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December 1, 1993
10:05 a.m.

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P R O C E E D I N G S

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CHAIRMAN MECHAM: Good morning. Let's go

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on the record in Docket Number 92-2035-04 in the

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Matter of Ratemaking Treatment of Demand-Side

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Resources and the Analysis of Regulatory Changes to

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Encourage Implementation of Integrated Resource

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Planning.

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We're here to discuss the joint

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application of the parties. Let's first take

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appearances for the record.

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MR. GINSBERG: Michael Ginsberg,

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appearing for the Division of Public Utilities.

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MR. HUNTER: Edward Hunter, appearing for

□16

PacifiCorp.

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MR. BLANK: Eric Blank, appearing for the

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Land and Water Fund of the Rockies.

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MR. WALGREN: Kent Walgren for the

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Committee of Consumer Services.

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MR. ALDER: Steve Alder for the Office of

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Energy Resource Planning, Department of Natural

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Resources.

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CHAIRMAN MECHAM: Thank you. Who is

□25 taking the lead on this? Are you, Mr. Ginsberg, or

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□ 1 is the Company?

□ 2 MR. GINSBERG: Well, I guess either one
□ 3 of us could. We intended to present a -- basically
□ 4 have all the witnesses available in a panel. UP&L
□ 5 would make an initial presentation as to the scope
□ 6 of the joint recommendation. The Division will then
□ 7 follow and other parties could make statements as
□ 8 they desire.

□ 9 We have some exhibits that we wanted to
□ 10 present as a -- for example, the joint application,
□ 11 I think we wanted to have that marked as a joint
□ 12 exhibit. We thought it would be appropriate to put
□ 13 into evidence the report that was submitted to the
□ 14 Commission August 31, '93, which --

□ 15 CHAIRMAN MECHAM: In the red cover?

□ 16 MR. GINSBERG: Yeah, the red report. As
□ 17 a joint exhibit. And then each party has some
□ 18 individual exhibits that they would give at the time
□ 19 they made their statement, so we could mark those
□ 20 initial joint exhibits, and then my suggestion is
□ 21 that all those who are going to be witnesses would
□ 22 be sworn and we go around and identify them and then
□ 23 let UP&L go ahead and present their initial
□ 24 presentation.

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CHAIRMAN MECHAM: All right. Let's mark

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□ 1 the exhibits.

□ 2 MR. GINSBERG: Okay. The first exhibit
□ 3 would be the application with the joint
□ 4 recommendation, which would be marked as Joint
□ 5 Exhibit 1.

□ 6 MR. HUNTER: In fact, I have handed to
□ 7 the Commission a copy of the joint recommendation.
□ 8 I don't think there's a necessity to have the joint
□ 9 application as an exhibit.

□10 MR. GINSBERG: Well, it's just attached
□11 to it.

□12 MR. HUNTER: But the joint recommendation
□13 has been provided to the court reporter and the
□14 Commission and it's been premarked UP&L Exhibit 1.

□15 CHAIRMAN MECHAM: Do you want to retain a
□16 Company marking or do you want to call it a joint
□17 exhibit?

□18 MR. HUNTER: Joint exhibit is fine.

□19 CHAIRMAN MECHAM: So shall we just mark
□20 the joint recommendation and not the application?

□21 MR. GINSBERG: That's fine. The red
□22 binder, why don't we call that Joint Exhibit 2.

□23 CHAIRMAN MECHAM: Okay.

□24 MR. GINSBERG: It came out of the

□25 collaborative process. And the rest, I believe, are

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□ 1 all individual exhibits. We can go ahead and
□ 2 identify them and get them marked. Why don't we do
□ 3 that.

□ 4 MR. HUNTER: Mr. Larson will have one
□ 5 two-page exhibit. It's entitled Revenue Requirement
□ 6 Impact of DSR Joint Recommendation, and we'd request
□ 7 that be marked UP&L Exhibit No. 1.

□ 8 CHAIRMAN MECHAM: This is the document
□ 9 that's entitled -- tell me that again.

□10 MR. HUNTER: Revenue Requirement Impact
□11 of DSR Joint Recommendation.

□12 CHAIRMAN MECHAM: It's the two-page
□13 document?

□14 MR. HUNTER: That's correct.

□15 MR. GINSBERG: And there was one that the
□16 Division had which is just entitled Division Exhibit
□17 1.1, which is DSR Joint Recommendation, Outline of
□18 the DSR Joint Recommendation's Main Elements. That
□19 would be through Mr. Burrup. And I believe that's
□20 all the exhibits. Are there any others that anyone
□21 else has?

