be a large
22 balance to put into the next EBA.

23 So those were kind of the two issues at hand.
24 And so at the interim rates hearing, ultimately it
25 was -- the Commission decided to remain with the

1 original 12-month amortization and also remove the
2 carrying charges as far as from the collection period to
3 the end. There are carrying charges in this application
4 that are for the deferral period, beginning January 1st,
5 2023, up until interim rates begin.

6 So the issue at hand that I mentioned was for
7 the time frame of once rates began amortizing and
8 collecting from customers.

9 Q. So my understanding of what you've just told
10 me is that there is, in the amount proposed for
11 recovery, the appropriate carrying charge through the --
12 you're saying through the interim rates order, the date
13 of the interim rates order. Is that -- is that correct?

14 A. Right.

15 Q. Beginning with January 1, 2023?

16 A. Yep. So you're right. The carrying charges
17 included in this application include January 1st, 2023,
18 right until interim rates began.

19 Q. Thank you.

20 A. You're welcome.

21 EXAMINATION

22 BY CHAIR FENN:

23 Q. So, Mr. Painter, in your summary, you said
24 that, with respect to this prior case where the
25 Commission allowed -- an exception allowed costs to be

1 recovered, you said that was due to an error. Would you
2 explain that a little more --

3 A. Yeah.

4 Q. -- thoroughly to me?

5 A. Definitely. So in that -- in that docket
6 where we filed for prior period cost, there was an error
7 discovered in the Company's metering system that had to
8 do with the calculation of loads between Idaho and Utah.
9 Because of the metering error, it altered the allocation
10 factors for cost allocation for net power cost, and it
11 shifted excess cost to Idaho customers and
12 under-recovered costs to Utah customers.

13 And so we updated our calculations for that
14 prior -- or for that current EBA filing and the prior
15 period and sought recovery of those costs from Utah
16 customers due to that error. So it included that
17 current EBA at the time and also the prior deferral
18 period.

19 Q. So how do you think that's analogous to the
20 circumstances here?

21 A. I think it's very analogous to that because in
22 this case, for the Schedule 137 cost, there was an error
23 that moved -- there was an error that caused those --
24 Schedule 137 cost to not move from the Company's billing
25 system over to its net power cost accounting system.

1 When the error was discovered, we made the prior period
2 entry to recover those costs. Customers received the
3 benefit of that generation that came onto the system,
4 and the Company is just seeking now to just recover
5 those costs for those prior periods.

6 Q. So do you agree that the general principle is
7 that since you are required to make an annual EBA filing
8 that expenses should be -- recovery of those expenses
9 should be close in time to when there's cost -- the cost
10 originated?

11 A. Yes, I do agree with that, but also understand
12 that the EBA is a balancing account, and not all
13 transactions can be closed as -- as close as possible
14 and -- which I think is the intent of the prior period
15 order that allows the recovery of costs for -- for prior
16 deferral periods.

17 Q. I guess I'm still trying to understand from
18 the testimony why it is you could not have included that
19 approximately \$4.8 million from Schedule 137 costs that
20 were accrued between January 2020 and December of 2022
21 in the prior EBA?

22 A. Good question, and they could have and should
23 have. It is definitely a Company error that those costs
24 were not recorded between the billing system and our net
25 power cost accounting system. So I -- I agree that

1 could have and should have but --

2 Q. The costs weren't in dispute. It wasn't
3 unknown. The costs were known and knowable; correct?

4 A. Exactly, yes.

5 Q. Okay. So hasn't the -- you would have a
6 better way to respond to this question that is outside
7 the scope of my experience -- but haven't costs in the
8 past been allowed as an exception to the -- to the
9 practice of being included in that given year's EBA --
10 haven't those been primarily situations where the costs
11 were unknown or unknowable at the time of the filing?

12 A. I think in common examples of prior period
13 adjustments that is the case, but not -- not always. I
14 believe the final example that the Company demonstrated
15 is an example of an error that occurred and that while
16 could have been knowable wasn't knowable to the Company
17 at the time and not discovered until a later period.

18 Q. Okay. All right. Thank you for your candor.
19 I have no further questions.

20 CHAIR FENN: I should have gone back to
21 Ms. Smith to see if she had any redirect after the cross
22 or --

23 MS. SMITH: It's okay. I did not have any
24 redirect after the cross.

25 CHAIR FENN: Okay. All right. All right. I

1 think that's everybody. Mr. Painter, thank you very
2 much for appearing today and testifying. I appreciate
3 it. It was very helpful.

4 THE WITNESS: Thank you.

5 CHAIR FENN: You can be excused.

6 The Company want to call its next witness?

7 MR. KUMAR: Thank you, Chairman. We'd like to
8 call Mr. Robert Meredith who is appearing, I believe,
9 electronically.

10 CHAIR FENN: All right. Mr. Meredith?

11 THE WITNESS: Can you hear and see me?

12 CHAIR FENN: Yes. We can see you. I
13 understand the way we've set it up today is you cannot
14 see us; is that correct?

15 THE WITNESS: That is correct. I can hear you
16 just fine.

17 CHAIR FENN: Okay. We -- the reason we did
18 that is we had some problems with the technology last
19 time around. We've decided this will be a much more
20 efficient way to handle the hearing. You will not have
21 a visual access to the hearing room, but we can see you.
22 So appreciate you being with us today, Mr. Meredith.

23 Will you raise -- please raise your right arm.

24 ROBERT MEREDITH

25 was called as a witness, and having been first duly

1 sworn to tell the truth, testified as follows:

2 CHAIR FENN: Thank you, Mr. Meredith.

3 Okay. We'll go to Mr. Kumar.

4 MR. KUMAR: Yes.

5 DIRECT EXAMINATION

6 BY MR. KUMAR:

7 Q. Mr. Meredith, could you please state and spell
8 your last name for the record.

9 A. Yes. My name is Robert Meredith, R-o-b-e-r-t.
10 Meredith is spelled M-e-r-e-d-i-t-h.

11 Q. And how are you employed by the Company?

12 A. My title with PacifiCorp is the director of
13 pricing and tariff policy.

14 Q. Have you caused to be filed direct and, I
15 believe, rebuttal testimony and associated exhibits in
16 this proceeding?

17 A. Yes.

18 Q. And do you have any changes or corrections to
19 that testimony or exhibits?

20 A. I do not.

21 Q. And if I were to ask you the same questions
22 today in that testimony, would you give the same
23 answers?

24 A. Yes.

25 MR. KUMAR: Mr. Chairman, I'd like to move for

1 the admission of Mr. Meredith's testimony and exhibits.

2 CHAIR FENN: All right. Seeing no objection
3 to that, we will admit the direct and rebuttal testimony
4 of Mr. Meredith and the accompanying exhibits. Thank
5 you.

6 (Robert Meredith's prefiled testimony and
7 exhibits were admitted into evidence.)

8 Q. (BY MR. KUMAR) Mr. Meredith, have you
9 prepared a summary of your testimony?

10 A. Yes, I have.

11 Q. Could you please provide it.

12 A. Sure. Good morning, Chair Fenn, Commissioner
13 Clark, and Commissioner Harvey. In my direct testimony,
14 I presented the Company's proposed rate spread and
15 prices for the 2024 energy balancing account, or EBA.
16 The proposed rate spread and rate design for the 2024
17 EBA was prepared in a manner consistent with prior EBA
18 balances. Following the Commission's order approving
19 interim rates, rates increased for customers by
20 \$256.5 million or 11.6 percent. This net change is the
21 difference between the prior collection level of
22 \$175.0 million and the new collection level of
23 \$431.6 million for the 2024 EBA.

24 In its direct testimony, the Utah Association
25 of Energy Users, or UAE, noted that for rate spread

1 Schedule 9 was lumped together with Schedule 31 and
2 Schedule 32 but that the actual EBA recovery set for
3 Schedule 31 and Schedule 32 was less than what was
4 assigned to these two schedules. This is primarily
5 because the EBA surcharge for Schedule 32 does not apply
6 to the revenue for purchase power agreement, or PPA,
7 designated for Schedule 32 customers. The shortfall
8 from this difference ends up being assigned to
9 Schedule 9 in the Company's pricing model.

10 UAE witness Dr. Higgins recommended in his
11 direct testimony that the Commission order the Company
12 to credit Schedule 9 by this amount in the 2024 EBA
13 deferral and fund it on a pro rata basis from all other
14 classes, including Schedule 9. He also recommended that
15 the Commission order the Company to change its
16 methodology going forward in future EBAs so that the
17 deferral costs do not get allocated to revenue
18 associated with the PPA designated for Schedule 32.

19 In my rebuttal, I largely agreed with
20 Dr. Higgins that the Company's methodology was a
21 simplification that was unfair for Schedule 9. However,
22 the Company recommended a slightly different approach
23 under which Schedule 31 and Schedule 32 would not be
24 grouped together with Schedule 9 for rate spread.
25 Instead, the EBA price applicable to the corresponding

1 full requirement rate schedules would be applied to the
2 billing determinates for Schedule 31 and Schedule 32 to
3 determine their EBA revenue, and the rate spread for all
4 other classes would be dynamically adjusted to account
5 for the EBA revenue from Schedule 31 and Schedule 32.

6 Making this change would introduce iterative
7 logic to the EBA pricing work papers but would result in
8 a more fair allocation to Schedule 9 and all other
9 customers.

10 My recommendation for the Commission is to
11 approve this methodology for the Company's EBA filings
12 going forward and to approve adjusting the recovery from
13 Schedule 9 downward by the \$3.3 million value shown on
14 my Exhibit RMM-3R and adjusting the recovery from all
15 other full requirement classes to make up the shortfall.

16 In surrebuttal, UAE agreed with my
17 recommendation. No other parties address this issue.
18 This concludes my summary statements.

19 CHAIR FENN: Okay. Thank you, Mr. Meredith,
20 for your summary. I appreciate it.

21 Anything, Mr. Kumar?

22 MR. KUMAR: No. Mr. Meredith is available for
23 cross-examination and Commissioner questions.

24 CHAIR FENN: Okay. Let's -- we'll go through
25 the same order. We'll go to the Division first. Do you

1 have any cross?

2 MR. GRECU: No questions.

3 CHAIR FENN: Okay. The Office?

4 MR. MOORE: No questions. Thank you.

5 CHAIR FENN: Okay. Mr. Russell?

6 MR. RUSSELL: No questions. Thank you.

7 CHAIR FENN: Okay. Is Mr. Higgins going to
8 testify later with respect to the position on -- you're
9 in agreement on this essentially?

10 MR. RUSSELL: He will be testifying later,
11 yes.

12 CHAIR FENN: Okay. All right. Okay. Let's
13 go to Commissioner Harvey -- let's go to Commissioner
14 Harvey and see if he has any questions.

15 EXAMINATION

16 BY COMMISSIONER HARVEY:

17 Q. Hello.

18 A. Good morning.

19 Q. I have just a few questions to clarify my
20 understanding of the EBA procedures as how it relates to
21 Schedule 31 and 32. So these questions are not directly
22 concerning the proposed issue. I just want to
23 understand it a bit better.

24 So the PPA -- energy derived from PPAs -- is
25 that not subject to any EBA charges because it's

1 directly contracted by those customers, or what's the --
2 what's the mechanism or logic there?

3 A. Sure. So what happens with the EBA is that
4 it's applied to power and energy charges, not to any
5 other charges, not to customer charges, not to facility
6 charges. The PPA is really a unique type of revenue for
7 Schedule 32 customers where the Company is paying that
8 PPA, but it is essentially like a pass-through in the
9 sense that the -- the customer pays the Company. The
10 Company turns right around and pays the PPA. And so it
11 is -- the EBA percentage is not applied to that PPA
12 price. Rather, for Schedule 32 customers, the EBA
13 surcharge gets applied to -- really to supplemental
14 power and energy charges, which are reflective of the
15 service they're receiving from the Company.

16 Q. And the -- the cash flows that are associated
17 with those PPAs in terms of what the Schedule 31 and 32
18 companies paying RMP and then RMP pays the supplier --
19 do those cash flows go through the EBA, or are they
20 accounted for separately?

21 A. Oh, boy. I am not sure whether those are
22 specifically in the net power costs that are in the EBA
23 or not. I know that I looked at this in detail when I
24 was preparing the general rate case to try to make sure
25 that we understood exactly where it was in or out. I

1 would probably have to look at my records a little bit
2 deeper to remember whether it was actually in the EBA or
3 not. I don't remember right now.

4 Q. Okay. Thank you. As a follow-up to that, is
5 it your understanding that the Schedule 31 and 32
6 customers pay all of the costs associated with getting
7 that power?

8 A. I do believe that Schedule 31 and Schedule 32
9 pay all the costs of the PPA, the PPA being specific to
10 32, not to Schedule 31. It's not a concept for
11 Schedule 31, but the PPA for Schedule 32 customers is
12 entirely paid for by those customers.

13 Q. All right. So based on those answers, I would
14 conclude -- and tell me whether I'm correct or not --
15 that whether those are included in the EBA or not, the
16 net effect should be zero on the EBA?

17 A. I would think -- I think that the net impact
18 is zero for other customers since it is a pass-through.
19 Trying to think here mechanically how that would work
20 with the EBA -- I think that -- yeah. I don't want to
21 guess what it is, if it's in or out, but I would think
22 that that would be balanced with the revenue that comes
23 in because it's revenue that the Company receives then
24 an expense that the Company pays out, but I don't want
25 to guess if it's in there or not specifically in the

1 EBA, but, yes, I -- my understanding is that it is
2 entirely paid for by those customers.

3 Q. Thank you. And then a final question. You
4 just mentioned -- and I should have been aware of it --
5 but that the 31 -- Schedule 31 is not associated with
6 PPAs. So why were they part of this discussion in terms
7 of -- it's always referred to Schedule 31 and 32 and
8 then Schedule 9. What was the connection with Schedule
9 31? Is it just the modeling?

10 A. It is the modeling. I think that Dr. Higgins
11 identified the PPA as the largest source of -- of
12 difference for Schedule 9. I think upon -- reflecting
13 upon what Dr. Higgins was saying, I came to a slightly
14 different conclusion, which was that Schedule 9 is
15 grouped together with Schedule 31 and 32, and then the
16 ultimate rate spread for that sort of class of those
17 three schedules is then lumped together. I think that
18 the trouble with the way the modeling was working, from
19 my perspective when I dive into it more, is that the
20 rate spread was just kind of a uniform percentage
21 applied to 9, Schedule 31, Schedule 32, including
22 Schedule 32's PPA, which is not insignificant because
23 there's a large PPA component to it.

24 But in reality, both of those classes -- sorry
25 both of those rate schedules, Schedule 31 and Schedule

1 32, have a part of their service that is supplemental
2 service that is like a full requirements customer with
3 power charges and energy charges, but a significant part
4 of their revenue is backup facilities charges and the
5 PPA costs for Schedule 32. That backup facilities
6 charge is there to account for the fact that a partial
7 requirements customer has on-site generation and depends
8 upon the company's grid to serve it really at a moment's
9 notice if their generation becomes unavailable.

10 And so because of that, even though those rate
11 schedules are relatively smaller than Schedule 9, it's
12 sort of overinflated the amount of costs being assigned
13 to that bundle of rate schedules -- Schedule 9, Schedule
14 31 and Schedule 32. And then once it went into the rate
15 spread itself, that total pot of dollars assigned to
16 those three rate schedules -- it played out to where the
17 percentages were applied to the power and energy
18 charges, but then more costs got assigned to Schedule 9.

19 And so the Company's recommendation there is
20 to instead pull out Schedule 31 and Schedule 32, treat
21 them independently, meaning that, in an iterative
22 fashion, the power charges and energy charges would be
23 applied to the percentage for full requirements
24 customers for the EBA price. That revenue would be
25 determined and then would feed back into the amounts

1 that are assigned to all rate schedules, which I think
2 is a better logic for this to keep Schedule 9 just
3 isolated on its own since that is ultimately what the
4 allocator is looking at -- is the cost of service for
5 Schedule 9.

6 Q. Thank you. Thank you for that explanation.
7 That's all my questions.

8 CHAIR FENN: Commissioner Clark?

9 COMMISSIONER CLARK: I don't have any
10 questions. Thank you, Mr. Meredith.

11 EXAMINATION

12 BY CHAIR FENN:

13 Q. Mr. Meredith, I just wanted to understand the
14 dollars amounts. So as I read your rebuttal testimony,
15 you recommended that Schedule 9 receive a \$3.3 million
16 lower price increase; is that -- is that accurate?

17 A. Yes.

18 Q. There was also a statement that Schedule 31
19 and 32 would experience a -- and I think this is your
20 language -- a slightly lower price increase.

21 A. Right.

22 Q. What is that slightly lower price increase? I
23 didn't see that.

24 A. Yeah. Let me pull that up here. It would be
25 on my Exhibit RMM-3R. And if I'm looking at that and I

1 look at Schedule 31 and Schedule 32, for Schedule 31 it
2 would be \$114,000. For Schedule 32, it would be
3 \$18,000.

4 Q. Okay. All right. Okay. I understand why you
5 would have referred to it in your testimony just as a
6 slightly lower price increase, but thank you for those
7 numbers, but the bottom line is, is that if you add
8 those numbers together, the 3.3 million and then these
9 relatively minor amounts for Schedule 31 and 32, the
10 total of that is then proposed to be passed on, if you
11 will, or the impact of that would be to increase the
12 other schedules, and that is estimated by you to be a
13 .2 percent price increase; is that correct?

14 A. That is correct.

15 CHAIR FENN: Okay. All right. I have no
16 further questions. Thank you, Mr. Meredith.

17 Anything else from Mr. Meredith?

18 Okay. We'll excuse you. Thank you for
19 testifying today, Mr. Meredith, and you can -- you can
20 drop off if you choose, or you can stay on and
21 participate electronically if you'd like. Okay? Thank
22 you.

23 THE WITNESS: Okay. Thank you.

24 CHAIR FENN: Appreciate it, Mr. Meredith.

25 Okay. We'll turn back to the Company.

1 MS. SMITH: Yes. The Company would now like
2 to call Brad Richards as its next witness.

3 CHAIR FENN: Mr. Richards, welcome. Thank
4 you. Would you please raise your right arm.

5 BRAD RICHARDS
6 was called as a witness, and having been first duly
7 sworn to tell the truth, testified as follows:

8 CHAIR FENN: Thank you very much. You may be
9 seated.

10 DIRECT EXAMINATION

11 BY MS. SMITH:

12 Q. Mr. Richards, can you state and spell your
13 name for the record.

14 A. Yes. It is Brad Richards, B-r-a-d
15 R-i-c-h-a-r-d-s.

16 Q. And what is your role with the Company?

17 A. I am the vice president of thermal generation.

18 Q. Did you cause to be filed rebuttal -- sorry --
19 response, rebuttal, and surrebuttal testimony in this
20 proceeding?

21 A. Response and surrebuttal.

22 Q. Thank you.

23 A. Yes.

24 Q. Do you have any changes or corrections to
25 those testimonies?

1 A. I do not.

2 Q. If I asked you the same questions in those
3 testimonies, would you provide the same answers?

4 A. Yes.

5 MS. SMITH: At this time I'd like to move for
6 admission for Mr. Richards' testimonies and correlating
7 exhibits.

8 CHAIR FENN: Okay. Were there exhibits to
9 both the response and the surrebuttal testimony?

10 THE WITNESS: I don't believe there were.

11 CHAIR FENN: Yeah. I didn't remember seeing
12 exhibits.

13 MS. SMITH: My apologies. I was getting going
14 with my notes. I'll take that back.

15 CHAIR FENN: No problem. It's just testimony.
16 There's no exhibits; correct?

17 THE WITNESS: Correct.

18 CHAIR FENN: Okay. That's what I thought.
19 Okay. All right.

20 MS. SMITH: Thank you for that correction.
21 Sorry.

22 CHAIR FENN: No -- no problem. I just wanted
23 to make sure I wasn't losing my mind because I didn't
24 see any testimony -- or any exhibits when I was
25 reviewing the testimony.

1 Okay. Any objection? Seeing no objections,
2 we'll admit Mr. Richards' response and surrebuttal
3 testimony. Thank you. All right.

4 (Brad Richards' prefiled testimony was
5 admitted into evidence.)

6 MS. SMITH: Thank you.

7 Q. (BY MS. SMITH) Mr. Richards, have you
8 prepared a summary today?

9 A. I have.

10 Q. Please proceed.

11 A. Good morning, Chair Fenn, Commissioner Clark,
12 and Commissioner Harvey. As part of this docket, my
13 team and I provided portions of the initial filing
14 requirements, including the thermal outage log and
15 performance statistics. We further provided useful
16 information to support the regulatory review process by
17 submitting over 90 additional documents and responses to
18 over 30 supplemental questions comprising six sets of
19 data requests.

20 In my response and surrebuttal testimonies, I
21 respond to the Daymark audit report and their
22 recommendations for disallowance related to outages at
23 the Company's thermal generating units. I also correct
24 certain errors made by Daymark related to those outages.

25 My testimony demonstrates how the Company

1 diligently seeks additional resources when required and
2 implements unique solutions to properly address and
3 resolve issues as elaborated in the descriptions I
4 provided related to the boiler tube --

5 (Reporter clarification.)

6 A. -- related to the boiler tube leak at Naughton
7 Unit 2. As I've explained, a chemical cleaning alone
8 would not have resolved the issue in itself and is
9 itself not an insignificant undertaking.

10 Resolution first required new equipment and an
11 enhanced approach to water chemistry analysis as well as
12 a unique method to locate the source of the
13 contamination before repairs were made. The Company
14 followed sound engineering practices to identify and
15 address the issue through an iterative process before
16 then completing repairs and performing a thorough
17 cleaning of the boiler.

18 The Company's generating units are complex
19 facilities which utilize diverse array of equipment to
20 provide dispatchable energy to its customers. My
21 testimony demonstrates the Company makes decisions
22 regarding the maintenance repair and replacement of
23 equipment based on observable, operational information
24 and in consideration of safety while making reasonable
25 efforts to utilize remaining useful life of its

1 equipment.

2 Daymark improperly conflates imprudence with
3 avoidability and the issue is whether an outage has
4 occurred in the course of a prudent operation, not
5 whether an outage was potentially avoidable. My
6 testimony demonstrates that the Company prudently
7 manages its thermal fleet to the benefit of its
8 customers. I recommend the Commission reject the
9 proposed disallowances for the four remaining thermal
10 outages referenced in the Daymark audit report. And
11 that concludes my summary.

12 MS. SMITH: Thank you.

13 At this time, considering the content likely
14 to be discussed, the Company would like to suggest
15 moving into a confidential session.

16 CHAIR FENN: Okay. Does anybody want to
17 address that -- have any objection to that?

18 Okay. So we will -- we are now hereby
19 convening a confidential session of this proceeding.
20 This will be closed to anyone who has not signed the
21 confidentiality agreement. So if you're present -- if
22 there's anyone present in person who is not a signatory
23 who hasn't signed the document and submitted it to the
24 Commission on the record as bound by the confidentiality
25 terms, we'll ask you to leave.

1 And I'll ask the, you know --

2 MS. PASCHAL: There's a phone number I don't
3 recognize.

4 CHAIR FENN: Okay. We'll cover that one too.
5 So is there anyone here who needs to step out for this
6 session? You've all signed -- and I guess I'll ask the
7 counsel. You can look around and make sure that there's
8 nobody here you don't recognize that you've got any
9 concerns about. The only other ones are Commission
10 staff that are in here.

11 There is also a phone number. So everyone
12 who's on the -- on the feed, the video feed -- I know
13 Mr. Meredith, Mr. DiDomenico, and Mr. Hayet -- I'm sure
14 you signed the -- the confidentiality agreement.
15 There's a telephone number there that I don't recognize,
16 and if you could identify yourself. It begins 801 --

17 MS. PASCHAL: That's us.

18 CHAIR FENN: I did -- I did this last time,
19 didn't I? You're going to learn by your own
20 experiences, but apparently it's going to take me a
21 little more than twice to figure that out.

22 Okay. So we also have a 770 that ends in 15.
23 Can you identify yourself?

24 MR. HAYET: Yes. Can you hear me? This is
25 Philip Hayet.

1 CHAIR FENN: Okay. That's interesting.
2 You're up there twice.

3 MR. HAYET: I'm up there twice because I
4 couldn't hear. So I -- I called in, and now I'm able to
5 hear. I don't know why.

6 CHAIR FENN: Okay. Great. We've resolved
7 that. We just didn't recognize the number. That's
8 fine. All right. So anybody need to leave? Okay.
9 We're -- anybody who's not signed the confidentiality
10 agreement is out of the room. This portion of the
11 proceeding -- what do we do with that, Melissa? It's
12 not -- it's obviously --

13 MS. PASCHAL: It's not being streamed anymore.

14 CHAIR FENN: It's not being streamed any
15 longer. You quit streaming. Okay. So it's not being
16 streamed. So we should be -- we should be good. I
17 think we can go forward now.

18 * * * * *

19 (THE FOLLOWING PORTION OF TRANSCRIPT
20 PAGES 41-67 HAVE BEEN MARKED
21 CONFIDENTIAL.)
22
23
24
25

1 CHAIR FENN: We're ready to move on to the
2 next witness.

3 MR. KUMAR: Thank you. We are going to call
4 Mr. Wilding next.

5 CHAIR FENN: Okay.

6 MR. KUMAR: But Mr. Wilding's summary, I
7 believe, is entirely public, but to the extent that
8 there are questions on, you know, hedging practices and
9 things like that, we may get into confidential session.
10 So I just want to note that for the record.

11 CHAIR FENN: Let's deal with it as it comes
12 up. If it comes up and he responds, "That would require
13 me to provide confidential information," we'll go back
14 into close session. Okay? Let's go ahead then.

15 MR. KUMAR: Thank you. The Company would like
16 to call Mr. Wilding then.

17 CHAIR FENN: Mr. Wilding, I would say welcome
18 back, but I'm sure that's not appropriate. You don't --
19 you don't feel welcome in any of these proceedings. No
20 one ever does.

21 All right. Will you raise your right arm to
22 the square. Thank you.

23 MICHAEL G. WILDING
24 was called as a witness, and having been first duly
25 sworn to tell the truth, testified as follows:

1 CHAIR FENN: Thank you. Please be seated.

2 MR. KUMAR: Mr. Wilding, are you ready?

3 THE WITNESS: I am.

4 DIRECT EXAMINATION

5 BY MR. KUMAR:

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

8 A. Yes. It is Michael G. Wilding. That's
9 M-i-c-h-a-e-l, middle initial G, W-i-l-d-i-n-g.

10 Q. And how are you employed by the Company?

11 A. I am the vice president of Energy Supply
12 Management.

13 Q. And have you caused to be filed response,
14 rebuttal, and surrebuttal testimony with associated
15 exhibits?

16 A. Yes.

17 Q. And do you have any changes or corrections to
18 that testimony?

19 A. No, I do not.

20 Q. And if I were to ask you those same questions
21 today, would you give the same answers?

22 A. Yes, I would.

23 MR. KUMAR: I'd like to move for the admission
24 of Mr. Wilding's testimony and exhibits.

25 CHAIR FENN: Okay. Without objection, we'll

1 admit the response and rebuttal and surrebuttal
2 testimony of Mr. Wilding with the accompanying exhibits.

3 (Michael Wilding's prefiled testimony and
4 exhibits were admitted into evidence.)

5 Q. (BY MR. KUMAR) Mr. Wilding, have you prepared
6 a summary of your testimony for the Commission?

7 A. Yes, I have.

8 Q. Could you please provide it?

9 A. Yes, I will. Good morning, Commissioners.
10 Thanks for having me again.

11 In my testimony I explain how Utah customers
12 benefit from PacifiCorp's system. PacifiCorp operates
13 two balancing authority areas with transmission
14 connecting the two areas. The first balancing authority
15 area is PacifiCorp West, or PAC West, which generally
16 consists of our generation and transmission assets and
17 customer loads geographically located in California,
18 Oregon, and Washington. From PacifiCorp West, we can
19 access the power market hubs in the northwest -- namely
20 the Mid-C, or Mid-Columbia, market and the
21 California-Oregon Border, or COB, market hubs.

22 Our PacifiCorp East balancing area for -- our
23 balancing authority area, or PACE, generally consists of
24 our generation and transmission assets and our customer
25 loads geographically located in Idaho, Utah, and

1 Wyoming. From PACE, we are able to access the southwest
2 power market hubs: Palo Verde, Mona, and Four Corners.
3 And the Company co-optimizes the two balancing authority
4 areas and uses its transmission rights to serve load in
5 a least cost manner.

6 A big part of providing reliable energy in a
7 least cost manner is our hedging program, and we hedge
8 by making physical power transactions in the forward
9 market to protect against both price volatility and
10 power supply risk.

11 My rebuttal testimony first responds to
12 concerns by the Utah Division of Public Utility's
13 witness Mr. Gary Smith who has suggested an adjustment
14 to reduce the allocation of power hedges the Company
15 enters into on the west side of our system from
16 44 percent to 20 percent. This adjustment is based on
17 the misunderstanding by the Division that Utah customers
18 do not benefit from the load, resource, and geographic
19 diversity provided by PacifiCorp's transmission and
20 generation system.

21 Specifically, Mr. Smith suggests that all the
22 Company's hedges at Mid-C do not benefit or serve Utah
23 customers. What Mr. Smith does not understand is that
24 the reality is just the opposite of what he has
25 suggested. Utah customers benefit greatly from the

1 Company having access to and being able to hedge at
2 Mid-C, and the Company uses these purchases of physical
3 energy to serve system load.

4 Notably, Mr. Smith does not suggest an
5 alternative action that the Company should have taken in
6 place of hedging at Mid-C that would replace the lost
7 energy and still reliably serve load. The obvious
8 alternative is to perhaps instead make those hedges or
9 market purchases in the southwest closer to the Utah
10 load so that purchased electrons would be more likely to
11 be consumed by Utah customers. However, Mid-C is the
12 most liquid market hub in the western United States, and
13 this alternative presents a liquidity problem.

14 Additionally, Utah customers benefit from the
15 Company hedging at Mid-C because it is generally more
16 cost effective. Most of the Company's hedging activity
17 is in the summer months, and generally speaking the
18 northwest has more mild summers and experiences lower
19 peak loads than the southwest, and the price difference
20 between Mid-C and the southwest typically will reflect
21 that. This is the diversity benefit that I mentioned
22 earlier.

23 While true that most of the Company's
24 generation is located in PACE, making economic hedges at
25 Mid-C allows the Company to use the flexibility of the

1 Company's transmission system to benefit all of our
2 customers, including Utah customers. This works by
3 economically hedging at Mid-C, which is the low cost
4 option and the more liquid market, and using that
5 purchase energy to serve load in a PacifiCorp West area
6 and then using the generation geographically located in
7 PACE to serve customers here.

8 Notably, all customers in each of our states
9 pay for generation across our systems. For example,
10 Utah customers pay the costs of generation located in
11 all of our states, including Oregon and Washington, and
12 Washington and Oregon customers also pay for the costs
13 of generation located in all of our states, including
14 Utah and Wyoming.

15 If we were to operate the way Mr. Smith seems
16 to be implying, the Company would have to reserve the
17 transmission to send a significant amount of energy from
18 the generation plants located in Utah and Wyoming to
19 PacifiCorp West and then enter into the same amount of
20 hedging transactions in the southwest, likely at a
21 higher cost. It is unclear if the Division understands
22 this concept, because by recommending that the majority
23 of Mid-C hedges be disallowed, they seem to understand
24 that at least a portion of the Mid-C hedges benefit Utah
25 customers.

1 When Mr. Jones proposed a similar adjustment
2 in the general rate case, it was noted that this new
3 allocation method is inconsistent with the 2020
4 Protocol, but the DPU believes that is okay as the DPU
5 deems the 2020 Protocol an unjust allocation. However,
6 this is nothing more than cherry-picking the marginal
7 resource used to serve load and disallowing those costs
8 for no other reason than market purchases are the most
9 expensive source.

10 Presumably, Mr. Smith would rely on the
11 generation resources geographically located in PACE to
12 serve Utah load rather than make hedges or market
13 purchases at Mid-C. The only problem with this, and as
14 I noted earlier, is that customers throughout our
15 six-state service territory have paid for the resources
16 located in PACE and are entitled to the benefits of
17 those resources. Utah cannot simply take all the
18 benefits of those resources.

19 Additionally, this implication that the 2020
20 Protocol is unjust is odd as it has been used in
21 multiple regulatory filings and the Division was a
22 signatory.

23 Finally, the Company has a robust and prudent
24 hedging program to mitigate price volatility and reduce
25 supply risk under increasingly volatile and scarce

1 market conditions. Notably, the Company files a
2 semiannual hedging report with the Commission as is
3 continuously working with the Division and their
4 consultant to improve the program and the documentation
5 available for review in the EBA.

6 I will additionally address the Company's
7 inclusion of the cost of purchasing allowances for the
8 Chehalis generating facility in order to comply with the
9 Climate Commitment Act of Washington.

10 Rocky Mountain Power's required to comply with
11 the laws in all of the states in which it operates, and
12 this includes laws related to environmental compliance
13 and taxes. Disallowing recovery of the compliance cost
14 penalizes the Company for complying with Washington's
15 state law. The DPU and UAE do not dispute that the
16 Company is required to obtain emission allowances for
17 Chehalis generation and do not recommend that the
18 Company remove the benefit of Chehalis generation from
19 Utah rates. Instead, they are recommending that the
20 Company remove the generation costs that were
21 prudently -- prudent and necessary for the operation of
22 the facility for the benefit of Utah customers.

23 I request that the Commission deny the
24 Division's proposal to unreasonably adjust net power
25 costs and that the Commission allow customers to benefit

1 from the load and resource diversity of PacifiCorp's
2 system. Additionally, I recommend the Commission deny
3 the DPU and UAE and OCS's recommendation to remove the
4 CCA compliance cost from the EBA.

5 Thank you. This concludes my testimony.

6 CHAIR FENN: Thank you, Mr. Wilding, for your
7 summary. Appreciate it.

8 Anything before you turn him over for cross?

9 MR. KUMAR: No. Mr. Wilding is available for
10 cross-examination.

11 CHAIR FENN: Okay. Let's go to the Division.
12 Ms. Schmid?

13 MS. SCHMID: Thank you. The Division has just
14 a few questions for Mr. Wilding. Mr. Grecu will pass
15 out a cross-examination exhibit that I'd like to have
16 marked as DPU Cross Exhibit 1, and may he approach the
17 witness when he gives the witness that?

18 CHAIR FENN: Sure. Absolutely. And he can
19 give it to us first.

20 MS. SCHMID: Yep.

21 CHAIR FENN: And then to the witness.

22 COMMISSIONER CLARK: Thank you.

23 CHAIR FENN: Okay. We'll give Mr. Wilding a
24 moment or two to review that, but this is -- this would
25 be marked as DPU Cross 1; is that correct?

1 MS. SCHMID: Yes.

2 CHAIR FENN: And let's see if anyone has an
3 objection to this exhibit being admitted. Any objection
4 from Rocky Mountain Power? I'll give you a second
5 longer to look it over if you're still looking.

6 MR. KUMAR: To the extent that this is a
7 section of the United States -- it looks like United
8 States Code, I don't think we have an objection.

9 CHAIR FENN: As I -- as I look at it -- and
10 let's ask a clarifying question just before we admit it.
11 This is -- there's no commentary on this. This is just
12 an excerpt from United States Code -- USC Code
13 Annotated; is that correct?

14 MS. SCHMID: That is correct with the
15 statutory references to the public law and things like
16 that.

17 CHAIR FENN: Sure.

18 MS. SCHMID: But no commentary.

19 CHAIR FENN: Yeah. Okay. But this is just
20 something that you pulled off of Section 391 off of
21 Westlaw?

22 MS. SCHMID: It is.

23 CHAIR FENN: Okay. Any objections to its
24 admission?

25 No. Okay. We'll admit DPU Cross 1.

1 (DPU's Cross Exhibit 1 was admitted into
2 evidence.)

3 MS. SCHMID: Thank you.

4 Q. (BY MS. SCHMID) Mr. Wilding, have you had a
5 chance to read this short paragraph?

6 A. Yes, just -- just now.

7 Q. I have a -- very few questions. For ease of
8 the record, I'm going to read the paragraph into the
9 record, and I will ask counsel for the Company to help
10 make sure that I read it correctly.

11 It is 15 USCA Section 391 entitled "Section
12 391. Tax on or with respect to generation or
13 transmission of electricity." The paragraph reads, "No
14 state, or political subdivision thereof, may impose or
15 assess a tax on or with respect to the generation or
16 transmission of electricity which discriminates against
17 out-of-State manufacturers, producers, wholesalers,
18 retailers, or consumers of that electricity. For
19 purposes of this section a tax is discriminatory if it
20 results, either directly or indirectly, in a greater tax
21 burden on electricity which is generated and transmitted
22 in interstate commerce than on electricity which is
23 generated and transmitted in intrastate commerce."

24 Did I read that correctly?

25 A. Yes.

1 Q. Thank you.

2 CHAIR FENN: And we'll just note as a
3 Commission that that -- that's an accurate -- you read
4 that exactly as it appears in the cross-examination
5 exhibit.

6 MS. SCHMID: Thank you.

7 Q. (BY MS. SCHMID) Do I understand correctly
8 that Rocky Mountain Power considers the Washington CCA
9 compliance costs for Chehalis as a tax?

10 A. I believe that it is analogous -- I can't
11 speak -- it's similar to a tax for sure and functionally
12 works as a tax. It's -- in my testimony I speak to it
13 being a generation cost because the only way to incur
14 that cost and the only way to avoid that cost is either
15 to generate or to not generate at Chehalis. So it is a
16 tax or a price or a cost associated with the emissions
17 at Chehalis due to generating.

18 Q. Thank you.

19 PacifiCorp's Washington customers do not pay
20 the same amount for that tax as PacifiCorp's customers
21 in other states; is that correct?

22 A. Generally speaking, yes. The way -- the way
23 the law works is that Chehalis incurs an allowance for
24 its emissions, and those allowances typically have to be
25 purchased. Now, Washington load -- Washington retail

1 customers receive free allowances from the state of
2 Washington to offset the allowances that are required
3 for their share of the emissions from Chehalis. So
4 generally speaking, yes.

5 You know, we don't think this is fair. I
6 think I noted that in my testimony. We have a pending
7 lawsuit in the federal court system. The first lawsuit
8 that we brought against the Washington Department of
9 Ecology was dismissed, and we currently have it at the
10 court of appeals. I don't know all the formalities.
11 Sorry. I'm not a lawyer, but, generally speaking, I
12 think that's correct it's at the court of appeals. It's
13 being appealed.

14 Q. Thank you. Never apologize for not being a
15 lawyer. Some of us have to apologize for. Anyway, I
16 digress.

17 Okay. Turning now to USCA Section 391 that I
18 just read into the record, I'd like to ask a -- your
19 opinion, as an expert witness for the Company, not as a
20 lawyer, on the layperson's reading of the code.

21 MR. KUMAR: Mr. Chairman, at this point, I
22 would like to object. I mean, while Ms. Schmid has
23 acknowledged that Mr. Wilding is not a lawyer, I think
24 it's important to state for the record that Mr. Wilding
25 is, of course, still not a lawyer, as we noted a few

1 times now, nor is he a tax expert and that he may not be
2 able to interpret a section of the United States Code
3 regarding taxes that has been placed in front of him.

4 CHAIR FENN: I think -- thank you, Mr. Kumar.
5 I think that your objections will help us limit the
6 scope of what can be asked of Mr. Wilding, that he's not
7 a tax expert, he's not a lawyer. And if he has an
8 opinion as a layman, as Ms. Schmid has asked, he can
9 answer that, given the parameters or the restrictions on
10 the scope of his expertise.

11 So you can ask your question again.

12 MS. SCHMID: Thank you.

13 Q. (BY MS. SCHMID) Is PacifiCorp's position that
14 the CCA compliance costs are a tax and they affect
15 Washington customers differently than customers in other
16 states? I'm just reiterating what I asked before.

17 And you can just refer back to your prior
18 answer if that's easier.

19 A. Okay. I refer back to my prior answer.

20 Q. Doesn't it seem, from a layman's reading, that
21 the Washington CCA tax would be illegal under 15 USCA
22 Section 391?

23 A. Again, I'm not a lawyer. So I think, yes, we
24 agree. We do not think the tax is a legal -- I can't --
25 I know we are making an interstate commerce argument in

1 our case. What section that applies to, I'm not going
2 to opine on that, but, again, as I noted, the Washington
3 CCA has been upheld once already in federal court and
4 then again -- one in a case before ours, again with our
5 first case that was dismissed that we are now appealing.

6 So it is the current Washington law right now,
7 and, you know, my opinion really doesn't matter. If
8 it's the Washington law and we have to comply with it,
9 and in order to generate at Chehalis we are incurring
10 costs, we think those costs are -- should be, you know,
11 coupled with the benefits, and as the benefits are
12 flowing through to Utah customers, the costs should as
13 well.

14 So, really, my opinion doesn't really matter.
15 Like, I agree it's an unfair law, and that's partially
16 why we're suing the state of Washington, but as we stand
17 here today, it is the current law, and those costs are
18 being incurred because of generating at Chehalis for the
19 benefit of all of our customers, including Utah
20 customers.

21 Q. Thank you. I have no further questions.

22 CHAIR FENN: Okay. Thank you, Ms. Schmid.

23 Mr. Moore, do you have any questions?

24 MR. MOORE: I have none. Thank you.

25 CHAIR FENN: Okay. Thank you.

1 Mr. Russell, questions of this witness?

2 MR. RUSSELL: Yeah, I do have some questions.

3 CROSS-EXAMINATION

4 BY MR. RUSSELL:

5 Q. My questions will be limited to your testimony
6 relating to the Climate Commitment Act or the CCA.

7 Your position in this docket is that the CCA
8 is a -- is a generation tax? Is that your position?

9 A. It's a generation tax. It's a cost of
10 generation. It's -- again, I'm reading this -- I'm not
11 a lawyer. It's a cost associated with generating at
12 that plant. You incur it when you generate. You avoid
13 it when you don't generate.

14 Q. Yeah. And I want to touch on that point
15 shortly, but let's -- let's focus on the -- the -- the
16 obligations you have to comply. So there are
17 allowances, I gather, that are required for the Company
18 to acquire them to comply with the law; is that right?

19 A. Yes, that's right. For every metric ton of
20 greenhouse gas emissions that we incur, we have to buy
21 one allowance to offset that.

22 Q. Well, but not for every metric ton. You don't
23 have to buy them for every metric ton. You only have to
24 buy them for the metric tons that are associated with
25 serving customers outside the state of Washington;

1 right?

2 A. Yes, that's correct. So we receive free
3 allowances for the amount of emissions that are
4 associated with the retail load of Washington customers.
5 That's correct.

6 Q. Yes. So I actually want to talk about how the
7 no-cost allowances, which I think is the sort of term of
8 art that gets used, are allocated to PacifiCorp. One of
9 the -- the exhibits provided or attached to the rebuttal
10 testimony that the Division provided was a response to a
11 data request that said something to the effect of that
12 no-cost allowances are directly attributable or -- to
13 Washington load but not to Chehalis. Do you recall
14 that?

15 A. I would need you to point me to the data
16 request and perhaps give me a --

17 Q. Fair enough.

18 A. -- give me a copy because I don't have one.

19 Q. Yeah. And I actually don't have a copy. I'm
20 hoping that the Division can get it to you. It is DPU
21 Exhibit -- and it's to the rebuttal testimony -- 2.4 R.

22 A. You said 2.4 R? It's a DPU?

23 Q. Yes. And it is -- it was attached to the
24 rebuttal testimony of the Daymark witnesses,
25 Mr. DiDomenico and Mr. Koehler.

1 A. Yeah. I -- I'm there. I see it.

2 Q. Okay. So I was curious about this response --
3 and this is 11 -- this is the Company's response to DPU
4 Data Request 11.2 B. Where it says, "The no-cost
5 allowances Washington has decided to provide to its own
6 customers is tied directly to Washington's retail load
7 and the attributes associated with PacifiCorp serving
8 that load. The provision of no-cost allowances is
9 distinct from the generally applicable generation tax
10 imposed by the Washington Cap-and-Invest program."

11 And going back to up to "A," it says, "No-cost
12 allowances are provided based on PacifiCorp's Washington
13 retail load and not specifically for the Chehalis
14 plant."

15 I read that, and I find myself wondering how
16 is it -- like what is -- how -- how are the no-cost
17 allowances allocated to you? Is it completely
18 irregardless of the amount of generation at Chehalis, or
19 maybe you can just give us a narrative on how the
20 no-cost allowances are allocated?

21 A. Sure. The Washington allocation no-cost
22 allowances are based on the Washington retail load and
23 then what will be used to serve that load, if that makes
24 sense. So we -- we submit a forecast during a
25 compliance period, which is a -- before the compliance

1 period, which is a four-year period, and we say, "This
2 is the expected Washington load. These are all of the
3 resources that we are going to use to serve Washington
4 load." And not only are -- are the emissions for
5 Chehalis an instate generation subject to the CCA or the
6 carbon -- what is it -- the Climate Commitment Act but
7 so are imports into the -- the -- into the state.