□22 (Whereupon Exhibits UP&L-1, DPU-1 and
□23 Joint-1 and Joint 2 were marked for identification.)

□24 CHAIRMAN MECHAM: Okay. So who will

□25 testify?

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□ 1 MR. HUNTER: For the Company, it will be
□ 2 Mr. Larson and Mr. Lively.

□ 3 MR. GINSBERG: For the Division, just Mr.
□ 4 Burrup.

□ 5 MS. CURTISS: And Audrey Curtiss.

□ 6 CHAIRMAN MECHAM: And Audrey Curtiss. I
□ 7 hear Ms. Curtiss.

□ 8 MR. BLANK: She's hiding behind me.

□ 9 MR. ALDER: And Becky Wilson for the
□10 Office of Energy and Resource Management.

□11 MR. MOOY: Sandy Mooy on behalf of the
□12 Committee of Consumer Services.

□13 MR. BLANK: Eric Blank on behalf of the
□14 environmental intervenors.

□15 CHAIRMAN MECHAM: Okay. Well, why don't
□16 we swear the witnesses. We'll do it en masse this
□17 morning. Could you stand and be sworn.

□18 ROBERT C. LIVELY, DOUGLAS LARSON, ERIC BLANK, RONALD
□19 BURRUP, AUDREY CURTISS, REBECCA WILSON, SANDY MOOY
□20 Called as witnesses, having been first duly sworn,
□21 was examined and testified.

□22 COMMISSIONER HEWLETT: Could I ask a
□23 question before we get started? Are the industrial
□24 intervenors going to be represented at all?

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MR. GINSBERG: Other than probably the

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□ 1 statement they filed with the Commission, apparently
□ 2 they're not going to be here.

□ 3 COMMISSIONER HEWLETT: Okay.

□ 4 CHAIRMAN MECHAM: Is the statement in the
□ 5 red collaborative report?

□ 6 MR. GINSBERG: No. They filed comments
□ 7 on the joint recommendation.

□ 8 CHAIRMAN MECHAM: Oh, that's right, they
□ 9 did. Okay. Mr. Hunter, we'll turn to you.

□10 DIRECT EXAMINATION

□11 BY MR. HUNTER:

□12 Q Mr. Larson, will you please state your
□13 name and business address for the record.

□14 A D. Douglas Larson. My address is 201
□15 South Main, Salt Lake City, Utah, and I'm employed
□16 by PacifiCorp.

□17 Q What's your position with PacifiCorp?

□18 A I'm the director of economic regulation.

□19 Q Were you involved in the development of
□20 the joint recommendation that's before the
□21 Commission?

□22 A Yes. I participated in the technical
□23 conferences and was involved in the development of
□24 the joint recommendation.

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Q And you're familiar with the terms of the

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□ 1 joint recommendation?

□ 2 A Yes.

□ 3 Q What's the purpose of your testimony to
□ 4 the Commission?

□ 5 A I will talk briefly about the process of
□ 6 the eight technical conferences that ultimately led
□ 7 to no long-term cost recovery proposal, however, it
□ 8 did lead to the joint recommendation which we are
□ 9 here today to talk about and present to the
□10 Commission.

□11 I will also generally describe the joint
□12 recommendation and discuss some of the issues that
□13 were raised at the November 23rd technical
□14 conference and, in addition to that, Mr. Lively and
□15 Mr. Burrup will discuss in more detail the joint
□16 recommendation and the net lost revenue formula.

□17 Q Would you please explain how the joint
□18 recommendation was developed.

□19 A What I wanted to do was just spend a few
□20 minutes and talk a little bit about the background
□21 of how we ended up -- or developed the joint
□22 recommendation. In the Commission's June 18, 1992
□23 Report and Order on the standards and guidelines for
□24 integrated resource planning, the Commission stated

□25 that ratemaking treatment for DSR has yet to be

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□ 1 determined in this jurisdiction and this uncertainty
□ 2 might create a disincentive to invest in such
□ 3 resources. The Commission concludes that
□ 4 disincentives must be studied in more detail and
□ 5 assigns the analysis to a task force.

□ 6 The Commission then established this
□ 7 docket and directed the Division to establish a task
□ 8 force to look at these DSR-related issues, including
□ 9 the ratemaking treatment of DSR, and to bring a
□ 10 recommendation to the Commission.