8 And so you take that, and you look at that,
9 and you say, "Okay, Washington, you're going to have 'X'
10 amount of load, and you're going to be served by this
11 mix of resources, and so you're expected to have this
12 many emissions associated with -- you know, 'Y' amount
13 of emissions associated with the retail load." Part of
14 that is Chehalis, and we receive those no-cost
15 allowances to -- so that retail load in Washington is
16 not -- they receive no-cost allowances for all the --
17 all the emissions associated with retail load, including
18 the Chehalis emissions.

19 Q. Okay. I think I understood you to be saying
20 that the compliance obligation for the Washington load
21 includes the Washington allocated generation from
22 Chehalis and then also any out-of-state GHG emitting
23 resources that are allocated to Washington; right?

24 A. Yeah, yes. That's right. And the nuances of,
25 you know, how those allowances get to PacifiCorp and

1 what we have to retire, not quite up to speed on, but
2 the Chehalis allowances, because we generate in state,
3 we are also required to emit those and -- sorry. So we
4 are the emitting party, and so we have to retire those
5 allowances. So because, you know, it's our load and our
6 generation, we would get the free allowances that we --
7 are associated with Chehalis, or the no-cost allowances,
8 and then retire those.

9 Q. Okay. But the -- so we've been talking about
10 no-cost allowances. We're going to spend a little bit
11 of more time on that. I just want to make a distinction
12 here. The allowances that are not the no-cost
13 allowances -- those are applicable only to generation at
14 Chehalis and not to generation outside of the state?

15 A. That's right.

16 Q. Okay. In connection with the no-cost
17 allowances, when they are provided to you by the state,
18 is it for an annual period, for a monthly period? Can
19 you --

20 A. I -- I would need to check, but I believe it's
21 an annual period that -- so we submit the forecast for
22 the four-year compliance period, and I believe those
23 no-cost allowances are deposited into our account
24 annually.

25 Q. And when do you retire them?

1 A. It depends -- on when we retire them. We have
2 a holding limit, and so we can only bank and hold so
3 much of the allowances, whether they're purchased or
4 no-cost allowances, and then what we actually do is we
5 move them in -- so we have our holding account, and then
6 we move them into our compliance account. So typically,
7 because we have those holding limits, we do move those
8 no-cost allowances into the compliance account pretty
9 quickly, and then Washington goes into the compliance
10 account and actually retires them.

11 Q. Is the compliance obligation for all
12 allowances made -- is that done at the same time, or is
13 there a separate compliance obligation timing-wise for
14 the no-cost allowances?

15 A. No. It's all done at the same time. So you
16 have a four-year compliance period, and then each year
17 you have to retire or put in your compliance account
18 30 percent of the allowances that you need to comply,
19 and then by the end of the compliance period, end of
20 that four years, you have to retire, essentially, enough
21 allowances for the entire four years. So each year you
22 have a 30 percent target, but by the end of the
23 four years, you have to make up the whole 100 percent.

24 Q. Okay. And you all have reached out to the --
25 to the Department of Ecology -- the Washington

1 Department of Ecology to seek clarification about
2 whether you could apply the no-cost allowances to
3 customers or to emissions that are deemed to match
4 customer load in states other than the state of
5 Washington; right?

6 A. Yes, we have, and, in fact, during the
7 rulemaking -- you know, the law says that, you know,
8 retail electricity customers would receive free
9 allowances or that we would receive free allowances for
10 the Chehalis generation for the generation associated
11 with those customers. And we did seek clarification,
12 and we also, you know, took the position that, you know,
13 Washington Department of Ecology could interpret that to
14 mean all electric customers, even those outside of
15 Washington. They did not accept our interpretation or
16 our position, and they've said that, no, those no-cost
17 allowances have to be used for Washington.

18 Q. Right. And so those no-cost allowances are, I
19 guess, articulated as a benefit that are attributable
20 only to Washington customers; right?

21 A. Yes, that's correct.

22 Q. Okay. And, in fact, the paragraph that we
23 were reading here in DPU 2.4 R 11(b) makes reference
24 to -- I'll just read the last sentence of the first
25 paragraph. "Therefore, these no-cost allowances are

1 assigned consistent as a state-specific initiative under
2 3.1.2.1 under the 2020 multistate process
3 interjurisdictional cost allocation methodology, or 2020
4 Protocol"; right?

5 A. Right. Those no-cost allowances -- yes. They
6 are allocated to Washington load because that's the
7 Washington law. So to comply with the Washington law.

8 Q. Okay. Let's talk a bit about the -- the
9 allowances that are not the no-cost allowances. So you
10 mentioned that you have to retire allowances to -- to
11 match -- I forget what the measurement was or the metric
12 was of GHG emissions. You have it off the top of your
13 head; right?

14 A. Yeah, one million metric ton of emissions is
15 one allowance.

16 Q. Okay. And so I assume then that -- you've
17 indicated that there's a forecast of generation -- I
18 assumed -- to get the no-cost allowances, I assumed that
19 the Company does something similar when it acquires the
20 allowances that are not the no-cost allowances, or the
21 paid allowances, I guess?

22 A. So there's two ways that you can acquire
23 allowances or buy allowances. One is just in the
24 bilateral market, so just seeing if anyone has anything
25 for sale. Not a very liquid market. We don't typically

1 do anything there.

2 The other way that we do it is the quarterly
3 auction, and the way that quarterly auction works is
4 everyone submits a bid, and it's a reverse auction. So
5 they start at the highest bid, and they have a limited
6 amount of allowances that they are selling in that
7 auction, and so you take the highest bid and the number
8 of allowances that that bidder is willing to buy at that
9 price, and then they start working their way down the
10 stack. And when they hit the limit of what they're
11 offering for sale at whatever that price was at that
12 bid, that sets the price for -- for all the -- the
13 allowances. So if you bid above that price, you get
14 allowances at that -- whatever the clearing price was.
15 If you bid below the clearing price, you don't get any
16 allowances.

17 Q. Okay. And when you are -- and you said these
18 are quarterly auctions?

19 A. Yes.

20 Q. When you're acquiring at the quarterly
21 auctions, are you acquiring for -- for emissions that
22 you've yet to emit, or are you acquiring for past
23 emissions, or how do you approach that?

24 A. I --

25 MR. KUMAR: I want to -- at this point, I want

1 to maybe slightly object because I think, again, to the
2 extent that Mr. Wilding is disclosing our bidding
3 strategies regarding the purchases of CCA allowances,
4 there are certain restrictions on revealing that
5 information, especially publicly, because they could
6 be -- there's certain market monitoring and market
7 manipulation rules with regards to the market no-cost
8 allowances that exist in Washington.

9 CHAIR FENN: Okay. So Mr. Kumar has raised a
10 caution here with respect to the potential revelation of
11 confidential information.

12 Mr. Wilding, can you answer Mr. Russell's
13 question without disclosing confidential information?

14 THE WITNESS: No. And I don't know if this is
15 appropriate, but I would like to confer with my counsel
16 because the Washington law specifically prohibits us
17 from disclosing our --

18 CHAIR FENN: We'll take a -- we'll take just a
19 brief recess. We won't leave the bench. We'll just let
20 Mr. Kumar and Mr. Wilding confer for a few minutes.
21 We'll go just off the record for a second.

22 (Discussion held off record.)

23 CHAIR FENN: Okay. Let's go back on the
24 record. I guess the first question I have is whether
25 Mr. Russell can rephrase his question so we don't

1 address anything that shouldn't be disclosed pursuant to
2 Washington law.

3 MR. RUSSELL: I'm wondering if maybe the
4 witness can tell us whether his conference with his
5 counsel has changed his mind about whether he can answer
6 the question as phrased.

7 CHAIR FENN: Yeah. That'd be fine. Let's ask
8 the question.

9 A. I can -- I can generally speak to the rules of
10 the auction and compliance obligations, and I can speak
11 to how we account for those and how those costs are
12 reflected in our accounting records, all
13 non-confidentially obviously.

14 Q. Yeah.

15 A. What Washington law prohibits disclosure of is
16 our strategy in acquiring those allowances.

17 Q. Okay. So maybe I can rephrase the question
18 around that. That's helpful.

19 CHAIR FENN: Okay.

20 Q. When you go to -- when you go to comply,
21 you've indicated there's some report that, pursuant to
22 if you retire these allowances, do you have to
23 demonstrate that you acquired the allowances before you
24 made the emissions?

25 A. No. The rules are -- again, it goes back to

1 that 30 percent I was talking about. So you get the
2 four-year compliance period. You have to -- so 2023 --
3 just using 2023 as an example, it would be part of that
4 four-year compliance period. You have to acquire
5 30 percent of the allowances in 2023, and they have to
6 be 2023 vintage allowances, and they have to be retired.
7 You can't use prior years to comply with 2023.

8 So I can't use a 2023 allowance -- vintage
9 allowance to comply with 2024, but if I didn't buy
10 enough or if an emitter -- emitting entity did not buy
11 enough in 2023, they could buy 2024 vintage allowances
12 to cover '23. So you can go backwards, not forwards,
13 and then -- but within the calendar year.

14 Q. Okay. And you mentioned these auctions occur
15 quarterly; right?

16 A. That's correct.

17 Q. Okay. And I assume, based on the way that you
18 described how the auctions work, that the price of a --
19 of the allowance -- or even average price of allowances
20 that may be acquired at an auction may change from one
21 quarterly auction to the next?

22 A. That's correct.

23 Q. Okay. And so when you are running Chehalis
24 and generating electricity there, you don't know at that
25 time what the cost of an allowance might be to satisfy

1 your obligation to retire an allowance for your
2 emissions on any given day; right?

3 A. That's correct. We don't know what the next
4 market -- or what the next quarterly auction is going to
5 clear at. So we use the best information that we have
6 possible and available, including the past auction
7 clearing prices, including what we're seeing in the
8 bilateral market, and we add a adder to the Chehalis
9 dispatch to account for that the best way -- estimate it
10 the best way we can.

11 Q. Okay. That's helpful. Is there any other --
12 you mentioned in your testimony that -- that, you know,
13 you treat -- you know, in your mind, this is a tax or
14 like a tax, and you make specific reference to the
15 Wyoming wind tax. When you pay the Wyoming wind tax, do
16 you know how much that tax is when you generate from the
17 Wyoming wind plants?

18 A. At one point it was a dollar a megawatt hour.
19 Whether that's increased or not -- but generally
20 speaking I think that's pretty close.

21 Q. But how does that price change?

22 A. I'm not a Wyoming tax expert, but I would
23 assume that, based on kind of general knowledge, it
24 would be a -- have to pass a law to change the tax.

25 Q. Okay. Is there any other generation tax that

1 operates in the way that we just described with the
2 acquisition of allowances for emissions that you're
3 aware of that the Company has to comply with?

4 A. No.

5 Q. Is there any other generation tax that the
6 Company is -- it doesn't -- it can't determine the
7 amount of the tax when it is generating?

8 A. No, not that I'm aware of. And, again, I
9 think whether we interpret it as a tax or not is kind of
10 beside the point. It's a cost associated with
11 generation. It's a generation cost that -- and clearly
12 by the 2020 Protocol, that generation cost should follow
13 the benefits of Chehalis and should be allocated on a
14 system basis.

15 Q. Well, it's an emissions cost; right? The
16 compliance requirement is for 100 million tons of
17 emissions from that plant, not from the generation of
18 energy; right?

19 A. Right. But you can't generate without
20 emitting, and so the emissions and generation are hand
21 in hand.

22 Q. There are other costs that are hand in hand
23 too, though, that aren't taxed, like fuel costs; right?
24 Like, if you don't generate from Chehalis, you also
25 don't -- you don't have to buy gas?

1 A. Right. And gas is system allocated.

2 Q. It is, but it's not a tax; right?

3 A. Right. But it's a generation cost, fuel cost.

4 Q. But not a tax?

5 A. Correct.

6 Q. Okay. And there's a statement in your
7 testimony that I think gets to this point. It's on --
8 it's in your response testimony at line 444. Let me
9 know when you're there.

10 A. Yep, I'm there.

11 Q. Okay. I don't think this starts at the
12 beginning of the line, but it says, "For any energy
13 exported to Utah from the Chehalis plant, there is an
14 incremental dollar per megawatt hour cost based on the
15 GHG allowance price for the test period."

16 Did I read that right?

17 A. Yes, you did.

18 Q. Okay. Help me understand how you get to the
19 dollar per megawatt cost because what we've been talking
20 about is allowances that need to be retired, you know,
21 to match this hundred million tons of emissions, not
22 megawatt hours.

23 A. Yeah. I typically try not to do math on the
24 fly.

25 Q. And I don't do it either. I'm with you.

1 A. But essentially you take the emissions rate of
2 the plant, and you can back into the megawatt hour
3 generation. So the dollars per the allowance and the
4 emissions rate and you can get to the dollar per
5 megawatt hour for that carbon amount.

6 Q. Yes. So you can forecast a price, and you
7 guys do that for your NPC calculation?

8 A. Yes.

9 Q. And you can forecast the energy that you may
10 produce from Chehalis in any given year; right?

11 A. Right.

12 Q. And if you know how much of the GHG will be
13 emitted per megawatt hour, you can back into a price per
14 megawatt hour; right?

15 A. That's correct.

16 Q. Okay. And so that's where you get this
17 incremental dollar per megawatt hour reference; is that
18 right?

19 A. That's correct.

20 Q. But, you know, aren't there other -- I mean,
21 we just talked about fuel costs. Aren't there other --
22 other things you could, if you wanted to, back into a
23 dollar per megawatt hour increment from the operation of
24 a generation plant?

25 A. For example?

1 Q. Labor.

2 A. You could. And there are some things that we
3 do that. We have variable O&M costs that aren't
4 included in net power costs, but those variable O&M
5 costs are included in the dispatch of some of our -- of
6 our thermal plants because those O&M costs are incurred
7 and are variable with the generation.

8 Something that is not variable with the
9 generation, though, you could do the math to figure that
10 out. It doesn't necessarily -- it doesn't make sense to
11 do that math and then include it in the dispatch price
12 of that plant because those costs won't vary with --
13 with the dispatch. But something like variable O&M,
14 something like -- that would include stuff like
15 chemicals or things of that nature that does change with
16 the generation, we do include that in the dispatch price
17 for our thermal plants.

18 Q. We looked at that response to a data request
19 earlier that made a reference to Section 3.1.2.1 of the
20 2020 Protocol. Do you recall that?

21 A. I do.

22 Q. Your testimony makes reference to a different
23 section of the protocol at 3.1.7. Do you remember that?
24 I could point you to it here if you need.

25 A. Yes, I do remember that.

1 Q. Okay. And -- oh, look you have a copy.

2 MR. RUSSELL: I actually have some copies of
3 the 2020 Protocol I'm going to pass out to the
4 Commission. I've already distributed to counsel. If I
5 may approach?

6 CHAIR FENN: Please. Okay. So just to make
7 sure, so DPU and OCS already have copies of it? Okay.
8 And do we have a copy for the court reporter? I'll
9 give -- do we have another copy here?

10 Okay. And you have a copy in front of you,
11 Mr. Wilding?

12 THE WITNESS: I do.

13 CHAIR FENN: Okay. All right. Mr. Russell,
14 go forward.

15 MR. RUSSELL: Thank you.

16 Q. (BY MR. RUSSELL) Let's go ahead and turn to
17 Section 3, and let's go first to 3.1.7.

18 A. Okay. I'm there.

19 Q. It's the section you cited, and this relates
20 to miscellaneous costs and taxes. You indicate in -- on
21 line 485 of your response testimony -- you say that --
22 sorry. I'll let you get there first.

23 A. Yeah.

24 Q. Line 485.

25 A. I'm there.

1 Q. Okay. You say here, "Section 3.1.7 of the
2 2020 Protocol applies to the generally applicable
3 compliance costs associated with purchasing GHG
4 allowances for the Chehalis plant. Section 3.1.7 states
5 that generation-related dispatch costs and generation-
6 and fuel-related taxes are allocated using the System
7 Generation, or SG, allocation factor. Here the
8 Cap-and-Invest program is a generation tax because there
9 is no compliance obligation if there is no generation,
10 and the amount of the compliance obligation is
11 determined by the amount of generation."

12 Did I read that right?

13 A. That's right.

14 Q. Okay. And we've been having a discussion
15 about whether it's a tax. You've indicated today
16 that -- you related to a generation-related dispatch
17 cost, and I'm going to talk a little bit actually about
18 the allocation on the SG factor.

19 A. Okay.

20 Q. Can you just give us a brief refresher on what
21 the SG factor is and how it's determined.

22 A. The SG factor is the system generation
23 allocation factor. It's based on 75 percent of demand
24 and 25 percent on a 12-month coincident peak weighting.

25 Q. And it is a mechanism pursuant to which a

1 certain percentage of costs that are allocated pursuant
2 to that factor are allocated to the various states;
3 right?

4 A. That's correct.

5 Q. Using very round numbers, can you say, using
6 the SG factor, what percentage of costs that are in that
7 SG bucket get allocated to the state of Utah?

8 A. I think it's roughly 44 percent, 45 percent,
9 around there.

10 Q. And what about to the state of Washington?

11 A. About 8 percent.

12 Q. Okay. And for purposes of the no-cost
13 allowances, you've indicated that 100 percent of those
14 are allocated to Washington customers; right?

15 A. That's correct.

16 Q. Okay. And -- but for the paid allowances, the
17 costs of that compliance, the Company has allocated
18 those pursuant to the SG factor; is that right?

19 A. Yes, that's correct.

20 Q. Okay. And who pays the 8 percent that is
21 allocated to Washington?

22 A. Washington pays that.

23 Q. Well, does it -- go ahead. Sorry.

24 A. Sorry. So we allocate -- sorry. Maybe this
25 is a little bit of a confusion here. So we take the

1 generation associated with Chehalis and the emissions
2 associated with that generation and the cost of
3 allowances for that generation for the entire system and
4 come up with a total cost. Some of that would be offset
5 by the free allowances that are solely Washington-free
6 allowances or no-cost allowances, but the 45 percent of
7 those costs are allocated to -- to Utah.

8 Q. Okay. And maybe I just am a little slow here.
9 All of the costs of compliance are imposed on the
10 non-Washington customers; right?

11 A. That's correct.

12 Q. Okay. Are you taking whatever that dollar
13 figure is on an annual basis and applying the SG factor
14 to that?

15 A. I'm not sure I know what you mean by "that."

16 Q. So whatever -- whatever that dollar figure is.
17 I was trying to keep us from having to do math.

18 A. Okay. Yeah.

19 Q. Whatever that dollar figure is. Let's say
20 it's 100 bucks. I think it's quite a bit more than 100
21 bucks, but that's an easy one to use. Let's say the
22 entirety of the obligation in any given year is \$100.
23 Are you allocating that \$100 based on the SG factor,
24 which would, I think, allocate \$45 to the state of Utah?

25 A. And the \$100 equals --

1 Q. It's the entirety of the costs that you have
2 to incur to buy allowances.

3 A. I think we're doing the math differently. I
4 think the result is the same. So we take the total
5 Chehalis emissions times the allowance cost to get the
6 total dollar amount, and then we allocate the 45 percent
7 to Washington -- or to Utah.

8 Q. Okay.

9 A. But then -- so we might come up with -- well,
10 maybe the math doesn't work out. This is why I don't do
11 math on the fly. But we take the total emissions cost,
12 allocate that out so that Utah customers are paying for
13 the amount of their emissions and they are not getting
14 the benefit of the no-cost allowances for -- for
15 Washington customers. So again -- yeah. I don't want
16 to do the math. I don't want to --

17 Q. Yeah. I'm really not trying to make you do
18 complicated math here.

19 A. It's not that complicated. I'm just --

20 Q. No. At some point you have a dollar figure
21 that needs to be allocated, and that dollar figure I'm
22 asking you to assume is the dollar figure associated
23 with acquiring paid allowances.

24 A. That's correct.

25 Q. Okay. And so how is that dollar figure

1 allocated to the states? Is it pursuant to the SG
2 factor?

3 A. Yes, that's correct.

4 Q. Okay. So, again, at \$100, if the cost of
5 buying allowances at auction is \$100, you're saying that
6 45 of those dollars are allocated to Utah?

7 A. Yes, that is correct.

8 Q. Okay. And then what I was trying to get to
9 is, if you have that \$100, we said that under the SG
10 factor 8 percent is allocated to Washington. I'm just
11 curious what happens to the \$8?

12 A. The \$8 is never incurred because we would
13 receive those -- and that's maybe where we're talking
14 past each other a little bit. The \$8 is never incurred
15 because those allowances would be received from the
16 Department of Ecology for Washington load.

17 Q. Well, but the \$8 -- I mean -- but I've asked
18 you to assume that the bucket of dollars is the dollars
19 that you incur to buy allowances. So you're not buying
20 allowances for the Washington retail load because you're
21 getting the no-cost allowances from somewhere else.

22 A. Right. So that's maybe where we're talking
23 past each other a little bit. That \$100 -- if that's
24 the dollars that we actually spent before we did the
25 allocation, we would have to gross up to a number equal

1 to all of our load. So we would say \$108 that we should
2 have purchased or would have purchased had all of our
3 load been subject to this. The \$8 is offset by no-cost
4 allowances, and the rest of it is allocated out on the
5 SG factor.

6 So the 8 percent -- I mean, now we're, like,
7 messing up our math in our easy \$100 number. So we
8 would gross it up for the 8 percent. So maybe let's
9 just say 92. So 92. We spend \$92. We gross it up.
10 Our allowance cost with Washington load would have been
11 \$100. 8 percent of that is allocated to Washington. So
12 that \$8 is offset by the no-cost allowances, and then of
13 the \$100, 45 percent is allocated to Utah. So \$45
14 associated with the generation.

15 If you do -- if you allocate just the \$92, all
16 customers in other states are now benefiting from the
17 free allowances, and we're not in compliance with
18 Washington law that says they have to -- those free
19 allowances or those no-cost allowances have to benefit
20 just Washington customers.

21 Q. Well, the calculation that I think you're
22 describing is you perform a calculation such that the
23 costs of purchasing allowances are only allocated to the
24 non-Washington states; is that right?

25 A. That's correct.

1 Q. Okay. So the costs that you incur are
2 allocated to Utah -- like, if you're just looking at the
3 costs that are incurred -- let's say it's \$100 -- Utah
4 actually pays more than \$45 of those dollars, doesn't
5 it?

6 A. I think you're going to have to walk me
7 through how you get -- I know we talked a lot about the
8 different numbers. I may be a little lost in our
9 hypothetical scenario here.

10 Q. Well, what you indicated, I think, was you
11 take the actual cost that you pay for allowances --
12 which, again, you're only purchasing for the
13 non-Washington customers; right?

14 A. That's correct.

15 Q. So you take those dollars, and you perform a
16 calculation to gross it up to try to eliminate or to try
17 to ensure that the costs that are associated with those
18 are only paid for by the non-Washington customers;
19 right?

20 A. That's correct.

21 Q. Okay. And so in order to do that, while your
22 actual costs are \$100 of purchasing allowances, you
23 perform a calculation such that it seems in the
24 calculation like it's -- we'll use 108 -- I don't do
25 percentages -- it seems like 108; right? So that the \$8

1 that would otherwise be allocated to Washington are just
2 attributed to the no-cost allowances so that the Utah
3 customers are paying 45 percent of \$108 instead of \$100.
4 Is that roughly how that --

5 A. Yes, sir.

6 Q. -- works? Okay.

7 But with respect to the -- I think this is the
8 way that the math works. With respect to the actual
9 dollars that you're -- you're incurring, Utah is paying
10 more than its SG allocated share of those actual dollars
11 because of the way that you guys perform that
12 calculation; right?

13 A. Yes, that's correct, because they receive
14 45 percent of the generation of the benefit of that
15 plant, and so if we were to do it on the net number
16 as -- as we're talking about, they would actually
17 receive a benefit of those no-cost allowances, and we
18 would not be in compliance with Washington law.

19 Q. And I guess I'm failing to understand how Utah
20 would get the benefit of the no-cost allowances without
21 that calculation gross up. I mean, you've got -- all
22 the costs of allowances are for the -- the allowances
23 that you have to buy for non-Washington customers, and
24 that gets you a dollar figure. What it seems to me is
25 that you got to do the gross up so that when you

1 allocate on the SG factor, you're not allocating any
2 costs to Washington.

3 A. That's correct.

4 Q. Okay. Let's -- I walked up the 2020 Protocol.
5 So let's -- you know, let's look at that. We looked at
6 the SG factor a little bit, but let's go back to
7 3.1.2.1. We looked at that data request response in the
8 Division's testimony where the Company indicated that
9 the no-cost allowances are situs assigned to Washington
10 under 3.1.2.1; right?

11 A. That's right.

12 Q. Okay. And is that -- to your understanding,
13 3.1.2.1 identifies three types of state resources that
14 will be assigned or allocated as follows, and it
15 identifies demand-side management programs and portfolio
16 standards and state-specific initiatives; right?

17 A. That's right.

18 Q. And it gives a description. I've read them in
19 a previous hearing. I don't think we need to do it
20 here.

21 A. Yeah, sure.

22 Q. The -- the data response indicating that
23 no-cost allowances are allocated situs to Washington --
24 is that because it's a portfolio standard or a
25 state-specific initiative?

1 A. The -- the allowances are provided, and what
2 the Department of Ecology has stated is that those
3 allowances are provided to Washington load because of
4 other portfolio standard laws that exist in Washington.

5 And so we disagree with this, and this is
6 partially why we're, you know, in a lawsuit with the
7 state of Washington, but they've said that, one,
8 those -- those no-cost allowances can only benefit
9 Washington customers, and then, two, the reason why they
10 get no-cost allowances is because they have other
11 portfolio standards that they have to -- that Washington
12 customers have to comply with and those costs are of
13 the -- of the portfolio standards are situs assigned.

14 Q. Okay. All right. I think that answered my
15 question, and I believe that that is all. I appreciate
16 it, Mr. Wilding.

17 CHAIR FENN: All right. Let's go back to
18 Rocky Mountain Power. See if they have any redirect.

19 MR. KUMAR: I do. I have a few questions,
20 Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. KUMAR:

23 Q. Mr. Wilding, let's go back to the 2020
24 Protocol that we just walked through.

25 A. Yep. I'm there.

1 Q. Now, would you describe Rocky Mountain
2 Power's, like, sort of requirement to purchase
3 allowances for Chehalis generation? Let's look
4 specifically at 3.1.2.1. They're not a demand-side
5 management program, are they?

6 A. No, they are not.

7 Q. Do they fit into the category of a portfolio
8 standard?

9 A. No, it does not.

10 Q. And can you provide some context as to why
11 Rocky Mountain Power's obligation to purchase allowances
12 for non-Washington customers is not really a portfolio
13 standard?

14 A. This is a tax or a cost associated with the
15 emissions of Chehalis, which is physically located in
16 the state of Washington. A portfolio standard typically
17 is a state-mandated or a state energy policy that says
18 the utility will serve load within our state with a
19 certain percentage of renewable generation.

20 Q. And the next sort of bullet point there states
21 specific initiatives. Does the Company's obligation to
22 purchase allowances for Chehalis generation fit into
23 that state-specific initiative?

24 A. No. And why I say no on that one is if we
25 read the state-specific initiative language, even just

1 that first language, the costs and benefits associated
2 with interim period resources -- so Chehalis definitely
3 is an interim period resource per the definition. It's
4 generating and providing energy during this period.

5 So if we were to interpret it as a
6 state-specific initiative, we would say the cost and the
7 benefits associated with Chehalis would be a
8 state-specific initiative and not just the cost.

9 Q. And now let's turn to 3.1.7.

10 A. I'm there.

11 Q. Can you look at sort of like those lines 217
12 and 218 which talk about generation-related dispatch
13 costs.

14 A. Yes.

15 Q. Is that more akin to the Rocky Mountain
16 Power's obligation here?

17 A. Yes, I agree. I think in line 217, 218 --
18 this is under the section "Miscellaneous Costs and
19 Taxes," and those will be described as follows --
20 generation-related dispatch costs and associated plant
21 will be allocated on the SG factor. And so I think
22 definitely could fit into that first bullet on 217. I
23 think the other place where it can fit is in 232 --
24 generation and fuel related taxes will be allocated
25 using the SG factor. So both of those are better fits

1 than the section that we previously read and looked at.

2 Q. Does the Company pay taxes and royalties on
3 the fuel that it acquires to fuel its plants -- you
4 know, the coal and the gas that's used to operate Rocky
5 Mountain Power's plants?

6 A. Yes, it does.

7 Q. And do those taxes vary based on the amount of
8 fuel that's consumed to operate those plants?

9 A. The total dollar amount that we pay, yes, does
10 vary based on the amount of fuel that we use.

11 Q. And the Company also pays property taxes on
12 the generating plants that are system allocated; isn't
13 that true?

14 A. Yes, we do pay property taxes, and those are
15 system allocated.

16 Q. And the amount of property tax that Rocky
17 Mountain pays in a given year will vary based on
18 numerous factors; correct?

19 A. That's correct.

20 Q. Now let's quickly discuss the actual structure
21 of the Climate Commitment Act itself. Would you say
22 that the Company kind of has two obligations under the
23 Climate Commitment Act -- one for generation that is
24 sort of exported from Chehalis and then a separate
25 obligation because it serves retail load in Washington?

1 A. Yeah. We do have to comply with the carbon --
2 or sorry -- the Climate Commitment Act, both because we
3 have a generating resource, an emitting resource in
4 Washington. So we are an emitting entity. And then,
5 two, because we have retail electric load in the state
6 of Washington.

7 Q. And let's say that the Company did not have
8 any retail electric load in the state of Washington but
9 it still owned the Chehalis operating facility -- and
10 this is true for certain -- the Company has operating
11 facilities in states where there -- they don't have any
12 load; correct?

13 A. That is correct.

14 Q. Would the Company still have the obligation to
15 purchase allowances for Chehalis generation?

16 A. Yes, we would. And at that point we would
17 have no no-cost allowances allocated to us.

18 Q. Okay. We have no further questions.

19 CHAIR FENN: Okay. Mr. Russell, do you have
20 recross?

21 MR. RUSSELL: It will be very brief.

22 RE CROSS-EXAMINATION

23 BY MR. RUSSELL:

24 Q. Mr. Wilding, can you turn to your response
25 testimony line 438.

1 A. Yes, I'm there.

2 Q. In questioning from your counsel, you were
3 walked through Section 3.1.2.1 of the 2020 Protocol and
4 asked to kind of give us your views on whether it's --
5 the CCA is similar to a portfolio standard or a
6 state-specific initiative. On line 438 you state, "The
7 Washington legislature passed the Climate Commitment Act
8 in 2021 to reduce carbon pollution"; is that right?

9 A. That's correct.

10 Q. And it's your understanding that's a goal of
11 the -- of the law; right?

12 A. That's correct.

13 Q. Okay. And would that be a goal of the law
14 even if the Company had no Washington generation?

15 A. That's correct.

16 Q. Okay. No further questions.

17 CHAIR FENN: Okay. We have a hard stop right
18 now, and I know we hate to do this to you, Mr. Wilding,
19 but we're going to have to ask you to come back on the
20 stand after a lunch break. I assume we're going to have
21 questions. I can almost guarantee we'll have questions.

22 THE WITNESS: It will be my pleasure.

23 CHAIR FENN: Okay. All right. We're going to
24 take a break, one-hour lunch break. Thank you very
25 much. Off the record.

1 (Recess taken from 12:00 to 1:03.)

2 CHAIR FENN: We'll go back on the record, and
3 we appreciate very much Mr. Wilding's patience with us
4 to have to not to be finished before the lunch hour. I
5 know there's always some residual anxiety that remains
6 when a witness has to remain on a witness stand perhaps
7 longer than they thought. I think we're now to any
8 questions of the Commissioners.

9 Is there anything else we need to raise before
10 we see if Mr. Harvey has any questions?

11 Okay. Let's go to Commissioner Harvey.

12 EXAMINATION

13 BY COMMISSIONER HARVEY:

14 Q. Hello.

15 A. Hi.

16 Q. Since the earlier cross was on the Washington,
17 I think I'll start there, but then I'll eventually get
18 over to the hedging that you had mentioned.

19 A. Okay.

20 Q. I'd like to get a little bit of understanding
21 about the lawsuits that surround both the Washington
22 program and other states' responses to that program.
23 From your testimony and from your answers today, I
24 understand that PacifiCorp is suing Washington to say
25 that we don't think this is a reasonable program; is

1 that correct?

2 A. That's correct. The department of --
3 specifically the Washington Department of Ecology and --
4 yeah. So we have a lawsuit that went to federal court
5 and was dismissed, and now we are appealing that.

6 Q. Okay. And just to deal with a few
7 hypotheticals, if PacifiCorp prevails in that suit and,
8 hypothetically, if Utah -- the Utah PSC approved
9 collection of these charges, if both of those held,
10 would there then be refunds?

11 A. You know, I don't know the answer to that. I
12 don't know if that decision would be retroactive or if
13 it would just be, you know, from that point forward.

14 However, what I -- what I'm comfortable
15 committing to is that, you know, if we did collect any
16 money -- any revenue from Utah customers, that rule was
17 overturned or we received free allowances -- no-cost
18 allowances for all of our retail load as a result of
19 that lawsuit and we did receive money back, that we
20 would return that back, you know, accordingly to any
21 customers that had to pay that. So I don't know what
22 the outcome would be, but I can commit that we would
23 refund that money to any customers at the end.

24 Q. Okay. So I'm trying to understand
25 PacifiCorp's actions at the current moment given the, I

1 guess, legal box that they're in. PacifiCorp is
2 essentially saying it is obligated to obey the law as
3 currently upheld at the court level they're at.
4 Therefore, they want to collect, but they don't think
5 the law is reasonable or legal or whatever the legal
6 term is. So they're trying to get it overturned. Is
7 that a fair summary of PacifiCorp's current thinking?

8 A. Yeah. I think that's -- that's accurate. We
9 disagree with the law as it's been currently, you know,
10 implemented and -- so we are taking all of our -- we're
11 pursuing all the legal avenues and everything that we
12 can to overturn that law -- or perhaps not overturn the
13 law but to have it enforced in a more fair manner. But
14 as it stands today, it is the law, and regardless of
15 what we think about it, we have to comply with it.

16 Q. And for other utilities in Washington, are --
17 are there other major utilities that have the same
18 situation that PacifiCorp does where they have customers
19 both in state and out of state and generation both in
20 state and out of state?

21 A. Avista is probably the most similarly situated
22 to us where they have customers in both Idaho and
23 Washington.

24 Q. And do you know if they're participating in
25 any legal action with respect to that law?

1 A. I'm not aware of any, but I can't speak for
2 certain.

3 Q. Okay. That's fine. Thanks. All right.
4 Excuse me.

5 I want to talk about how Chehalis is
6 actually -- or find out how Chehalis is actually
7 dispatched, and this goes back a bit to the questions
8 you answered prior to lunch, but it would seem to me
9 that at any given moment in time PacifiCorp probably
10 doesn't know what the actual increment is that would be
11 attached to Chehalis' generation because they're still
12 in the process of buying allocations for that year. Is
13 that correct or not?

14 A. I would say, yes, that's correct, but I would
15 maybe just caveat that a little bit that we don't
16 precisely know what the cost of allowances are going to
17 be, but we do have some intelligence to, you know, make
18 a fairly reasonable estimate. So we know what prior --
19 prior auctions -- what the clearing price was in those,
20 and we also, you know, see the bilateral market and
21 what's posted on the Intercontinental Exchange, or ICE.
22 So we do have some intelligence to be able to come up
23 with a good adder for the dispatch or a good, you know,
24 carbon price for the dispatch, but yeah. It's not
25 precise.

1 We're using the best information that we have
2 available to come up with the best estimate that we can,
3 and, you know, as -- you know, assuming that the law
4 continues and with the more auctions we have, the more,
5 you know, liquid and the more trades that happens of
6 these allowances, the more information we'll have. But
7 for right now, I mean, we can't get precise, but we get
8 pretty close.

9 Q. Okay. And are any of the questions in this
10 section of my questioning -- if it would implicate
11 either confidentiality or the legal restrictions I'm
12 talking about, just say, you know, "I can't answer
13 that."

14 A. Okay.

15 Q. And it won't hurt my feelings at all. I'll
16 try to rephrase.

17 Is the -- do you know if the intent or the way
18 that law is written anticipates a declining number of
19 allocations over time?

20 A. It does, yes.

21 Q. Okay. And this may -- may be a "cannot
22 answer" question, but does PacifiCorp anticipate the
23 price of those allocations to increase over time because
24 of that decreasing availability?

25 A. I think, just generally speaking, you know,

1 supply and demand, less supply -- or, you know, demand,
2 less supply, that's a possibility, yes.

3 Q. Okay. And then given PacifiCorp's history
4 with auctions to date, how much variability have you
5 seen in the clearing prices? And, again, if that's
6 restricted, tell me.

7 A. No. I think I can answer that.

8 You know, there has been a little bit of
9 variability, especially this last year in the auction
10 clearing prices. I think, you know, the first year that
11 it was initiated in 2023 it was a little bit more
12 stable, but folks were kind of trying to get used to it,
13 trying to figure out how to do things. So we saw some
14 fairly high prices. They came down a little bit after
15 that.

16 And then during the 2024, this last calendar
17 year, you might be aware, but there was a ballot
18 initiative on the Washington state ballot to overturn
19 the law, and then there was our lawsuit, and there was
20 another lawsuit that was filed, you know, before ours.
21 And so there was some uncertainty in the market and
22 uncertainty in the -- in what the law was going to do,
23 if that ballot initiative was going to pass. A lot of
24 the polling was showing kind of a 50-50. And so we did
25 see prices drop considerably in 2024, and then that

1 ballot initiative did not pass, meaning the law
2 continued, and we saw market prices -- or the auction
3 prices tick back up.

4 Q. Are you able to give me an idea of how big of
5 a drop on a percentage basis that was, or is that
6 restricted?

7 A. No. I think -- I think those auction prices
8 are public. It was about a 50 percent drop. So --

9 Q. And then going back to the -- the protocol --
10 the 2020 PacifiCorp Interjurisdictional Allocation
11 Protocol, the language with respect -- I don't remember
12 which number it was -- but with respect to situs
13 assigned talks about assigning both costs and benefits.

14 A. Yep. That's on page 8 of the protocol,
15 3.1.2.1.

16 Q. Yes. Okay. And then language on taxes, which
17 is, I guess, on page 10.

18 A. Yes.

19 Q. That just talks about allocating cost,
20 essentially, because a tax is a cost; right?

21 A. That's correct.

22 Q. So my -- my question related to the protocol
23 is the parties, each of the states that signed it plus
24 PacifiCorp, were doing that in an environment of what
25 existed at the time; right?

1 A. That's correct.

2 Q. And -- and this program -- the Washington
3 climate Action Program -- is that --

4 A. Climate Commitment Act.

5 Q. Climate Commitment Act.

6 A. CCA.

7 Q. CCA. It did not exist at the time this was
8 negotiated; correct?

9 A. That is correct.

10 Q. But there are several generation assets and
11 various programs around the six to eight regions that
12 are situs assigned; right?

13 A. Yes. That -- that's correct, and, you know,
14 they typically fall into those categories that we --
15 that we discussed and those state-specific initiatives.
16 You know, so, for example, the Schedule 32 and 34
17 customer programs in Utah -- those -- those are situs
18 assigned. So it would be, you know, something to that
19 nature where we are acquiring a resource to comply with
20 a state program.

21 Q. Okay. So a final question on the
22 Washington -- and this goes back a little bit back to
23 what Mr. Russell was questioning you about at the end of
24 his cross, and that was when you were talking about the
25 8 percent of Washington's costs. My question is what

1 happens if the cost of buying the allowances is
2 considerably different than the 8 percent would be?

3 A. And maybe I could maybe try to clarify what we
4 were talking a little bit about. Maybe this might
5 answer your question, but if not, let me know.

6 So if we just take the example using the
7 100 -- you know, say the Chehalis generation and the
8 emissions equal 100 million metric ton of greenhouse
9 gases. So, therefore, we are required to -- to
10 retire -- sorry -- 100 allowances for the Chehalis
11 generation. The way that we look at that is we say,
12 okay, 45 percent of that 100 allowances are associated
13 with Utah generation, and so Utah customers, you know --
14 the cost of that 45 allowances are included in Utah
15 rates, and they should pay that. The eight allowances
16 for the 8 percent of Washington -- those are offset by
17 free allowances.

18 And so I think we're -- maybe the confusion
19 was we don't take the dollars that we paid for the 92
20 allowances and allocate that out. We allocate out the
21 allowance -- the cost of 45 allowances to -- so we don't
22 take 44 percent or 45 percent for Utah for \$92 and say
23 each allowance costs a dollar. We take 45 percent of
24 the total allowances and the costs of those are
25 allocated to Utah.

1 So Utah customers are held harmless. They're
2 not paying for any more of the allowances than the
3 generation that they benefited from, and they're not
4 paying for any less. And if they pay for any less, then
5 we would be noncompliant with the Washington law.

6 Q. I think I might understand what you meant.

7 A. Okay.

8 Q. But I'm going to restate, and I'm going to
9 change your numbers just a little bit, and tell me if
10 what I've changed has caused a problem.

11 Assuming there's 100 million tons. So we need
12 100 allowances. Am I correct so far?

13 A. Yep.

14 Q. And that's total production.

15 A. Yep.

16 Q. Washington -- assuming that -- with your
17 pre-compliance filing, you guessed correctly on the 100,
18 Washington customers will get 8 allowances?

19 A. Yes.

20 Q. Correct?

21 A. From the state of Washington.

22 Q. From the state --

23 A. Yep.

24 Q. -- at no incremental cost?

25 A. That's correct.

1 Q. So PacifiCorp would need to buy 92 to be able
2 to have a total of 100 to retire?

3 A. Yep.

4 Q. And then whatever the cost of that 92 is,
5 that's the percentage -- or Utah's 45 percent or
6 whatever the SG factor is -- that would apply to
7 whatever the cost of buying the 92 is?

8 A. They would pay for 45 allowances because --

9 Q. I don't think so.

10 A. Well, I think --

11 Q. That's what I'm asking.

12 A. Yeah.

13 Q. PacifiCorp has to buy 92; right?

14 A. So 8 of those -- so we need --

15 Q. So they need 100.

16 A. 8 are Washington -- sorry. I apologize. 8
17 are Washington. 45 are Utah. So when we buy 92,
18 Washington's -- not Washington. Excuse me -- Utah pays
19 for 45 of the 92, Wyoming pays for 17, and Idaho pays
20 for 6, California pays for 2, Oregon pays for 26, and
21 Washington gets 8 free ones. The Company gets 8 free
22 ones, or no-cost ones, for the Washington load. And
23 then if I did my math right on the fly, we add up to
24 100. That should be pretty close to 100. It's supposed
25 to be 100.

1 Q. I think we went this way, but it's fine.

2 A. Yeah.

3 Q. Okay. So but in terms of if I thought of
4 dollars, whatever PacifiCorp paid for the 92 they had to
5 buy. That's the number that actually gets allocated
6 with the SG factor or not?

7 A. No, and that's perhaps what -- what we were
8 talking about is -- so we paid for 92 allowances. And
9 so we allocate the cost of -- of those 92 allowances,
10 and we just multiply it by 45 percent. Utah customers
11 would pay for something less than 45. So if we just say
12 each allowance is a dollar, when we take -- when they
13 pay for 45 allowances, which is their share of the
14 generation, they would pay for \$45.

15 But now if they're taking 45 percent of \$92,
16 they would pay something like \$43, just rounding here.
17 They would pay something like \$43, which now means we've
18 kind of essentially double counted the Washington
19 no-cost allowances because Washington customers are
20 receiving those no-cost allowances, but we -- but all of
21 our customers are benefiting from that because they --
22 you know, because that reduction in costs got allocated
23 to all of our customers. But Utah customers are held
24 harmless because they're only paying for the 45
25 allowances that we need that is associated with their

1 generation.

2 Q. I'm not sure you and I use the term "hold
3 harmless" the same, but I think I know what you mean.

4 Okay. So -- so we pay 45 percent of 92 and
5 45 percent of eight, because, in PacifiCorp's view,
6 we're getting benefits from that 8?

7 A. We have to buy -- we have to buy 92
8 allowances. Utah customers buy 45 of those. All the
9 other states, besides Washington, buys 47. Washington
10 gets 8 at no cost, and in total we've purchased 100
11 allowances -- or we purchased and/or received a total of
12 100 allowances.

13 Q. But -- but 8 of those were free?

14 A. Right. And we didn't charge anyone for those
15 eight.

16 Q. I think you've charged us some for the 8.
17 Here. If you said I spent \$92, which is what in this
18 hypothetical world you would spend, and typically Utah
19 pays 45 percent of your spending, we would pay for 43
20 because that's 45 percent of the 92.

21 A. And then you would have benefited from
22 Washington customers -- we would have double counted
23 Washington -- so Washington allocation -- they would
24 have received their allocation for free at the no-cost,
25 and then Utah would have received, essentially, 2 free

1 allowances. So if we're just saying the allowances cost
2 \$1, we are going to spend \$92 for those 92 allowances,
3 and we would -- we would charge Utah the \$45 associated
4 with the 45 allowances from their generation that was
5 allocated to them.