□ 11 In response to that directive,
□ 12 PacifiCorp, in dealing with the disincentives
□ 13 associated with demand-side resource acquisition,
□ 14 PacifiCorp, in response to that, filed on October
□ 15 13, 1992 an application for an accounting order to
□ 16 deal with those -- to get some regulatory
□ 17 clarification related to those disincentives for DSR
□ 18 acquisition in Utah. The Company subsequently
□ 19 withdrew that filing with the Commission's approval
□ 20 and that process of withdrawal became apparent when
□ 21 there were several issues that needed further study
□ 22 and it was apparent that that further study was
□ 23 required before a long-term approach could be
□ 24 developed by parties in order to be presented to the

□25 Commission.

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□ 1 On January 23rd of 1993, the Company
□ 2 filed a petition in this docket to seek the
□ 3 establishment of a technical conference process to
□ 4 study DSR issues and that process resulted in the
□ 5 establishment of the demand-side resource
□ 6 collaborative report, which was filed with the
□ 7 Commission and put onto the record earlier. That
□ 8 report was filed in August of this year.

□ 9 I think it's fairly apparent from that
□10 report that the collaborative participants
□11 represented a diverse group of people from the
□12 regulatory community, other interested parties, the
□13 Company, and a great deal of time and effort was put
□14 into looking at demand-side resource issues and how
□15 to deal with the issue of cost recovery and I think
□16 it's also apparent in that report that the
□17 participants to that process had an inability to
□18 come up with a single appropriate long-term method
□19 of dealing with cost recovery for demand-side
□20 resources, and that's really the reason that we're
□21 here today, is that after that collaborative report
□22 was filed in August, the Division of Public
□23 Utilities initiated a process with all of the
□24 parties to that task force to take a look at a

□25 potential interim proposal to deal with this issue

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□ 1 of cost recovery before the Commission, and that has
□ 2 culminated in what is known as the joint
□ 3 recommendation, and that's what's being presented to
□ 4 the Commission today.

□ 5 Q Please briefly describe what the joint
□ 6 recommendation does.

□ 7 COMMISSIONER BYRNE: Mr. Hunter, before
□ 8 you go forward, I just want to indicate to the
□ 9 parties that -- to thank the parties to that joint
□10 collaborative effort for an excellent analysis,
□11 series of meetings and report outlining these issues
□12 for the Commission. The parties to that
□13 collaborative were the ones that have made
□14 appearances here today, the Company, the Division,
□15 the Land and Water Fund, the Committee and the
□16 Office of Energy and Resource Policy, and the
□17 industrial intervenors, DG&T I think participated in
□18 all of those, Energy Strategies, I believe Mountain
□19 Fuel was there for all of those meetings as well,
□20 and I think the process went well. It was certainly
□21 informative for the Commission and the report was
□22 certainly a real benefit to us. Appreciate the work
□23 of the parties on that.

□24 THE WITNESS: I guess I see three items

□25 that the joint recommendation deals with from the

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□ 1 Company's perspective. First, it establishes an
□ 2 accounting mechanism to deal with the costs
□ 3 associated with demand-side resources, including
□ 4 lost revenues that are incurred by PacifiCorp during
□ 5 calendar year 1994 in the State of Utah, and second,
□ 6 it establishes a framework for dealing with the
□ 7 issue of evaluation of these programs, both during
□ 8 calendar year 1994 and subsequently in 1995, and
□ 9 thirdly, it establishes a framework for dealing with
□ 10 ongoing evaluation of DSR issues and alternatives.

□ 11 Q (By Mr. Hunter) Does the joint
□ 12 recommendation request any Commission decision
□ 13 regarding either the reasonableness of the Company's
□ 14 expenditures on DSR programs or the extent to which
□ 15 they're going to be allowed in prices?

□ 16 A No. The joint recommendation reflects
□ 17 the fact that the position of the parties is that
□ 18 the decisions relative to the prudence of DSR
□ 19 expenditures will be made by the Commission in the
□ 20 context of a general rate case. As I stated earlier
□ 21 and the Commission noted in the order that I
□ 22 mentioned dated June 18th, there is no -- there
□ 23 currently is not a DSR cost recovery mechanism in
□ 24 the State of Utah. The joint recommendation

□25 addresses that problem by establishing an accounting

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□ 1 mechanism by which the Company can account for DSR
□ 2 expenditures so that it will have an opportunity at
□ 3 a future date to recover those costs, those prudent
□ 4 costs from customers in the context of a general
□ 5 rate case.