6 Q. But \$45 is 45 percent of \$100?

7 A. Because we need 100 allowances.

8 Q. But you haven't spend \$100. You've only spent
9 \$92.

10 A. But if we only charge you 43, then you're
11 receiving the benefit of the free allowances because 8
12 of those -- we're -- we're not -- we're buying and/or
13 receiving 100 allowances; right? 8 of those are no-cost
14 allowances from the state of Washington. So if we take
15 the \$92 and we allocate out the \$92 -- so if we just go
16 through the math -- 45 percent to the state of
17 Washington -- or to the state -- sorry -- state of Utah,
18 that's \$43, then we don't have -- let me -- sorry --
19 we're going to -- we're going to receive \$43 from the
20 state of Utah when we need to buy \$45 worth of
21 allowances because 45 -- your share of the generation
22 was 45 -- 45 allowances that needed to be bought.

23 Q. I'm willing to leave it there.

24 A. Okay.

25 Q. All right. I'm going to turn to the hedging.

1 A. Okay.

2 Q. I'd like to understand a little bit of the
3 physical system. How much transfer capacity, in terms
4 of physical transfer capacity, exists between
5 PacifiCorp's two balancing areas?

6 A. We have 16,000 megawatts of transmission
7 rights, firm transmission rights, from PacifiCorp East
8 to PacifiCorp West. 1,090 megawatts of that are network
9 transmission rights over PacifiCorp's system, and
10 510 megawatts are firm point-to-point rights over Idaho
11 power's transmission system.

12 Q. And is that both directions or one direction?

13 A. Just east to west.

14 Q. And what do we have from west to east?

15 A. We do not have any -- we do not have long-term
16 firm transmission west to east, and so we --
17 occasionally, we will try to buy transmission in the
18 short-term markets for that, but we do not have
19 long-term point-to-point rights or network rights.

20 Q. Okay. So when you talk about purchasing power
21 in the west balancing area to offset or replace or
22 whatever term -- I heard several terms -- power in the
23 east, it's not a physical offset if you have no
24 transmission going that direction?

25 A. Well, it is a physical offset because we --

1 the net effect is the same. So if -- you know, when we
2 looked -- we balance and we co-optimize our two
3 balancing authority areas, and we operate as a single
4 system. The vast majority of our generation is in
5 PacifiCorp East. I mean we're blessed on this side of
6 the territory with a, you know, strong thermal
7 generation fleet. Some of the best solar in the country
8 and some of the best wind in the country. So -- and
9 because our generation -- a lot of our generation sits
10 in PacifiCorp East, that allows us to have network
11 transmission rights go into the west.

12 And so all things being equal, if we did not
13 buy purchases in the west -- and talking about, you
14 know, specifically about the summer where we do most of
15 our purchasing activity -- you know, what we would have
16 to do is reserve that transmission and send generation
17 from the east side of our system west. But because we
18 have the ability and we have access to both market hubs,
19 and, you know, kind of speaking generally about the
20 northwest and southwest, there's multiple points we can
21 transact at, but generally speaking, we can, and we
22 do -- we can look at the low-cost option. And if the
23 low-cost option is in the southwest, we utilize our
24 transmission, send generation west, and we transact in
25 one of the southwest market hubs, Mona or Four Corners.

1 But if the low-cost option or the more liquid option is
2 in the west, we can transact in the west at a Mid-C,
3 purchase the power there, and leave that transmission
4 capacity open and leave the generation here in PACE.

5 And so that allows us to flex our system --
6 that transmission capacity allows us to flex that
7 system, and the effect is the same. And because most of
8 our generation is on the east side of our system, we can
9 send it west, but when we buy in the west, we can leave
10 that generation home in the east which would have the
11 same effect as if we just bought more in the east and
12 sent it -- sent it west. But that flexibility -- it is
13 a huge benefit to customers, and the bidirectional
14 transmission capacity is not needed because the impact
15 is the same and because most of our generation is on the
16 east. So, you know, you just need the one direction.

17 Q. Okay. So, hypothetically, if I'm buying --
18 if -- if PacifiCorp is buying something in the pacific
19 northwest to meet local load there, assuming they have
20 the excess, they can sell energy on the east side to
21 other customers to offset some of the costs of that
22 purchase?

23 A. Yeah, absolutely. We can do that because of
24 our transmission system. If we see -- if we have the
25 length to serve our own load and we see opportunities in

1 the price spread between two markets, we can take
2 advantage of that price spread because of our load and
3 resource diversity and our transmission system.

4 Q. Okay. But in the case where PacifiCorp is
5 short, which, based on testimony in this and other
6 cases, seems to be happening more often; right?

7 A. In -- yes.

8 Q. Okay. Then that offsetting financial
9 transaction can't happen. It's just a way to try and
10 cover the peak; right? Just by making excess purchases
11 where we don't have the transmission -- I mean don't
12 have the generation locally?

13 A. It's a way to -- by transacting at the lower
14 cost market, we are lowering costs for all of our
15 customers. So when we need to make a market purchase to
16 cover our peak load and to ensure that we have, you
17 know, enough resources to meet our system obligations,
18 now we have the ability to do that in the least cost
19 manner, and we can do that in the northwest. If we --
20 if we didn't have that transmission or we didn't have
21 that flexibility, you know, we might have -- be forced
22 to transact in a market at a higher cost.

23 Q. Okay. You've used the term "least cost
24 manner" several times today, but in terms of the hedging
25 program itself, the descriptions I've read in the

1 testimony seems to be more concerned about covering peak
2 as -- as the primary objective and then trying to do
3 that at a lower cost than might, you know, typically
4 happen, I guess, if you're trying to do it locally. Is
5 that a correct summary or not?

6 A. Yes, but I wouldn't say those two, least cost
7 manner and our hedging, is -- they're -- those two are
8 used together. So we hedge for two reasons -- you know,
9 guard against price volatility and also reduce supply
10 risk. And so we're hedging for those two reasons to,
11 you know, make sure that we have enough energy to cover
12 our peak load, like you said, and we hedge in the least
13 cost manner by having that access to multiple markets.
14 We hedge at the lower cost and also the most liquid
15 markets typically in the northwest, and our transmission
16 system and our system as a whole allows us to do that.

17 So while hedging itself is not necessarily a
18 way into -- to which reduce costs, it's a way to guard
19 against certain risks. We do hedge in the least cost
20 manner.

21 Q. Let me put this into terms that makes sense to
22 my mind as an economist, and you can tell me whether
23 they make any sense to you.

24 A. Okay.

25 Q. I would say that you have these two objectives

1 you've mentioned, guarding against price volatility and
2 the supply, and that in the short-term you try to find
3 the lowest cost manner of meeting those two objectives?

4 A. Yes, that makes sense to me.

5 Q. Okay. But the -- and then here's my secondary
6 question. See if this is a fair characterization. The
7 Company isn't necessarily doing that in the long-term,
8 in terms of saying what's the least cost long-term
9 manner of doing that. They're more focused on these two
10 short-term objectives -- supply, reliability, and price
11 volatility.

12 A. I disagree that we're not doing that in the
13 long-term. You know, that's not my responsibility at
14 PacifiCorp. My responsibility is essentially real-time
15 to three years out, and so we're looking at the near
16 term, near reliability, those things that you mentioned,
17 but from a long-term system planning, you know, we have
18 the integrated resource plan and the action plan and all
19 those things that go along with that, and they are also
20 looking at planning in a, you know, cost-effective
21 manner over the long-term.

22 So my -- my focus is on kind of real-time to
23 three years out, but there's a whole other team that's
24 focused on the long-term resource plan for PacifiCorp.

25 Q. I certainly understand that, but I guess my

1 question is -- I should have been more precise, but with
2 respect to your responsibilities and your expertise,
3 it's short-term?

4 A. Yeah. Three years out and in.

5 Q. Yeah. To define short term is when you can
6 change a major variable, and certainly you can't change
7 much major variables in terms of the amount of
8 generation or something in the system in three years?

9 A. Correct. Yeah, correct.

10 Q. Okay. All right. So just a final
11 clarification question going back to Washington, and I
12 apologize for that, but the benefits are situs assigned
13 and the costs are system assigned as a general concept
14 with respect to that program. Would you agree with
15 that?

16 A. The -- if by benefits you mean the no-cost
17 allowances?

18 Q. Yes.

19 A. Yes. I -- the no-cost allowances are situs
20 assigned to Washington to comply with Washington law.
21 The benefits with -- from the generation and the
22 megawatt hours -- those are per system assigned, system
23 allocated.

24 Q. The costs associated with that second category
25 of benefits are system assigned?

1 A. Yes.

2 Q. Okay. Thank you. That's all my questions.

3 CHAIR FENN: Thank you, Commissioner Harvey.

4 Commissioner Clark, do you have any questions?

5 COMMISSIONER CLARK: I have a few. Thank you.

6 EXAMINATION

7 BY COMMISSIONER CLARK:

8 Q. Good afternoon, Mr. Wilding. I think I'm
9 going to ask you some questions to begin that -- that
10 you answered during the general rate case as well.

11 A. Okay.

12 Q. But to -- to sort of incorporate that
13 foundation into this record, I want to ask you about
14 Mid-C and the superior liquidity that exists in that --
15 at that market hub, as opposed to the southwest hubs --
16 I'll call them hubs at least.

17 A. Yeah.

18 Q. And would you be able to quantify that in some
19 way? Give me some sense of, rather than qualitatively,
20 what is the difference in the liquidity, and how does
21 that affect the pricing?

22 A. Yeah. I do have a chart in my testimony. I'm
23 trying to remember which testimony it was in. So if you
24 just give me one minute, I can point you --

25 Q. Sure.

1 A. -- there. It's page 15 of my response
2 testimony.

3 Q. Okay.

4 A. Line 294. And you see the --

5 Q. Yep. Thanks.

6 A. These are the trading volumes that are -- that
7 are reported by ICE, the Intercontinental Exchange
8 between Palo Verde and Mid-C. We use Palo Verde as kind
9 of the proxy for the southwest. There's obviously other
10 hubs there. There's Four Corners, there's Mona, Mead,
11 and we do transact at those market hubs as well, but the
12 liquidity is so small there that ICE doesn't even
13 publish information for those. So PV is kind of
14 representative of that. So --

15 And then on the price, I think, just to answer
16 your second question, in my surrebuttal testimony --
17 just one second to find that as well. I mean -- and one
18 thing is liquidity is important because it really
19 doesn't matter what the price difference is if you don't
20 have any sellers, but, you know, just take one moment to
21 find that price.

22 Oh, on -- and this is confidential; so I won't
23 say the prices, but I'll just point you to where it is
24 in my testimony.

25 On page 7 of my surrebuttal testimony, that

1 whole paragraph, starting on line 141 to 147, does show
2 when we were -- we did buy a few -- we did have a few
3 purchases in the forward market on the east side of our
4 system, and it shows what the price difference is
5 between the east side of our system what we bought at,
6 and what we bought at on the west side of our system.

7 Q. Right. That's helpful. Thank you. I can see
8 that.

9 So with that in mind, I want you to turn to
10 page 10 of your response testimony. Here you've got a
11 chart of Palo Verde hourly prices from 1/1/2019 to
12 basically the end of 2023; correct?

13 A. That's correct.

14 Q. And I think the purpose of this chart is to
15 demonstrate volatility; is that right?

16 A. Yes, that's right.

17 Q. If I -- if I look at this chart in relation to
18 the chart on page 15, it seems to me that there's
19 some -- there's not -- there's some correlation, but
20 there's also some pretty significant divergences in the
21 direction, and so I'm just wondering why you use the
22 chart on page 10 rather than a Mid-C chart.

23 A. You know, I think I would be happy to provide
24 a Mid-C chart if that's helpful. I can understand why
25 the -- you know, why that would be of interest to you,

1 but we would be happy to provide that as well. I think
2 it would still show the price volatility that we're
3 seeing in the market.

4 Q. If we look at the Figure 1 on page 10, either
5 for the Palo Verde hourly prices or the Mid-C prices
6 during this time frame, have you quantified what your
7 net power costs would have been if you had simply
8 purchased whatever requirements existed at whatever time
9 in the spot market as reflected here to compare that to
10 the net power costs that you incurred in 2023 under your
11 hedging strategy?

12 A. No, we haven't. And the reason why is it's --
13 you know, that counterfactual would be, you know, really
14 almost impossible to -- to calculate because, you know,
15 we are a significant sized utility in the west. We're a
16 significant player. So if we were to, you know,
17 purchase all of that in the spot market, all of our
18 requirements in the spot market, it's likely that -- and
19 it is true, that we would have an impact on price. So
20 we don't know what the price would be if we were out
21 buying all of our requirements in the spot market.

22 And then the other thing is just --

23 Q. Could I -- before you give me the other
24 thing --

25 A. Yeah.

1 Q. -- I want to correct an assumption that I may
2 have incorrectly stated. I'm speaking of just the
3 marginal piece that you would require to address the --
4 you know, the peak requirement beyond your abilities to
5 generate in the east and supply the east load.

6 A. Yeah. And I am as well.

7 Q. Okay.

8 A. So even -- even just buying that incremental
9 piece would be significant enough that we could
10 potentially move the market. And then --

11 Q. But wouldn't -- wouldn't it be worth -- I'm
12 sorry I'm interrupting you. Finish your answer.

13 A. And then from a reliability standpoint, we
14 have seen a significant decline in the real-time
15 bilateral market since EIM has been implemented over the
16 last decade and as more entities have joined the EIM.
17 And so for me, personally, that is not a risk, to carry
18 an open position into real-time or even the daily
19 market, that I would ever suggest that the Company takes
20 because that will put reliability and would introduce
21 severe supply risks to the point of potentially losing
22 retail load and having to have rolling blackouts. So
23 that's a risk I personally would never take or suggest
24 be taken.

25 And then to the point about -- to kind of

1 further that point, talking about the hourly market and
2 the bilateral market kind of losing liquidity since EIM
3 has been in place -- also, to participate in EIM, which
4 provides a significant reliability benefit to the
5 Company and to its customers, you have to go into that
6 market with the ability to serve your own load. And
7 then the market footprint is re-dispatched, and you can,
8 you know, create benefits that way by the more economic
9 dispatch that incremental changes during real-time, and
10 we have seen a significant reliability benefit from
11 there.

12 That -- so not only -- so it just -- that --
13 if we don't -- if we leave that position open and we go
14 and do kind of what you're suggesting, not only do we
15 run the risk of -- of blackouts and rolling blackouts,
16 but we also lose the tools that we have to be able to,
17 you know, reliably serve the system, a huge tool in EIM.

18 So, no, we have not done that. I don't think
19 it will tell us anything informative, and with the
20 reliability risk on top of that, that is not a risk that
21 I would ever suggest taking.

22 Q. I understand how reluctant a utility can be to
23 the prospect of vulnerability to rolling blackout or
24 some extreme event, but I'm trying to weigh that against
25 the -- the magnitude of the increases in net power costs

1 that we've seen in the last three years and just
2 wondering whether at least some kind of counterfactual
3 analysis ought to be -- be undertaken to -- as a way of
4 exploring other -- other ways to address volatility that
5 we're seeing in the orders of magnitude that we're
6 experiencing it. Do you have any ideas about what could
7 be done?

8 A. Absolutely, and we are doing things, and we
9 are trying to, you know, do our best to combat some of
10 these things. You know, besides reliability -- reliably
11 serving load cost is, you know, the number one thing
12 that I think about and doing this in a way that's most
13 beneficial to our customers.

14 So a couple of things that we are doing -- you
15 know, we're constantly looking at the tools that we have
16 available to us to ensure that we are, you know,
17 providing customers with a -- and serving customers in
18 the least cost manner, the lowest cost that we can.
19 We've recently updated our optimization model to be able
20 to include more variables and to run from day-ahead all
21 the way through real-time, and we're really excited
22 about that. That will allow us to manage our
23 uncertainty requirement a little bit better and more
24 precisely, which should result in customer savings.

25 We've been, you know, out in front of, you

1 know, market expansion for the western United States.
2 Not only were we the first ones to join the Western
3 Energy Imbalance Market, or EIM, with the CAISO, and
4 we've seen that grow to, you know, produce over \$5
5 billion of benefits. You know, just under 100 million
6 of that -- or sorry -- just under a billion of that is
7 PacifiCorp's -- for PacifiCorp's customers over the last
8 decade or 11 years.

9 We're, again, leading the west on further
10 market expansion to the extended day-ahead market, EDAM,
11 which will allow us to, you know, further benefit from
12 the market optimization. And so instead of just
13 optimizing the kind of incremental changes within the
14 hour and the changes that a plant can make within the
15 hour, now we can optimize among a larger market
16 footprint day-ahead decisions and commitment decisions
17 and dispatch -- you know, dispatch schedules way better
18 than we can with EIM. And that's going to produce --
19 again, our models are showing hundreds of million
20 dollars of benefits.

21 Some of the other things that we're doing is,
22 you know, we're adding resources. We just added
23 1,500 megawatts of wind resources in eastern Wyoming
24 with a transmission line that drops right into Salt Lake
25 City, right into Utah, and that transmission line has

1 allowed us to, you know, export even more wind out of
2 Wyoming and allowed us to manage the entire Wyoming
3 transmission system better.

4 We are also -- focusing on the capacity needs
5 that we have going forward and in 2026, we're going to
6 bring on about a thousand megawatts of batteries that
7 will allow us to shape our purchases much better. And
8 so instead of having to purchase, you know, a 16-hour
9 block to cover off the four hours that we need the
10 electricity, now we can use that excess electricity from
11 solar and that we have during the day charge the battery
12 and discharge it over that four hours that we need it.

13 And -- and then there's one other thing I was
14 going to point out, but I can't remember what it was.

15 But the point is we're doing stuff. We're
16 trying to -- to -- to manage this, and, you know, the
17 step changes that we saw in the electricity markets are
18 a lot of the same things that we saw in our everyday
19 lives with inflation and supply chain challenges. You
20 know, there was a lot of -- a lot of generation that was
21 meant to come online during the pandemic that -- you
22 know, couldn't buy solar panels or you couldn't buy the
23 components to build the batteries, and so those were
24 pushed out.

25 And so what we really saw was, you know,

1 during this time, we saw loads growing faster than
2 anticipated, resources coming on slower than
3 anticipated, and we saw scarcity market pricing. I
4 think in the last -- in 2024, you know, we saw more
5 generation come online and some of that to start --
6 start correcting itself. But -- and these are the ebbs
7 and flows of markets, but, I mean, all this considered,
8 I think we are doing a lot to try to serve our customers
9 in the least cost manner without putting them at risk
10 for not being able to serve their load.

11 Q. With respect to EIM, at least, that's an area
12 where the Company does go to quite significant lengths
13 to be able to at least produce what it represents to be
14 a counterfactual scenario so that the savings can be
15 understood somehow from that. And so I'm just coming
16 back to why wouldn't it at least be productive to
17 understand what would have happened if I had done
18 nothing? And -- and that -- perhaps that would lead
19 to -- to approaches that you haven't considered yet.

20 As far as you know, Mr. Wilding, does that --
21 that -- does anyone in this record make an attempt to --
22 any witness, any exhibit -- to demonstrate what the
23 outcomes would be if we -- if -- if the Company had
24 simply met its peak requirements with spot purchases?

25 A. Not that I can recall, that that analysis has

1 been done.

2 I will just say the EIM benefits are
3 calculated by the CAISO and not the Company. Just one
4 thing there. And then, again --

5 Q. I guess publicized by the Company certainly.
6 You would accept that, wouldn't you?

7 A. Yeah but --

8 Q. Okay.

9 A. Okay. They're on the CAISO website.

10 Q. Sure.

11 A. But we do use those and rely on those.

12 Q. Sure.

13 A. I think we're kind of just fundamentally
14 talking about something different here, though, where
15 there's really two variables that we don't know and
16 don't control and would likely be impacted if we did not
17 transact in the forward market, and that's market
18 liquidity and market price. So even if that analysis
19 came back and said, hey, you could serve load, you know,
20 cheaper by relying on the spot market, that's not a risk
21 that I would be willing to take.

22 Q. Understand.

23 A. Because of that -- and to make it even worse,
24 the days that you're going to have blackouts are the
25 hottest days of the year when people are relying on

1 their air-conditioning or the coldest days of the year
2 when they're relying on electric heat in the northwest
3 or, you know, those types of things.

4 And so that brought -- jogged my memory that
5 the one other thing that we can do and that we have done
6 is, you know, we are starting to see the liquidity a
7 little bit more on index-priced products, index-based
8 products where we can lock in the physical capacity, but
9 we have the ability to let the price float with the --
10 the spot price. It comes at a -- it typically comes at
11 a premium to the spot price, you know. So we have done
12 some of those as well, and I'm probably getting into
13 confidential information. So --

14 Q. Well, I appreciate your -- your lengthy
15 answer, and it is helpful.

16 A. Thank you.

17 Q. Honestly. I -- I wrestle with -- with the
18 outcomes that this regulatory mechanism is achieving.
19 And, as you know, for about ten years, there was a
20 pretty narrow set of outcomes, largely, with, I think,
21 one exception, some remaining payments or costs that
22 customers needed to absorb that represented the
23 difference between NPC that was in base rates and what
24 was actually experienced by the Company. But then
25 suddenly in 2021, that happens to coincide with the

1 change in your hedging policy, that average outcome --
2 which I -- I think is about \$19 million or something
3 like that a year -- is suddenly almost five times that,
4 and then the next year it's -- it's, you know, eight or
5 ten times, and then the next in 2024 it's 20 times.

6 So that -- do you -- would you agree with me
7 that it's reasonable for the Commission to be really
8 wondering about the efficacy of the EBA and how this
9 subject might be approached in a more effective way
10 for -- really for the Company and for customers so
11 that -- so that the really challenging and controversial
12 set of factors that we're dealing with today could be at
13 least somewhat avoided and we could return to the -- the
14 kinds of experiences that -- that we were used to
15 between 2010 and 2020?

16 A. Well, I -- I hear the -- yeah, I hear your
17 concern, and I definitely understand that concern. I
18 think I would maybe just say a couple things -- is, one,
19 that, you know, correlation does not, you know, imply
20 causation. And -- so our changing of the hedging policy
21 was, in fact, to respond to what we were seeing in the
22 market and the scarcity of resources and what was
23 available.

24 And if you remember in August of 2020,
25 California did have rolling blackouts because of a, you

1 know, supply situation where they did not have
2 sufficient supply to serve their load. And so we saw
3 that. We saw the pricing, the volatility, and we made
4 our changes in -- in response to the market. So the
5 correlation is us responding to the market, not causing
6 the changes in market.

7 I think over the last couple of years, we've
8 had this kind of unique set of circumstances where, you
9 know, I'm sympathetic to the results, but we had, in our
10 last general rate case, kind of, you know, pre-pandemic
11 baseline net power costs set based on what we knew at
12 the time that was, you know, significantly lower than
13 what we're seeing today. And we've had a -- no doubt
14 about it -- we -- this is not a gradual increase of
15 power costs, but it was a step change in power cost, and
16 so we're not the only utility that has felt that step
17 change.

18 And, you know, over the last couple of years,
19 we've really dealt with some difficult situations.
20 We've dealt with, you know, coal supply issues, where,
21 in the past, always considered coal super steady, you
22 know, super reliable, but then there's a fire at the
23 Lila Canyon Mine that caused, you know, not only price
24 issues, but also, you know, supply issues with coal.
25 Had a bad hydro year. You know, all of these things

1 kind of compound on itself and plus the new resources
2 not coming online like I stated, and you see a step
3 change.

4 And so while the -- the amount of the
5 variance, I understand, is -- is not desirable, but I --
6 the EBA is working as it's supposed to. It's supposed
7 to, you know, provide that ability to recover the
8 variable costs that are incurred to serve customers
9 load, and the exact opposite is true. We've had years
10 where we've, you know, returned a credit to customers
11 because the baseline was higher than what actually
12 happened.

13 And, you know, if I -- I don't know for sure,
14 but based on what I've seen, you know, I think we'll
15 start to see leveling out of power costs. I think, you
16 know, we're getting back to -- I don't want to say back
17 to normal, but, you know, back to more of a steady state
18 as opposed to, you know, dealing with the resource
19 scarcity. You know, we see batteries being added all
20 over the western United States. New wind come online,
21 and I mentioned with us, new transmission lines. All of
22 these things help.

23 I think we just went through a really hard
24 period with a low baseline of net power costs set before
25 the pandemic and a step change in power costs that not

1 only we -- I can't stress this enough. It's not just
2 utilities that face this. I mean, the same thing that
3 caused inflation and, you know, supply chain disruptions
4 that we all saw in our personal lives -- those are the
5 same things that are causing a lot of, you know, changes
6 in the electric market as a whole plus the coal issues
7 that I mentioned.

8 Q. Those are all my questions. Thank you.

9 A. Yeah. Thank you.

10 CHAIR FENN: Thank you, Mr. Wilding, for your
11 responses to Commissioner Harvey and Commissioner
12 Clark's questions. I don't want to beat this into the
13 ground, but I just have a couple of questions to follow
14 up on what was asked.

15 EXAMINATION

16 BY CHAIR FENN:

17 Q. So when the Company changed its hedging
18 program in -- I think July of 2021?

19 A. Mm-hmm.

20 Q. Were you one of the decision makers on that
21 change of the hedging program?

22 A. Yeah, I was. And one of the reasons I think
23 I've mentioned it in testimony -- one of the main
24 reasons is, you know, we saw the scarcity in the market.
25 I mentioned the blackouts in California in August of

1 2020. You know, we saw those -- those market
2 conditions. We knew that we had an open position that
3 we needed to fill, and based on the financial metrics
4 that we were using, our hedging policy was telling us to
5 sell energy when we needed it the most.

6 Q. Okay. Can you give me just the shortest
7 summary as possible as you can the difference between
8 the pre-July 2021 hedging policy and then the
9 post-July 2021 hedging policy?

10 A. Yep.

11 MR. KUMAR: Chair Fenn, I just want to
12 caution. I'm a little worried we might be getting into
13 confidential information here. I think we're happy to
14 get into it. I just want -- because the details on the
15 hedging policy and how we purchase those --

16 CHAIR FENN: I don't think I need a lot of
17 detail.

18 Q. (BY CHAIR FENN) My understanding is -- maybe
19 let me state -- this is an oversimplification, but let
20 me see if this is correct. That in the pre-2021 you use
21 the TAYLAR [ph] or TVAR [ph] values to determine average
22 energy positions; is that correct?

23 A. Correct.

24 Q. And the post-July 2021 you were shifting from
25 average energy positions to peak hour requirements; is

1 that an accurate description?

2 Answer without disclosing any confidential
3 information. If that's -- was it a fair question, or is
4 there a question -- do you have a problem with the
5 question? I can rephrase it.

6 MR. KUMAR: And I will defer to Mr. Wilding on
7 this, but based on how we've marked the various
8 methodologies in the testimony, I think the actual
9 disclosure of those methodologies and those metrics may
10 be confidential. And so I just want to be very careful
11 about it because the disclosure of those metrics could,
12 in fact, like, provide information to the counterparties
13 that were trying to conduct those hedging transactions
14 with that we don't want them to have that information to
15 use against us to essentially raise the costs that we
16 would pay.

17 CHAIR FENN: And I appreciate that.

18 Q. (BY CHAIR FENN) All I want to ask is that --
19 I don't want any metrics. I just want to know if the
20 concept is accurate -- that we're shifting from an
21 average energy position to peak hour requirements. Is
22 that accurate?

23 I grant you it may be an oversimplification,
24 but to the extent -- do you disagree with that
25 characterization?

1 A. It is an oversimplification. There's a lot of
2 nuance, but, yes, that is accurate.

3 Q. Okay. All right. And that's all I'm going to
4 get into it. I just am trying to make sure I understand
5 the basics of the program without -- without the
6 metrics, without the nuances, and I'm going to move off
7 of that if you're okay with it.

8 MR. KUMAR: Well, I think we're happy to get
9 into it, and we're happy to have Mr. Wilding explain
10 more about it if that's where you want to go. I just
11 think we -- we're happy to do that in confidential
12 session.

13 CHAIR FENN: Okay. All right. Let's see if I
14 get into a question that you feel like you want to go --
15 ask to go into confidential session. I don't think we
16 will.

17 I'm just -- I want to understand, and I'm
18 going to refer to -- if you'd like to get a copy of
19 it -- I'm trying to do this as fast as we can here --
20 DPU Exhibit 1.1 in their direct testimony. It's the
21 2024 EBA audit report for Rocky Mountain Power.

22 Do we actually have a copy of that that we can
23 give to Mr. Wilding?

24 MR. KUMAR: May I approach?

25 CHAIR FENN: Yes, please. Yes.

1 Q. (BY CHAIR FENN) It's also on page 9 of --
2 yeah, DPU's Exhibit 1.2, page 9 of your testimony, but
3 I'm referring to the exhibit also found in the
4 testimony.

5 A. Sorry. Can you give me the --

6 Q. Yeah, page 7 of the Exhibit 1.1. DPU
7 Exhibit 1.1. You see a DPU Table 2 there.

8 A. Page 7?

9 Q. Yeah.

10 A. Okay. Got it.

11 Q. Okay. So Commissioner Clark referred to these
12 significant increases in net power costs, and I'm -- I
13 want to ask a question about the -- in 2020 you can see
14 we go from -- I'm just going to round this -- 6.6
15 million NPC; 2021, 90.6 million; 2022, 175 million; and
16 in 2023, \$455 million.

17 What I'm trying to understand is if that
18 increase in those -- the magnitude of those increased
19 costs are due simply to the volatility in the
20 marketplace of the -- of the pricing transactions you
21 were able to enter into, or are there other factors
22 associated with it?

23 A. Yes. There are other factors. We've had,
24 historically, bad hydro years with significant droughts.
25 We've had the coal supply issues that we've discussed.

1 Q. But all of those would lead to pricing
2 volatility; correct? Price increases, essentially?

3 A. Right.

4 Q. Okay. All right. And so are there any other
5 factors that -- that led to those, you know,
6 unprecedented increases in the last three years?

7 A. Well, when you're talking about increase, are
8 you talking about the EBA recovery amount increases?

9 Q. Yeah. The EBA -- third column there, the EBA
10 recovery amount increases from 6.6 million in 2020 to
11 455 million in 2023, with pretty significant increases
12 in 2022 and 2021.

13 A. Yeah. I mean, I think, like I said, we -- we
14 experienced in the country and the region experienced a
15 step change in the market during that -- that time, and
16 we had set a base net power cost in a rate case. And
17 so, I mean, the EBA recovery amount -- it all depends on
18 what the base amount is.

19 Q. Sure.

20 A. I mean, I accept that net power costs have
21 been increasing over the last couple of years leading up
22 to '23 and in '23, but we also had a base net power cost
23 that was, you know, years old. And had we reset that
24 cost and -- and re-forecast that amount, the EBA
25 recovery amount would have been less.

1 Q. And I understand that position. I appreciate
2 you sharing that.

3 I guess what I'm trying to get at is your
4 response to what I think is the Division's position, and
5 I will refer to it on page 6, paragraph 12 of the
6 exhibit. And it states -- I'm looking now in the fourth
7 sentence of paragraph 12. Do you see that there? Can
8 you read that into the record?

9 A. The fourth sentence?

10 Q. Yeah. I think it begins, "The new program."

11 A. The new --

12 Q. Maybe it's the third sentence. Let's go
13 through it again. It is the third sentence. I
14 apologize.

15 A. "The new program has drastically increased the
16 Company's hedging market purchases and costs
17 contributing to the large EBA deferral starting in 2021
18 and are shown in DPU Table 2. All values are Utah
19 allocated."

20 Q. Okay. So the question I have is did the
21 change in the hedging policy contribute at all to the --
22 they're -- they're saying here that it drastically
23 increased costs contributing to large EBA deferrals. I
24 assume you reject that position?

25 A. Yes.

1 Q. But my question is a little simpler, and that
2 is do you believe that the change in the hedging
3 program, the way you went about hedging after July 2021,
4 resulted in a larger NPC element in your -- in your
5 hedging management?

6 A. No. And the reason why I say no is, again, it
7 goes back to we changed the policy to address the risks
8 that we saw in the market in not having enough energy
9 and our old hedging policy, based on, you know, solely
10 financial metrics, telling us to sell at times when we
11 needed the energy the most.

12 And so no. I think -- I think the increase in
13 costs is driven by external market forces, and we have
14 acted prudently and hedged and purchased in a just and
15 reasonable manner to reliably serve our customers.

16 Q. And I -- I understand your testimony on that.
17 I guess I'm trying to understand why the Division takes
18 the position. We can ask their witnesses, but their
19 position is, is that the change in the hedging program
20 resulted in increased costs.

21 Let me ask it this way. If you had not
22 changed the hedging program and had kept the
23 pre-July 2021 hedging program in place, do you think
24 that would have then resulted in lower EBA NPC recovery
25 amounts?

1 A. No. It's hard to say. We would have been
2 much larger purchasers in the daily in the spot markets.
3 It's hard to say what the spot markets would have done.
4 We would have -- and there's likely times that we
5 wouldn't have been able to serve load. I mean -- so I
6 don't know. I can't say that with any certainty, but I
7 can say that maybe costs would have been lower, but we
8 wouldn't have served load in all hours.

9 Q. Yeah. Based upon the inability to purchase on
10 the spot market because of unavailability or whatever
11 reason?

12 A. I mean, and like I said, our coal plants --
13 we -- we didn't have coal. We were trying to preserve
14 coal for those hottest days in the summer and trying to
15 buy in the other hours. So I think like -- yeah. I
16 don't know what costs would have done if we would have
17 done something different, if we would not have bought in
18 the forward markets. I do know we would not have --
19 like, it would have been much harder to reliably serve
20 load and likely that we would not have been able to
21 reliably serve load.

22 Q. Okay. All right. Thank you for your
23 testimony in that -- in that respect.

24 So I guess the conclusion that you would hope
25 the Commission would draw is that the significant

1 increase starting in 2021 was due to the circumstances
2 in the market we found ourselves in with all sorts of
3 different conditions with price volatility which
4 resulted in an increased price to you and the longer
5 term contracts that you were entering into. That was
6 the reason, rather than the change in the hedging
7 program for the -- for the significant changes that
8 occurred almost simultaneously in time with the changes
9 in the hedging program. Is that --

10 A. Yeah, absolutely. And I just -- we changed
11 the hedging program based on what we were seeing in the
12 markets to address the risk that we were seeing in the
13 markets. If we hadn't have changed the hedging program
14 and kept the hedging program that we had before, it's
15 likely that we're sitting here having a different
16 conversation and you're asking me why I didn't change
17 the hedging program.

18 Q. Yeah. No. I understand your position on
19 that, that we might be having a different conversation.

20 I go back now to one question, though, that's
21 kind of troubled me since Phase I of the general rate
22 case. The Division uses this word, and they use it
23 advisedly. They say that you unilaterally changed the
24 hedging program in 2021 and didn't consult the
25 Commission, and I'm just -- I mean, I'm not suggesting

1 that you didn't have the right to do that. I guess I'm
2 asking the question as to why didn't you -- if this was
3 a major change --

4 A. Yeah.

5 Q. -- in the way you operated your hedging
6 program, which it clearly -- as you now see the results,
7 it is, why -- why wasn't there some notification or
8 involvement of the -- of the Commission in that process?

9 A. Frankly, the fact that we -- I mean, frankly,
10 that statement that we unilaterally changed the hedging
11 program is just simply not true. I came out. I
12 traveled to each of our six state commissions, and I
13 gave presentations on what we were going to do and gave
14 them -- gave everyone an update on how we were going to
15 do it, asked for input.

16 In fact, when we came here to Utah, we said,
17 "These changes are not yet been implemented, but these
18 are the changes that we are going and that we want to
19 make, and these are the reasons why," and we asked for
20 input. We got told to, you know, put it in the
21 semiannual hedging report, which we did. I don't
22 believe that we got any feedback as to what we should do
23 differently.

24 And once we went to all of the commissions,
25 went to all commission staff and the DPU, all six of our

1 states -- myself, Mr. John Fritz, who's our director of
2 risk management -- we went and we did that presentation
3 for everyone. And once we did that, we followed our
4 internal processes to -- to implement this. And so we
5 did not do this unilaterally, and this was not a change
6 that was a surprise to anyone. I sat right over there
7 in that room across the hall and gave the presentation.

8 Q. Okay. And I very much appreciate that
9 explanation because this is all new to me. As you may
10 know, I've been on this Commission eight months. So
11 this all predates my involvement, but did you have
12 those -- so -- and I didn't phrase -- "unilateral" is
13 not mine.

14 A. I understand.

15 Q. That is in the testimony. I'm trying to
16 explore it, though. But you're now telling me that you
17 had discussions -- did you have discussions with the DPU
18 or the Commission members in Utah or the Commission
19 staff in Utah? Because I -- I'm not aware of any.

20 A. Yeah, I understand. You know, I want -- I
21 think I recall Commissioner LeVar being in that room --
22 Chair LeVar being in the room while we had that, but I
23 can't recall that with 100 percent certainty. I would
24 have to go back and look.

25 Q. Okay. Well --

1 A. But I've done a lot of presentations here.

2 Q. Sure.

3 A. So --

4 Q. But from what I'm gathering you're saying is
5 that you're -- I'm going to use this -- these are my
6 words. You were -- you were not trying to spring
7 something by surprise on any state commission. You were
8 trying to disclose what the plan was and provide enough
9 information so that this Commission or any other
10 commission was notified to what was going on?

11 A. Absolutely, yes, sir. And also provide input
12 if they had it.

13 Q. Okay. And I can't vouch and I'm not the right
14 person to ask questions as to what that process --
15 because I wasn't here.

16 A. Yeah.

17 Q. Okay. I have one other question for you with
18 respect to an assertion by -- in this exhibit. This is
19 on page 7, and I just wanted you to respond to this.
20 It's the paragraph right before DPU Table 2.

21 "The Company's decision not to model proven
22 resource types and focus planning on other priorities
23 have largely limited its procurement activity to
24 intermittent resources, leaving it to rely on more
25 extensive hedging market purchases during key hours was

1 a major driver of the 2023 deferral."

2 Would you like to respond to that -- whether
3 that's true, whether it needs to be qualified, or
4 whether it's not true?

5 A. You know, again, the IRP and the long-term
6 planning is not my expertise, but, you know, I don't
7 believe this is true as well -- either. You know, I
8 know the IRP is a robust process that looks at many
9 different scenarios and options to arrive at a preferred
10 portfolio.

11 You know, I know in 2020 we added significant
12 amount of wind resources in Wyoming along with a
13 transmission line to move that wind resource -- those
14 wind resources to load. We added more wind resources
15 just recently at the end of last year and beginning of
16 this year, and with another transmission line we're
17 adding batteries in 2026.

18 I mean, as you are aware, resources take time
19 to plan and to build. And, you know, I think, as you
20 are also aware, some of the challenges that we saw the
21 last couple of years, you know, and the pandemic itself,
22 was not foreseen, and, you know, load grew faster than
23 we forecasted. We did not foresee the coal issues, and,
24 you know, even if we would have had another coal plant
25 to use, we wouldn't have had the coal to burn.

1 So, you know, these are all -- this is way too
2 simplification of the issues that we faced.

3 CHAIR FENN: Okay. All right. I wanted to
4 get your response to that.

5 Mr. Wilding, I think you've been very
6 cooperative on staying on the stand another hour and
7 25 minutes after lunch when I didn't expect it was going
8 to be that long, but we will now -- we'll excuse you.
9 Is there any other -- okay.

10 THE WITNESS: Thank you.

11 CHAIR FENN: Thank you, Mr. Wilding, for your
12 testimony today. I appreciate it.

13 All right. I -- I think that -- that's all
14 your witnesses; is that correct?

15 MR. KUMAR: That is correct.

16 CHAIR FENN: Okay. Let's turn to the Division
17 of Public Utilities and let you call your first witness.

18 MR. GRECU: Thank you. The Division calls
19 Mr. Gary Smith.

20 CHAIR FENN: Mr. Smith. Welcome, Mr. Smith.

21 THE WITNESS: Thank you.

22 CHAIR FENN: Thank you. Please raise your
23 right arm.

24 GARY SMITH

25 was called as a witness, and having been first duly

1 sworn to tell the truth, testified as follows.

2 CHAIR FENN: Thank you very much. You may
3 proceed.

4 DIRECT EXAMINATION

5 BY MR. GRECU:

6 Q. Mr. Smith, could you please state and spell
7 your name for the record.

8 A. Gary Smith, G-a-r-y S-m-i-t-h.

9 Q. By whom are you employed, and what is your
10 position?

11 A. The Division of Public Utilities, and I'm a
12 utility technical consultant.

13 Q. And what is your business address?

14 A. It is 160 East 300 South, Salt Lake City,
15 Utah.

16 Q. And have you participated in this docket on
17 behalf of the Division?

18 A. I have.

19 Q. Could you briefly describe your participation
20 in the docket.

21 A. I was sort of the lead in analyzing, reviewing
22 and -- both testimonies and also information submitted
23 by the Company and also obviously testimonies provided
24 by other parties.

25 Q. Did you review the Company's filings in this

1 docket as well as the filings from other parties?

2 A. Yes.

3 Q. Have you also reviewed the responses to data
4 requests?

5 A. I have.

6 Q. Did you prepare and cause to be filed your
7 direct testimony and DPU Exhibits 1.1 Dir through 1.8
8 Dir on November 5th, 2024, and your rebuttal testimony
9 and DPU Exhibit 1.1 R filed on January 8th, 2025?

10 A. Yes.

11 Q. Did you also prepare and cause to be filed
12 your corrected rebuttal testimony, in clean and
13 red-lined versions, and the corrected DPU Exhibit 1.1 R
14 on January 15th of this year?

15 A. Yes.

16 Q. Do you have any changes or corrections to
17 those filings?

18 A. Nope.

19 Q. And if I ask you the same questions posed in
20 your direct and corrected rebuttal testimonies today,
21 would you provide the same answers?

22 A. Yes, I would.

23 Q. Do you adopt your prefled direct and
24 corrected -- corrected rebuttal testimony as part of
25 your testimony today?

1 A. Yes.

2 MR. GRECU: At this point I'd like to move to
3 admit Mr. Smith's direct testimony and corrected
4 rebuttal testimony and associated exhibits.

5 CHAIR FENN: Seeing no objection, we'll admit
6 Mr. Smith's direct testimony with the accompanying
7 exhibits, his rebuttal testimony and exhibit, and
8 corrected rebuttal testimony and corrected exhibit.
9 Thank you.

10 (Gary Smith's prefiled testimony and
11 exhibits were admitted into evidence.)

12 Q. (BY MR. GRECU) Mr. Smith, have you prepared a
13 summary to share today?

14 A. Yes, I have.

15 Q. Please proceed.

16 A. Thank you. Good afternoon, Chair Fenn and
17 Commissioners Clark and Harvey. Thank you for the
18 opportunity to address Rocky Mountain Power's, or the
19 Company's, request for cost recovery and the Division's
20 report in the Company's 2024 energy balancing account or
21 EBA filing.

22 On May 1st, 2024, the Company filed its
23 application requesting recovery of approximately
24 455 million in net power costs for the deferral of 2023.
25 This is the largest deferral requested by the Company.

1 The Company's reasons for the increased costs
2 include the following: decreased coal plant generation
3 compared to the EBA base, or base, established in 2020
4 due mostly to coal fuel supply issues; underperforming
5 wind plants; unrealized production tax credits and
6 hydrogeneration lower than base; increased reliance on
7 expensive replacement power for market purchases made at
8 higher average market prices than base, resulting in the
9 largest increase in the EBA deferral; increased natural
10 gas fuel expense due to higher average prices that
11 assumed -- that was assumed in base; and the largest
12 wholesale sales volume -- or sorry -- did I say that --
13 the lowest wholesale sales volume since 2021 due to the
14 lack of available Company plant generation.

15 On June 28th, 2024, the Commission approved an
16 interim rate recovery of 431.6 million commencing
17 July 1st, 2024.

18 After reviewing the Company's application for
19 cost recovery, filed testimony, and information provided
20 in response to data requests, the Division calculated an
21 updated total Utah-allocated EBA recovery of
22 334.5 million for the calendar year 2023, an increase of
23 57.7 million from the calculated recovery amount
24 included in the Division's November 5th, 2024, report
25 and direct testimony.

1 The Division's total updated recommendation of
2 334.5 million is 97.1 million less than the approved
3 interim rate recovery amount due to the following
4 recommended adjustments:

5 All numbers are Utah allocated amounts and
6 include accrued interest.

7 A 629,000 adjustment for a replacement power
8 cost related to four forced outages the Division views
9 as imprudent. This amount is 186,000 less than
10 recommended in the Division's direct testimony due to
11 the removal of the October 11th, 2023, Naughton 2
12 outage.

13 A 19.4 million adjustment to remove the
14 state-specific costs to comply with the Washington
15 Climate Commitment Act known as Washington CCA.

16 A 4.8 million adjustment to remove the
17 Electric Schedule 137 costs for deferral years 2020
18 through 2022. These costs were known to the Company but
19 not included in the Company's EBA recovery requests for
20 those deferral years.

21 A \$72.3 million adjustment to more accurately
22 allocate trading activities occurring in PAC West.
23 Market purchases, including hedging transactions
24 occurring in PAC West, do not appear to benefit Utah
25 customers in proportion to the costs currently allocated

1 to them.

2 The Division's recommended 72.3 million PAC
3 West adjustment is 57.5 million less than the amount the
4 Division recommended in direct testimony.