□ 6 Q During the November 23rd technical
□ 7 conference in this docket, there were some questions
□ 8 regarding the impact on customers of the Company's
□ 9 1994 DSR expenditures. Would you please address
□10 that issue?

□11 A Sure. I prepared an exhibit, and you
□12 have a copy of it, that deals with some of the price
□13 impacts. The first thing, though, I would like to
□14 note is that, in context with this joint
□15 recommendation, the Company is not seeking for any
□16 change in the current level of prices to customers.
□17 The costs that are associated with the programs and
□18 net lost revenues will begin amortization in January
□19 of 1995 and the DSR expenditures, like all other
□20 costs, will be reviewed by the Commission in the
□21 context of a general rate case.

□22 Q Is the exhibit to which you referred the
□23 exhibit that's been premarked Utah Power & Light
□24 Exhibit 1?

□25 A Correct.

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□ 1 Q Was the exhibit prepared under your
□ 2 direction and supervision?

□ 3 A Yes.

□ 4 Q And are the Company's records the source
□ 5 of data on the exhibit?

□ 6 A Yes, they are.

□ 7 Q Would you please explain the exhibit.

□ 8 A If you want to turn -- or look at the
□ 9 first page, up on the top part of the calculation,
□10 and these questions came as a result of discussions
□11 at the technical conference and some questions that
□12 were asked by Commissioner Byrne. The first three
□13 lines deal with the maximum amount of net lost
□14 revenues that would be allowed by the joint
□15 recommendation and what percent they are of Utah
□16 rate base, and as you can see, that's one-tenth of a
□17 percent of Utah rate base related to the maximum
□18 amount of net lost revenues.

□19 Down in line items four through six is
□20 the calculation of the revenue requirement
□21 associated with the net lost revenues based on a 15-
□22 year amortization. The actual calculation of that
□23 is found -- of that 397,813 dollar figure is found
□24 on page two under footnote number two. That

□25 represents a 15-year amortization as well as a

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□ 1 return, a pretax return on the unamortized balance
□ 2 that would be in rate base, and as you can see,
□ 3 comparing that with the Utah retail revenues, that
□ 4 that results in .06 percent of total Utah revenues,
□ 5 so a very small portion of the revenues.

□ 6 The last item that I've shown on that
□ 7 page in lines seven through nine is the estimated
□ 8 demand-side expenditures related to demand-side
□ 9 programs that would occur in 1994, that number being
□10 15 million, and then showing that as a percentage of
□11 Utah rate base, and that's seven-tenths of a
□12 percent.

□13 One other item that I would like to point
□14 out. Commissioner Byrne also asked a question as to
□15 what the relative split between residential,
□16 commercial and industrial revenues were in the state
□17 of Utah, and if you turn to page two, footnote four,
□18 you can see a breakdown of the 685 million dollars
□19 worth of Utah revenues and you can see that there's
□20 a fairly even split of revenues between residential,
□21 commercial and industrial sales.

□22 COMMISSIONER BYRNE: Is Mr. Lively going
□23 to explain the programs that the Company would
□24 implement under this?

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THE WITNESS: Actually, Mr. Burrup has

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□ 1 the program split between each of those categories,
□ 2 the net lost revenue split, and he will add those
□ 3 additional numbers to each of those categories.

□ 4 COMMISSIONER BYRNE: Okay.

□ 5 Q (By Mr. Hunter) Mr. Larson, will you now
□ 6 turn to Joint Exhibit No. 1, which is the joint
□ 7 recommendation. Another question that was asked at
□ 8 the November 23rd technical conference was what the
□ 9 language in paragraph 1.5 of the joint
□ 10 recommendation means. That's on page three.

□ 11 A Okay.

□ 12 Q Would you please address that issue,
□ 13 also.

□ 14 A It is intended that the Company, in
□ 15 conjunction with the Commission's established
□ 16 collaborative process will determine the bookings of
□ 17 lost -- net lost revenues on a monthly basis
□ 18 throughout calendar year 1994. These bookings will
□ 19 be based on the Company and the collaborative
□ 20 analysis of the inputs that go into the net lost
□ 21 revenue formula.

□ 22 In late 1994 it is anticipated that the
□ 23 collaborative process will submit a report to the
□ 24 Commission stating the inputs and the actual

□25 calculation of the net lost revenues for 1994.