5 The Division's witnesses from Daymark,
6 Mr. Phil DiDomenico and Dan Koehler, will testify
7 regarding Daymark's EBA review and will address its
8 recommended adjustments for outages and the removal of
9 the Washington CCA compliance cost.

10 This concludes my summary.

11 CHAIR FENN: Okay. Thank you very much. I
12 appreciate that.

13 Anything, Mr. Grecu, before we turn him over
14 for cross-examination?

15 MR. GRECU: Nothing further from me.

16 CHAIR FENN: Okay. All right. Let's see.
17 Mr. Moscon, are you conducting the cross-examination
18 here?

19 MR. MOSCON: I am. Thank you, Chair.

20 CHAIR FENN: Thank you.

21 CROSS-EXAMINATION

22 BY MR. MOSCON:

23 Q. Good afternoon, Mr. Smith.

24 A. Good afternoon.

25 Q. I think we can really condense the questioning

1 that I was going to have for you because there's been so
2 much exploration of some of these topics already. Do
3 you have a copy of all of your testimony there in front
4 of you?

5 A. I do, yeah.

6 Q. I want to just clarify a couple of points that
7 you made, and then I'll pass the mic to others.

8 If I could have you turn to Exhibit 1.2 to
9 your direct testimony, which is the audit report, and go
10 to page 20. While you're going there, I'm going to just
11 note for everyone that this is the confidential audit
12 report, not the public summary. I do not believe
13 anything that I'm going to ask you about is
14 confidential.

15 A. Okay.

16 Q. It's just the specific things I was looking
17 for not in the public summary.

18 A. Right.

19 Q. But I don't foresee a need to go into
20 confidential session. So there's no alarm taken by the
21 yellow paper.

22 A. Which page did you say?

23 Q. Page 20 of 1.2. And I'm looking at the very
24 bottom of the page. There's the bottom paragraph that's
25 introducing DPU Chart 1, and in the bottom paragraph,

1 you note -- and just in case they're confidential -- I
2 don't know -- I won't use the exact numbers -- but you
3 note that in 2023 that the -- that there was a
4 significant decrease in coal fuel expense; correct?

5 A. That is correct.

6 Q. And then if you turn the page and go with me
7 to page 21 -- and I'm looking at the paragraph at the
8 bottom of this page, after Mr. Painter's explanation of
9 your point, and you have a sentence there that starts,
10 "The results." Do you see that?

11 A. Yeah.

12 Q. And I'm just going to read it. "The results
13 of the Company's adjusted coal contracts, deliveries,
14 and depressed generation in 2023 contributed
15 significantly to the Company's requested large EBA
16 deferral period."

17 Do you see that?

18 A. Yes.

19 Q. Okay. And you agree with me that one -- it's
20 not the only -- but one of the main drivers for the
21 large deferral on the topic that has just been the
22 subject of questioning for Mr. Wilding was that, in
23 fact, because of coal contract issues that that was a
24 driver that was increasing the Company's need to
25 purchase additional power trade; is that correct?

1 A. The decreased generation of coal -- the
2 Company actually suppressed the price so that it
3 wouldn't generate coal as much, and so, yeah, they did
4 result in either gas or market purchases -- I want to
5 say market purchases.

6 Q. In fact, I think your next sentence is really
7 what I was driving at.

8 A. Okay.

9 Q. It states, "The Company explained that the
10 reduction in coal generation was predominantly due to
11 coal supply issues in Utah, including force majeure
12 events."

13 Do you see that?

14 A. Yes.

15 Q. And it's true, isn't it, that nothing that the
16 DPU has filed with the Commission in this docket calls
17 into question that, in fact, that there were fires and
18 floods that did impact the Company's coal supply for
19 2023; is that correct?

20 A. That's correct.

21 Q. Okay. Now, if you would turn with me to your
22 corrected rebuttal testimony, and I'm going to be going
23 to page 8.

24 A. I'm there.

25 Q. Okay. And in the -- below Table 2, there's a

1 question and answer there that talks about this
2 adjustment that you referenced in your summary that your
3 answer starts on line 145. Do you see that?

4 A. Yes.

5 Q. Okay. Now, I think you noted that your
6 rebuttal testimony has a different number. It's a
7 revision based on the -- or excuse me -- based on the
8 DPU's initial filing in your direct testimony; correct?

9 A. That is correct.

10 Q. And in your corrected rebuttal testimony, you
11 now recommend that instead of a total reduction for the
12 west side market purchases, but a reduction of the
13 purchase and hedging cost from the 44 percent, which
14 would be the Utah-allocated share to 20 percent;
15 correct?

16 A. That is correct.

17 Q. And in your testimony, you indicate that where
18 you derive this 20 percent figure is because that's the
19 number that Mr. Trevor Jones used in the general rate
20 case testimony, and you reference the Docket 24-035-04;
21 is that correct?

22 A. Correct.

23 Q. Would you agree with me that you, yourself,
24 have not done any analysis independent of Mr. Jones to
25 come up with how or why that 20 percent figure is

1 correct?

2 A. I wouldn't fully agree with that. I will say
3 that Trevor probably acted as a lead on this topic.
4 However, analysis being obviously it would be something
5 less than 44 percent. So -- and so in the absence of
6 specific details on some of the allocation details that
7 we could have used, we came up with a 20 percent figure.

8 Q. Okay. Well, to the extent you refer to
9 Mr. Jones' testimony here in your testimony, you agree
10 with me, don't you, that Mr. Jones, when he came up with
11 this figure in his testimony in the general rate case,
12 indicated that this wasn't precise? It could be a
13 range. It could be 10 percent. It could be 15 percent.
14 It could be 20 percent. That's correct, isn't it?

15 A. Yeah. Currently the Company, as well as other
16 parties in PacifiCorp, have spent a lot of time looking
17 at allocations and to the point where discussions within
18 the multistate process had to be discontinued. And so
19 that's sort of an ongoing issue. You know, the 2020
20 Protocol is now five years old. So allocation issues --
21 it is something that more than the DPU, I believe, is
22 concerned over.

23 Q. Okay. And I appreciate that, but that's not
24 really my question. Let me ask it this way.

25 Would you agree with me that in this docket

1 that the Division has not done an analysis that would
2 identify quantifiable evidence that would indicate -- of
3 all of the market purchases that it is trying to pull
4 back out of the deferral, that it can show demonstrably
5 how a reduction of 24 percent is appropriate, leaving
6 20 percent to the Company?

7 A. Given that 90 percent of the transactions
8 occur -- and I know that there are issues with that that
9 Mr. Wilding addressed -- and that the Company is
10 operating as holistically -- however, given that some of
11 the transmission can't transfer east, west, so forth,
12 and state policies which have been sort of underlying
13 some of these changes going forward -- may not allow
14 some things to happen that other states might have
15 approved -- the analysis is just that it's somewhere
16 between probably 10 and 44 percent.

17 Q. Okay. So the Division's best testimony is it
18 doesn't have a precise number. It's somewhere between
19 10 percent and 44 percent that the Company should be
20 able to recover in this docket?

21 A. We are suggesting a recommended 20 percent
22 adjustment.

23 Q. I understand that that's the recommendation,
24 but you agree with me that that's not based on any
25 quantifiable data. That's merely a recommendation; is

1 that correct?

2 A. It's a recommendation.

3 Q. I think that's it. Thank you very much.

4 A. Thank you.

5 CHAIR FENN: Okay. Does anybody else have
6 cross-examination?

7 Okay. All right. We'll turn to Commissioner
8 Harvey.

9 EXAMINATION

10 BY COMMISSIONER HARVEY:

11 Q. Talking about the trades, front office
12 transactions that the DPU has recommended the Commission
13 remove from the EBA, I'm trying to get a little bit
14 better sense of what the DPU thinks the Company should
15 have done differently than it did when it made those
16 trades. If you could talk for a minute or two about
17 that, and then I'll probably have some follow-ups
18 depending on how you enlighten me.

19 A. Okay. It depends on how far back, I guess,
20 you want to go. I did mention in my rebuttal that the
21 Division voiced concerns over the Company's
22 non-procurement of other resources that would enable
23 them to be less dependent on the market. So that would
24 be, like, a peaking gas plant is what we suggested.
25 Also batteries as has been discussed. That would be

1 another one. But -- so given that we're dealing with
2 what we have -- if you could just ask your question one
3 more time, and I'll answer it better.

4 Q. Well, we're being -- the Division is asking
5 the Commission to disallow a significant percentage of
6 these trades or the costs of those trades. The
7 Company's testimony, as you just heard and as you've
8 read in written testimony, that the Company says these
9 are necessary to meet load, and I'm just curious what
10 the DPU thinks the Company should have done differently.
11 And you can answer that in two parts; right? You can
12 say differently given what we have now or differently
13 long term, but I'd like to hear one or the other or
14 both.

15 A. Okay. So long term we'd like to see them move
16 away from the market as much as they can. In other
17 words, providing their own generation in those
18 peak hours, and, again, buy batteries or some kind of
19 gas peaker.

20 I do realize that some states don't allow some
21 of that to occur within their state, and they may not
22 even allow it to be within the PacifiCorp system, given
23 what their state protocols might entail, but as far
24 as -- I mean, obviously, they had to meet their -- their
25 load, and nobody wants the power to go out, but the fact

1 that they're -- that the product that they're buying --
2 it's not clear as the only product available to them.

3 Although, you know, we haven't seen an
4 analysis of, "Hey, we could have gone with product B.
5 It might be a little more costly, but it would narrow
6 down that scope of the time those trades might be
7 needed." Instead, they're buying that big block of
8 time. And so I guess, looking at it now, we -- going
9 forward or even looking back, it would be nice to have
10 some kind of an analysis that would allow us to do kind
11 of what I think you're alluding to -- is, like, what
12 could have been done differently? What other options do
13 we have?

14 And the answer is I -- I don't know that they
15 could have done much different than they did, given
16 where they're at. However, we don't know that -- it's
17 not been made obvious or apparent to us or brought
18 forward to us in a way that we could really say that
19 there isn't a better option out there or -- or, you
20 know, looking long-term, of course, is always better and
21 what their real long term -- I mean, they talk about
22 procurement of resources, but those are wind and other
23 things that don't meet the peak load, other than the
24 mentioned batteries today.

25 I don't know if that answers your question.

1 Q. So I would characterize your answer as saying
2 the Division expressed concern in the past that
3 sufficiently -- that a sufficient amount of dispatchable
4 resources were not being built, and as a result, they
5 think the Company's current actions are imprudent. Is
6 that a fair summary?

7 A. Given that they didn't take the resource
8 thoughts and other choices, yes, I would agree with you,
9 that it's imprudent because they didn't make the choices
10 necessary to get themselves out of the situation they
11 find themselves today.

12 Q. I'm asking is it a fair summary of the
13 Division's position?

14 A. Correct.

15 Q. Okay.

16 A. Yep.

17 Q. And I apologize in advance, but are you the
18 witness that dealt with the Schedule 137 --

19 A. Yes.

20 Q. -- adjustment?

21 A. Yes.

22 Q. Okay. I thought you were, but I wasn't
23 positive.

24 In your mind -- well, let me rephrase that.
25 I'm sorry.

1 Would you explain to me your -- what
2 distinction you see between the types of adjustments
3 that were cited in the Company's testimony as being
4 allowed after the fact as compared to this particular
5 adjustment?

6 A. So there were a range of -- of things
7 mentioned. Those include things like just the annual
8 true-up, which, of course, you have to have, and it does
9 span an amount of time. And also other things that
10 don't fully close within, you know, the given calendar
11 year.

12 That was another one. Specifically -- it was
13 mentioned -- a meter failure that happened in 2021 that
14 caused the Company to file a submittal of an update
15 to -- to their -- the supplemental testimony to their
16 initial filing. So what happened in that case, the
17 Company filed in March. In June they filed a
18 supplemental testimony advising that there was a meter
19 failure. So it was a physical failure of equipment that
20 necessitated them to recalculate the allocation, which
21 was the transmission line between Utah and Idaho.

22 And so when they did that, they found that
23 Utah was actually not given enough load compared to what
24 Idaho should have gotten and so -- therefore -- so --
25 and that went into settlement hearings. So the

1 Commission really didn't have a chance to -- to weigh in
2 on that particular issue.

3 So -- but the difference between that one is
4 it was not known until somewhere between March and June,
5 as far as we've been told, that the meter failure was
6 not known. And so that's the difference. It has to do
7 a lot with when this -- the cost was known and how was
8 it dealt with; right?

9 So in -- in this case with the Schedule 137,
10 they had -- the Company had the opportunity to include
11 it in their filings for -- for years '20 through 2022.
12 So it's three years of EBA filings they could have
13 recouped those costs. And as the Company is aware, we
14 did not challenge the '23.

15 So -- so the real difference is when was the
16 cost known and -- and why wasn't it included; right? If
17 it's just an oversight, is it -- we -- the Division
18 didn't feel prudent to just reopen a case to recoup
19 costs that the Company just didn't recover. And, in
20 fact, we did say that, you know, if this is the case,
21 then would they be willing to have it open to other
22 people coming with other adjustments later --
23 other years later that we just didn't see or -- you
24 know.

25 So -- so that's really the difference -- is

1 the known and knowable and what -- what caused it to not
2 be included in those other years.

3 Q. Okay. To follow up on the what caused it,
4 just a clarification there. Is it the DPU's position
5 that in all of the examples provided by the Company in
6 their testimony, it was caused by things that were not
7 Company errors?

8 A. Correct.

9 Q. That in -- I'm sorry.

10 A. Oh, no. I was just agreeing with you.

11 Q. We're in the hallway.

12 A. Right.

13 Q. But that in this particular case the DPU's
14 position is that it's clearly a Company error, not an
15 external or not an unknowable thing?

16 A. Correct, yes.

17 Q. Okay. And then for the Washington CCA or --
18 is that being talked by Mr. DiDomenico?

19 A. Yep.

20 Q. Okay. I think that's all my questions. Thank
21 you.

22 CHAIR FENN: Commissioner Clark?

23 THE WITNESS: Thank you.

24 COMMISSIONER CLARK: I don't have any
25 questions. Thank you.

EXAMINATION

BY CHAIR FENN:

Q. Mr. Smith, just one question referring back to Mr. Painter's testimony about the Schedule 137 costs. In his surrebuttal he indicated that the Commission had allowed costs outside of the typical period to be recovered in a case that was due to an error. Are you familiar with that testimony?

A. I am.

Q. Okay. Can you differentiate -- is there a differentiation between what Mr. Painter's position is and what your position is?

A. Yes.

Q. Please explain.

A. It's the -- the scenario I just mentioned where there was a meter failure between the transmission line.

Q. Okay. It's that scenario?

A. It's that one.

Q. Okay.

A. I don't know why it was termed an error at that point other than it was an error of the meter. It was a meter error. It wasn't a clerical error as far as I could tell -- what was presented to us at the time, both in, you know, DRs and what have you. So -- so I

1 don't know why it was termed an error, because as we
2 understood it, it was just a -- they caught that the
3 meter wasn't recording the information correctly. So I
4 guess the error was in the meter.

5 Q. So it is your position that the -- if the
6 costs are known and knowable, they should be included
7 within the one-year EBA period and those costs were not
8 known and knowable. Is that --

9 A. The 137 costs -- oh, no. The meter --

10 Q. Meter cost.

11 A. -- failure was not known until between that
12 filing in March of 2021 to June of '21. So somewhere in
13 that, it became knowable to the Company, is what we've
14 been told. And, therefore, that caused a supplemental
15 filing, which, you know, resulted in a settlement -- is
16 what it did. It never went to the Commission to -- to
17 review.

18 Q. Okay. Is there any other differentiation you
19 can draw between that example that was used to say
20 you've already done this once before in this type of
21 scenario and you should do it here for these
22 Schedule 137 costs?

23 A. Well, one thing is, you know, to have this be
24 sort of equal, the Company wants -- it knew about it
25 between March and June of 2021. To make it equal to

1 what we're talking about, then the Company would have
2 waited three years and then filed something about it.

3 Q. Yeah.

4 A. So, yes, it is. It's all in the details,
5 mostly the known and knowable and what was the result.
6 I mean, the Company has all access to -- to data, to
7 information, and I don't think customers should be
8 impacted by the results of a Company error like this
9 when it could have been just dealt with at the time
10 rather than --

11 Q. And -- and from your investigation of this,
12 what have you been told as to why it wasn't included in
13 the prior EBA?

14 A. It just was not -- I believe it was just a
15 mistake -- is how I understood it.

16 CHAIR FENN: Okay. I have no further
17 questions.

18 All right. We'll excuse you, Mr. Smith.
19 Thank you for your --

20 THE WITNESS: Thank you.

21 CHAIR FENN: -- testimony today.
22 Your next witness?

23 MS. SCHMID: The Division would like to call
24 Mr. Dan F. Koehler as its next witness. May he please
25 be sworn.

1 CHAIR FENN: Sure. Mr. Koehler, pronounced
2 like "Taylor."

3 THE WITNESS: That's right. Years of
4 training.

5 CHAIR FENN: Yep. I remember that from the
6 first case. Mr. Koehler, will you raise your right arm.

7 DAN F. KOEHLER
8 was called as a witness, and having been first duly
9 sworn to tell the truth, testified as follows:

10 CHAIR FENN: Thank you very much. You may be
11 seated.

12 DIRECT EXAMINATION

13 BY MS. SCHMID:

14 Q. Good afternoon.

15 A. Good afternoon.

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

18 A. Sure. My name is Dan F. Koehler, D-a-n, F as
19 in "Fulton", K-o-e-h-l-e-r.

20 Q. What is your business address?

21 A. My business address is 370 Main Street, Suite
22 325, in Worcester, Massachusetts.

23 Q. By whom are you employed?

24 A. I am with Daymark Energy Advisors.

25 Q. And what is your title?

1 A. And I am vice president and principal
2 consultant.

3 Q. Could you please tell us just a little bit
4 about Daymark?

5 A. Sure. Daymark is a consultancy providing
6 regulatory, economic, management, and investment
7 advisory services to the natural gas and electric power
8 industry across North America. Our expertise and
9 experience are interdisciplinary and include
10 transmission planning and market analytics, clean energy
11 policy, competitive procurement, and portfolio
12 structuring. Also market design, regulatory economics,
13 and utility tariffs and rate design.

14 Q. Thank you. Could you please tell us on whose
15 behalf Daymark is participating in this docket.

16 A. The Division.

17 Q. Could you please tell us in just a few words
18 what the Division hired Daymark to do.

19 A. Sure. We had -- we had several tasks in this
20 proceeding. Our first task was to review and assess
21 actual planned outages to ensure that these outages and
22 the cost impacts are appropriate. We also reviewed a
23 sample of several dozen of the tens of thousands of
24 power and natural gas transactions settled by the
25 Company in 2023 for accuracy and prudence. We reviewed

1 certain specific issues related to key drivers of EBA
2 costs. We reviewed variances in production tax credits,
3 or PTC, offsets to EBA costs. We reviewed the
4 allocation of costs to Utah customers associated with
5 the Washington CCA filing. We were asked to review
6 PacifiCorp's compliance with risk management and
7 corporate governance policies.

8 Q. We just mentioned that you had testified in
9 front of the PSC before in Rocky Mountain Power's last
10 general rate case, Phase I. When did you, as part of
11 Daymark, begin analyzing the EBA on behalf of the
12 Division?

13 A. Oh, jeez. First gotcha question.

14 Q. Was it perhaps --

15 A. It was -- well, I've been working on it since
16 the first one -- what was that -- 10 -- 2010?

17 Q. It was an '11 docket.

18 A. '11. Okay. An '11 docket. And I've been a
19 witness since a '15 docket, I believe.

20 Q. Perfect. I'll now turn to the testimony,
21 exhibits, and reports that Daymark filed in this docket.
22 They were prepared and filed by you and Mr. DiDomenico
23 on behalf of Daymark for the Division. Did you and
24 Mr. DiDomenico jointly prepare and cause to be filed
25 what's been marked for filing as DPU Exhibit Number 2.0

1 Dir, the direct testimony of Philip DiDomenico and Dan
2 F. Koehler in redacted and confidential form, along with
3 exhibits and work papers for the DPU that was filed on
4 November 5th, 2024?

5 A. Yes.

6 Q. Did you also prepare and cause to be filed DPU
7 Exhibit Number 2.0 R, the rebuttal testimony of Philip
8 DiDomenico and Dan F. Koehler in redacted and
9 confidential form along with the exhibits on -- on
10 January 7th, 2025?

11 A. Yes.

12 Q. Did you and Mr. DiDomenico prepare and file
13 any surrebuttal testimony on behalf of the Division?

14 A. No.

15 Q. Have you and Mr. DiDomenico discussed whether
16 there are any changes or corrections that need to be
17 made to the direct and rebuttal that you filed?

18 A. We have discussed it, and there are none.

19 Q. If asked today -- you were asked to prepare
20 and file the testimonies and exhibits described above,
21 would the contents be the same as those contained in
22 your filed testimonies and exhibits?

23 A. Yes.

24 Q. Do you adopt the testimonies and exhibits as
25 described above as part of your testimony here today?

1 A. I do.

2 MS. SCHMID: The Division would like to move
3 for the admission of 2.0 Direct and its exhibit and 2
4 point R -- 2.0 R and its exhibits.

5 CHAIR FENN: Without objection, we'll admit
6 the direct and rebuttal testimony and the exhibits of
7 Mr. Koehler and Mr. DiDomenico.

8 (Philip DiDomenico and Dan Koehler's
9 prefiled testimony and exhibits were
10 admitted into evidence.)

11 THE WITNESS: DiDomenico, yes.

12 CHAIR FENN: DiDomenico. Can I just ask the
13 question -- is he going to be testifying also in this
14 proceeding, or are you going to be testifying and not
15 him?

16 THE WITNESS: So I'm prepared to speak to all
17 issues in our -- in our materials with the exception of
18 prudence of outages. If there's any questions related
19 to the prudence of outages, those should be addressed to
20 Mr. DiDomenico.

21 CHAIR FENN: Okay. All right. Glad to get
22 that straight. Okay.

23 Q. (BY MS. SCHMID) Have you had a chance to
24 prepare a summary for the Commission?

25 A. I have.

1 Q. Does that summary contain information that you
2 believe the Company has marked confidential?

3 A. It does.

4 MS. SCHMID: With that, the Division would
5 like to move or request that this hearing be moved into
6 closed session because Mr. Koehler's summary contains
7 and discusses confidential information, and getting this
8 information on the record is in the public interest.

9 CHAIR FENN: Okay. That's very good.
10 Let's -- let's -- let's do this, I think, the right way.
11 I think we need a motion of one of the Commissioners to
12 do that.

13 COMMISSIONER CLARK: Yeah. I'll move that we
14 close the session.

15 CHAIR FENN: Okay. Commissioner Harvey gives
16 us the thumbs up, and so we'll go into the closed
17 session. Thank you, Ms. Schmid.

18 Let's now just reiterate, if there's anyone
19 here who has not signed a confidentiality agreement, is
20 not subject to the terms thereof -- I'll let y'all folks
21 look around. If you see anybody you're worried about,
22 please let us know, but, otherwise, we know that folks
23 on the phone are -- already have been cleared. Anybody
24 else that we have any concerns about?

25 Okay. We're going to continue in closed

1 session until further notice. Go ahead.

2 * * * * *

3 (THE FOLLOWING PORTION OF TRANSCRIPT
4 PAGES 196-223 HAVE BEEN MARKED
5 CONFIDENTIAL.)

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1 CHAIR FENN: So we're going to go back into
2 public session now, and if we need to go back into
3 confidential, we'll -- somebody will tell us.

4 Mr. Moore, we're going to turn to you for your
5 witness.

6 MR. MOORE: Thank you. The Office of Consumer
7 Services calls Philip Hayet and ask that he be sworn.

8 CHAIR FENN: Okay. Mr. Hayet, let's see if we
9 can get you -- oh, your video is already up. Can we get
10 him on the -- the main screen? Why don't -- all right.
11 We're going to get you there. All right.

12 Mr. Hayet, would you raise your right arm,
13 please.

14 PHILIP HAYET

15 was called as a witness, and having been first duly
16 sworn to tell the truth, testified as follows:

17 CHAIR FENN: We can't hear you. We saw that
18 you said, "I do." So we won't make you repeat that, but
19 your -- your microphone is not turned on.

20 THE WITNESS: I do. My apologies.

21 CHAIR FENN: Okay. All right. We gotcha.
22 We'll turn to Mr. Moore now.

23 DIRECT EXAMINATION

24 BY MR. MOORE:

25 Q. Could you please state and spell your name for

1 the record.

2 A. My name is Philip Hayet, P-h-i-l-i-p and
3 H-a-y-e-t.

4 Q. What is your business address, and how are you
5 employed?

6 A. My address is 570 Colonial Park Drive, Suite
7 305, Roswell, Georgia 30075.

8 Q. For who --

9 A. And would you repeat the second part?

10 Q. How are you employed?

11 A. I'm a consultant on behalf of -- I work for
12 Kennedy and Associates, and I'm a consultant for the
13 Office.

14 Q. On January 16th -- no.

15 On December 6th, 2024, did you file direct
16 testimony on behalf of the Office in this docket?

17 A. Yes, I did.

18 Q. On January 16th, 2025, did you file
19 surrebuttal testimony?

20 A. Yes, I did.

21 Q. Do you have any changes that you'd like to
22 make to this testimony at this time?

23 A. I have one change I'd like to make at line 198
24 of direct testimony. The number that's in that line
25 2039 should be 2029, and that's the only change I have.

1 Q. Other than that change, if I asked you the
2 same questions that are in your written testimony today,
3 would your answers be the same?

4 A. They would.

5 MR. MOORE: Commission, there was a -- the OCS
6 initially failed to include his resume with his direct
7 testimony, and he references his resume in his
8 testimony. So I would like to admit the resume today as
9 OCS Exhibit 1.1 D. I had discussion with the parties
10 and presented them with the resume, but I'd like to
11 provide one to the court reporter and to the Commission,
12 if you'd --

13 CHAIR FENN: Sure. We'd like to have that.
14 All right. Are you moving the admission of this?

15 MR. MOORE: I am.

16 CHAIR FENN: Okay. While you're distributing
17 that, without objection, we will move to admit the
18 direct testimony and surrebuttal testimony of Mr. Hayet
19 with the one correction on line 198 of his direct
20 testimony, and we'll also admit as OCS 1.1 D Mr. Hayet's
21 resume.

22 (Philip Hayet's prefiled testimony and
23 OCS Exhibit 1.1 D were admitted into
24 evidence.)

25 CHAIR FENN: Mr. Hayet, anytime it's more than

1 16 pages long, it's too many pages for me to read. This
2 is 17 pages long. That's pretty -- that's an extensive
3 resume.

4 MR. MOORE: Mr. Hayet --

5 THE WITNESS: (inaudible).

6 (Reporter clarification.)

7 THE WITNESS: I said it has all my appearances
8 on it. That's why it's long.

9 CHAIR FENN: Okay. Well, thank you for it. I
10 was just being obviously facetious.

11 THE WITNESS: I know.

12 CHAIR FENN: I apologize for my attempt at
13 levity.

14 THE WITNESS: Appreciate it.

15 Q. (BY MR. MOORE) Mr. Hayet, have you prepared a
16 testimony of your testimony?

17 A. Yes, I have.

18 Q. Please proceed.

19 A. Good afternoon, Commissioners. In my direct
20 and rebuttal testimony, I address three issues that the
21 DPU also addressed.

22 The first issue concerned the prior period
23 adjustment for Schedule 137 costs in which Rocky
24 Mountain Power is seeking to recover costs that were
25 known and knowable multiple EBA deferral periods before

1 this one because the Company simply overlooked the
2 inclusion of those costs in the proper EBA period.
3 Rocky Mountain Power has long incurred costs related to
4 export credits first with Schedule 136 and then
5 beginning in 2020 associated with Schedule 137.
6 Schedule 137 was a known and knowable matter at the time
7 the costs were incurred.

8 RMP has taken different positions on related
9 issues at different times. In the last EBA proceeding
10 regarding calendar year 2022 deferral costs, the Company
11 argued against affording stakeholders the opportunity to
12 present adjustments in a future EBA related to the
13 previous EBA deferral period. The Company stated the
14 parties should only be able to propose adjustments that
15 are related to the calendar year deferral period and not
16 prior period. In this proceeding, the Company has
17 pointed out that out-of-period adjustments are not
18 prohibited and are common.

19 OCS agrees that out-of-period adjustments have
20 been permitted. However, the example the Company gave
21 relates to cases in which the Company knew about the
22 specific matters at the time of the deferral period;
23 however, the final determination of the costs were not
24 known until a later time. In this -- in this case
25 Schedule 137 and associated costs were known at the time

1 of the deferral period; however, the Company neglected
2 to include them at the time and instead is seeking to
3 recover them in this later deferral period.

4 OCS recommends removal of 4.8 million,
5 including interest, in Schedule 137 costs incurred --
6 incurred in the years prior to the '23 deferral year.

7 The second issue relates to the state of
8 Washington Climate Commitment Act, or CCA, in which the
9 Company is seeking to recover costs incurred in
10 Washington. PacifiCorp itself recognizes these costs
11 are discriminatory because Utah customers are charged
12 higher costs than Washington customers and the
13 subsidized programs that only benefits Washington
14 customers. The CCA requires the Company to purchase
15 allowances to cover greenhouse gas emissions related to
16 fossil fuel fire generation, such as PacifiCorp's
17 Chehalis natural gas plant.

18 PacifiCorp was obligated to spend 42 million
19 by the state of Washington to buy allowances, and the
20 state of Washington then allocated free allowances back
21 to PacifiCorp associated with Washington state retail
22 customer load alone. In essence, Washington state
23 customers paid less for Chehalis energy compared to all
24 other PacifiCorp customers.

25 PacifiCorp has taken the position in this

1 proceeding that the Chehalis cost is like a generation
2 tax that occurs in other jurisdictions for other
3 generation and it's fair that Utah customers should have
4 to pay the costs. However, there is a distinction in
5 that in the case of a generation tax, there is no
6 corresponding distribution of revenues back to the
7 utility customers of the state that charges the taxes
8 like there is with the CCA revenue.

9 Interestingly, Rocky Mountain Power itself has
10 taken action opposing the allocation benefit to just
11 Washington state customers in its suit it filed against
12 the Washington State Department of Ecology in the US
13 District Court for the Western Division of Washington.
14 In that suit PacifiCorp argues that the cost is
15 discriminatory, and PacifiCorp stated the costs harm --
16 harm PacifiCorp's non-Washington customers.

17 Furthermore, three other states -- including
18 Idaho, Wyoming, and Oregon -- have all disallowed this
19 discriminatory costs from being recovered. The Oregon
20 Public Service Commission, for example, does not
21 justify -- apologies -- the Oregon Public Service
22 Commission, for example, recognized PacifiCorp is faced
23 with conflicting instructions from states. However, it
24 noted that that does not justify Oregon retail customers
25 having to pay the discriminatory costs.

1 OCS continues to recommend the disallowance of
2 19.4 million, including interest, on a Utah
3 jurisdictional basis for the '23 deferral year.

4 The third issue relates to a concern the DPU's
5 raised in that net power costs and the deferral balance
6 has gone significantly overtime corresponding to
7 PacifiCorp's reliance on power purchases. This issue
8 ties together concerns about costs customers have to pay
9 through the EBA and the fact that there is a lack of
10 incentive, as has existed in the past, for the Company
11 to properly plan to ensure that risks the customers are
12 exposed to through the EBA are minimized.

13 Today, there is no longer a suring mechanism
14 that aligns ratepayer and PacifiCorp's interests in
15 minimizing net power costs. When net power costs
16 increase, PacifiCorp simply flows through those costs to
17 customers --

18 (Witness's screen freezes. Discussion
19 held off record.)

20 A. All right. Today, there is no longer a suring
21 mechanism that aligns ratepayer and PacifiCorp's
22 interests in minimizing net power costs. When net power
23 costs increase, PacifiCorp simply flows through those
24 costs to customers.

25 In my testimony, I outlined some planning

1 inadequacy that have arisen, including a canceled RFP,
2 lack of acknowledgement of an IRP because the Company
3 ruled out adding GAAP resources, the MFP process that
4 was terminated, and the fact that for years PacifiCorp
5 has only -- has overly relied on front office
6 transactions, also referred to as market purchases. By
7 relying on market purchases, the Company has, in
8 essence, exposed customers to unhedged market energy
9 purchase costs that are recovered through the EBA.

10 Given the planning deficiencies mentioned, the
11 OCS is concerned by the risk and the costs customers are
12 being forced to bear entirely, and the OCS recommends
13 that the Public Service Commission open a new docket to
14 address whether or not the EBA mechanism is
15 appropriately acting as a risk sharing mechanism or if
16 it is acting as a backstop to PacifiCorp's planning
17 processes. This docket should investigate more
18 thoroughly the reasons net power costs and deferral
19 costs have increased so dramatically, market purchases
20 have increased significantly, planning deficiencies have
21 occurred, and also how the EBA should be changed such
22 that customers would have greater protections than
23 currently exist.

24 And that concludes my summary.

25 CHAIR FENN: Okay. Thank you for your

1 summary, Mr. Hayet.

2 MR. MOORE: Mr. Hayet is now available for
3 cross and questions from the Commission.

4 CHAIR FENN: Okay. Mr. Kumar?

5 MR. KUMAR: I think I have just a -- very
6 quick few questions based on Mr. Hayet's summary.

7 CROSS-EXAMINATION

8 BY MR. KUMAR:

9 Q. Mr. Hayet, can you hear me?

10 A. Yes, I can.

11 Q. Mr. Hayet, in your summary you cite to the
12 OCS's recommendation from last year's energy balancing
13 account proceeding where the OCS recommended that -- I
14 believe where the OCS recommended that the review of the
15 prudence of certain dispatch costs related to coal
16 facilities be delayed; is that correct?

17 A. Yes.

18 Q. And in that proceeding, the costs associated
19 with those coal facilities was actually included in that
20 proceeding; correct?

21 A. Yes.

22 Q. And so the OCS was requesting, essentially, a
23 delay of the prudence review of costs that had been
24 included for review in that proceeding; correct?

25 A. It was requesting delay for information that

1 was going to be provided in a report in another state.

2 Q. But it was requesting a delay of the prudence
3 review of those costs that had been included; correct?

4 A. Yep.

5 Q. Okay. I have no further questions. That's
6 it.

7 CHAIR FENN: Okay. Thank you, Mr. Kumar. I
8 assume no one else has questions. I'll turn to
9 Commissioner Harvey.

10 COMMISSIONER HARVEY: Just a few to make sure
11 that I'm clear on the OCS's position here.

12 EXAMINATION

13 BY COMMISSIONER HARVEY:

14 Q. With respect to the Schedule 137 costs, your
15 distinction between this -- the inclusion of this versus
16 the ones that were cited in other testimony is because
17 you -- you explained because of Company error involved
18 versus with the others it was an inability to know the
19 actuals. Would you say that's correct?

20 A. They -- they should have -- my position is
21 they should have known and included -- so the
22 information about the issue was known, the costs were
23 known; and, therefore, that -- those costs could have
24 been included but for the error that occurred.

25 In the other cases it was waiting on

1 information to be determined, and it wasn't known and
2 knowable at the time. For example, there was a case in
3 which liquidated damages -- there was a fight that was
4 going on, a litigation that was going on, and the
5 results were not known at the time. The ultimate costs
6 were not known at the time of the -- of the deferral
7 period.

8 Q. Thank you. With respect to your
9 recommendation regarding the EBA, you mentioned in the
10 summary that you don't believe the Company's incentives
11 are aligned with consumers' incentives. What are
12 potential mechanisms that would align those incentives
13 in your mind?

14 A. Well, in the past there was a sharing
15 mechanism, and that sharing mechanism meant that when
16 there was a certain amount of under-recovery or
17 over-recovery, there was a sharing between the customers
18 and the Company. That led to -- the Company recognized
19 that it wasn't going to fully recover the costs through
20 the EBA because of the sharing proportion. Then it had
21 to, you know, work harder to minimize any deficiencies
22 that occurred, and that might mean perhaps that it had
23 to conduct more frequent rate cases so that -- that --
24 you know, because they keep citing to this issue that,
25 you know, the rate case hasn't happened in so long of a

1 period, and, therefore, the difference between the base
2 amount and the actual 2023 cost is so significant now.

3 So that would be one issue. The Company would
4 be more aligned with trying to ensure that the -- that
5 the -- the balance -- the deficiency didn't grow as
6 significant as it has. The fact that we no longer have
7 the sharing mechanism means that we no longer have the
8 incentives aligned.

9 So I think that through an investigation, we
10 could work on ways to ensure that the Company is working
11 harder to ensure that the net power cost balance and the
12 under-recovered balance isn't as significant as it is
13 today.

14 Q. As a follow-up on the incentives, would you
15 say that the Company has received significant pushback,
16 both from political actors as well as from the general
17 public and certainly from the testimony in this -- this
18 docket, regarding the size of the -- the overage, I
19 guess I should say?

20 A. Yes. Just like any utility, I think that they
21 hear a lot of comments from the public when they -- when
22 net power costs go up and rates increase. I think that
23 parties have let them know that through the testimony.

24 But I think that through a proceeding such as
25 what I'm suggesting, a lot of issues that -- that drive

1 the net power costs could be investigated. You know,
2 there's this whole question about the market purchases
3 and the size -- the growth in the market purchases and
4 how that correlates to the growth in net power costs and
5 the under-recovery that occurred, you know.

6 And there are other issues that could be
7 examined in addition, such as, you know, the Company, in
8 its IRP, they didn't even examine the use of gas
9 resources as potential resources that could be -- could
10 be added to their system a few years back, and that was
11 a -- that led to the potential lack of having
12 dispatchable capacity in -- maybe not in 2023, but,
13 certainly, you know, prior to 2030. On a going forward
14 basis, there could be a significant need for
15 dispatchable capacity as more and more intermittent
16 resources are being added to the system. And, yes, I
17 know that these are also IRP-related issues; however,
18 they drive to the EBA. They drive to the net power
19 costs that are recovered through the EBA.

20 So I think there's a whole large question of
21 are the right incentives being in place such that the
22 Company doesn't just simply wind up in a situation where
23 net power costs are going to go up, no sharing mechanism
24 exists, and the Company simply recognizes it's entitled
25 to recover any additional costs through the EBA?

1 Q. Thank you. That's all my questions.

2 CHAIR FENN: Commissioner Clark?

3 COMMISSIONER CLARK: I don't have any
4 questions. Thank you.

5 CHAIR FENN: Mr. Hayet, I don't have any
6 questions either. We will excuse you. Thank you for
7 participating.

8 THE WITNESS: Okay.

9 CHAIR FENN: We appreciate it.

10 MR. MOORE: Nothing else from the OCS. Thank
11 you.

12 CHAIR FENN: Okay. All right. We have
13 Mr. Higgins is the -- I believe he's our last witness;
14 is that correct?

15 MR. RUSSELL: I think so. Utah Association of
16 Energy Users calls Kevin Higgins.

17 CHAIR FENN: Okay. Welcome again,
18 Mr. Higgins. Will you raise your right arm.

19 KEVIN C. HIGGINS
20 was called as a witness, and having been first duly
21 sworn to tell the truth, testified as follows:

22 CHAIR FENN: Thank you, Mr. Higgins. Please
23 be seated.

24 DIRECT EXAMINATION

25 ///

1 BY MR. RUSSELL:

2 Q. Good afternoon. Could you state and spell
3 your name for the record, please.

4 A. My name is Kevin C. Higgins, K-e-v-i-n, middle
5 initial C., H-i-g-g-i-n-s.

6 Q. And can you tell us who you work for and in
7 what capacity.

8 A. I'm a principal in the consulting firm Energy
9 Strategies.

10 Q. On whose behalf do you offer testimony in this
11 proceeding?

12 A. I'm here on behalf of the Utah Association of
13 Energy Users, or UAE.

14 Q. And in that capacity did you file or cause to
15 be filed direct and surrebuttal testimony in this
16 proceeding?

17 A. Yes, I did.

18 Q. And that's -- direct testimony was filed on
19 December 6th along with UAE Exhibits 1.1 through 1.4 and
20 surrebuttal testimony on January 16th of 2025; is that
21 right?

22 A. Yes.

23 Q. And with respect to that prefiled testimony,
24 do you have any corrections to make?

25 A. No.

1 Q. If asked the same questions today that were
2 posed in your prefiled testimony, would you provide the
3 same answers?

4 A. Yes, I would.

5 MR. RUSSELL: I'll move for the admission of
6 Mr. Higgins prefiled testimony and exhibits.

7 CHAIR FENN: Seeing no objection, we'll -- the
8 Commission will admit the prefiled direct and
9 surrebuttal testimony of Mr. Higgins and the
10 accompanying exhibits.

11 (Kevin C. Higgins' prefiled testimony and
12 exhibits were admitted into evidence.)

13 Q. (BY MR. RUSSELL) Have you prepared a summary
14 of your testimony for us today, Mr. Higgins?

15 A. Yes, I have.

16 Q. All right. Please proceed with that.

17 A. Good afternoon, Chairman Fenn, Commissioner
18 Clark, Commissioner Harvey.

19 In my testimony I address two different
20 topics. First, I recommend that costs associated with
21 the state of Washington's Climate Commitment Act, or
22 CCA, should be disallowed from the recovery of the
23 calendar year 2023 EBA deferral. The CCA should be
24 viewed as a Washington state policy action that should
25 not implicate Utah rates. I support the recommendation

1 of the Division of Public Utilities that the
2 \$42.1 million of total Company amount spent on
3 Washington CCA allowances be situs assigned to
4 Washington and removed from the Utah-allocated net power
5 costs.

6 Second, in my direct testimony I identified
7 certain anomalies in the allocation of EBA-related costs
8 to Schedules 9, 31, and 32 that resulted in an
9 over-assignment of costs to Schedule 9 for recovery
10 through the EBA. Accordingly, I made a number of
11 recommendations to remedy this problem.

12 In his rebuttal testimony, Rocky Mountain
13 Power witness Mr. Meredith acknowledged the concerns I
14 raised and proposes a resolution to the problem that I
15 believe is well reasoned and fair to all customers.
16 Therefore, I recommend adoption of the Company's revised
17 allocation approach as detailed in Mr. Meredith's
18 rebuttal testimony and further supported in his rebuttal
19 exhibits.

20 I also agree with Mr. Meredith's proposal to
21 rectify the overallocation of calendar year 2023 EBA
22 deferral costs to Schedule 9 through an adjustment to
23 the calendar year 2024 EBA deferral recovery, which
24 comports with the recommendation I made in my direct
25 testimony.

1 That concludes my summary.

2 CHAIR FENN: Okay. Thank you, Mr. Higgins.

3 MR. RUSSELL: No additional questions for
4 Mr. Higgins. He's available for cross-examination and
5 Commission questions.

6 CHAIR FENN: Okay. We'll turn to Rocky
7 Mountain Power.

8 MR. KUMAR: We have no questions for this
9 witness.

10 CHAIR FENN: Okay. Does the Division or the
11 Office have any questions?

12 Okay. I'd turn to Commissioner Harvey and see
13 if he has any questions of Mr. Higgins.

14 COMMISSIONER HARVEY: I'm going to ruin my
15 record. I have no questions.

16 CHAIR FENN: Okay. Commissioner Clark?

17 COMMISSIONER CLARK: No questions. Thank you.

18 CHAIR FENN: Well, I guess I'll have no
19 questions as well. That's great.

20 Well, that was succinct, and we appreciate it.
21 Thank you, Mr. Higgins.

22 THE WITNESS: Thank you.

23 CHAIR FENN: We'll excuse you.

24 I believe that concludes the testimony on the
25 EBA; is that correct? Is there anything that we need to

1 take up before we adjourn from any of the parties?

2 All right. We -- I don't recall when -- we
3 have a 300-day period -- I believe it is. Is that what
4 it is to issue an order in this -- in an EBA proceeding?
5 Can somebody clue me in on that?

6 MR. KUMAR: I believe so, but I haven't looked
7 at the statute.

8 UNIDENTIFIED SPEAKER: It's 300 days.

9 CHAIR FENN: 300 days? Okay. All right.
10 Does anybody know when that 300 days runs? I understood
11 it was sometime in February. Do you know?

12 MS. PASCHAL: February 25th.

13 CHAIR FENN: February 25th. Melissa knew. I
14 should have just asked Melissa. Would have had the
15 answer. Okay. Well, we'll issue an order before
16 February 25th. That will be something that we'll get
17 on.

18 And seeing no other questions or comments --
19 boy, who would have thought we would be out of here
20 before 4:30? All right. We'll adjourn this proceeding.
21 Thank you so much for your attendance and participation.

22 (This hearing was concluded at

23 4:27 p.m. MT.)

24 * * * * *

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STATE OF UTAH)

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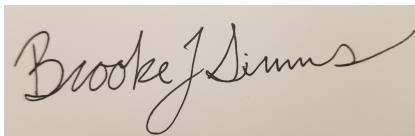
COUNTY OF UTAH)

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I further certify that I am not a relative or employee of an attorney or party, nor am I financially interested in the action.

I have subscribed my name on this 18th day of February, 2025.

A handwritten signature in black ink on a light beige rectangular background. The signature reads "Brooke J. Simms" in a cursive script.

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

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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,
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VERITEXT LEGAL SOLUTIONS

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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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