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□ 1 Included in that report will probably be a couple of
□ 2 months of estimates for November and December, since
□ 3 it will be submitted late in 1994. At that time, a
□ 4 hearing would be initiated to make final
□ 5 determination on the level of 1994 net lost revenues
□ 6 allowed to be booked by the Company. That
□ 7 determination would be made by the Commission. That
□ 8 then would become the base amount of net lost
□ 9 revenues from which the 1995 25 percent adjustment
□10 could be made.

□11 The 25 percent adjustment is a protection
□12 for the Company, since, in 1994, once the Commission
□13 has made a determination in a hearing on the net
□14 lost revenues that would be booked, those would be
□15 recorded in 1994 earnings and, therefore, as a
□16 protection, the adjustment would be capped at 25
□17 percent for 1995 so that there would not be a large
□18 or the potential for a large writeoff to the income
□19 statement in 1995 related to revenues. Anything --
□20 any revenues different from what was booked in 1994
□21 that were adjusted in 1995 would have to be
□22 reflected immediately on the income statement.

□23 From my perspective, the benefits of this
□24 process are that we'll have the ability to learn,

□25 from verifying the programs, the verification

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□ 1 process. The joint recommendation will also limit
□ 2 the exposure for customers and the Company, while at
□ 3 the same time I want to point out that the
□ 4 Commission will have two opportunities to make
□ 5 determinations as to what the appropriate amount of
□ 6 net lost revenues are, a determination at the end of
□ 7 1994 as to the amount that the Company can book for
□ 8 calendar year 1994, and then again in 1995, after
□ 9 all program evaluation has been completed and
□10 everything has been verified, the Commission then
□11 will make a final determination on the net lost
□12 revenues that ought to be included in customers'
□13 prices, but that number in 1995 will be a maximum of
□14 25 percent, or stated another way, whatever the
□15 verification process is, up to 25 percent.

□16 COMMISSIONER BYRNE: If the Commission --
□17 if there was a rate case in 1995 and the Commission
□18 determined in that rate case that 50 percent of the
□19 Company's DSR programs were imprudent, how does this
□20 particular provision --

□21 THE WITNESS: I think you have two
□22 different pieces to this. One, the Company is not
□23 asking the Commission at this time nor are parties
□24 asking the Commission at this time to make

□25 determinations on the prudence of the programs.

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□ 1 COMMISSIONER BYRNE: That's why I asked
□ 2 the question.

□ 3 THE WITNESS: The 15 million dollars, if
□ 4 that's what it is, the estimate to develop the DSR
□ 5 programs, that issue will be dealt with, and if the
□ 6 Commission determines that 50 percent of those
□ 7 expenditures were imprudent, then 50 percent of
□ 8 those would be eliminated out of rate base.

□ 9 COMMISSIONER BYRNE: As far as the net
□10 lost revenue calculation is concerned, we could not
□11 then disallow 50 percent of the net lost revenue
□12 calculation.

□13 THE WITNESS: Once the determination is
□14 made in 1994 -- the Commission could eliminate 50
□15 percent of it in 1994, but once the Commission has
□16 made a decision in 1994 on what the lost revenues
□17 ought to be, then the adjustment or the true-up
□18 after the verification process in '95 is limited to
□19 25 percent per this recommendation. And the real --
□20 the reason for that is that basically one can
□21 determine that if the amount turned out to be, say,
□22 500,000 dollars that was eliminated, that amount
□23 amortized over ten or fifteen years is, you know,
□24 35,000, 50,000 dollars. However, if that adjustment

□25 is reflected on the Company's books, that entire

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□ 1 writeoff of a half a million dollars has to be
□ 2 reflected in 1995 as a reduction in revenues, and a
□ 3 half a million dollars is a fairly sizeable
□ 4 adjustment to make, and so what that 25 percent cap
□ 5 is doing is not trying to inhibit the Commission
□ 6 from making a determination on what the correct net
□ 7 lost revenue number is. It's trying to establish
□ 8 that we're going to make a determination -- or the
□ 9 Commission will make a determination at the end of
□10 1994 that's going to be fairly close to what you
□11 believe the correct net lost revenues ought to be,
□12 and then we'll have the ability to true that up and
□13 have flexibility of 25 percent in 1995, because it's
□14 impossible to evaluate all the programs by the end
□15 of '94. I think all the parties would have liked to
□16 have been able to do that, but that's just
□17 physically impossible.

□18 Q (By Mr. Hunter) Mr. Larson, does that
□19 complete your testimony? Oh. One more thing I'd
□20 like to ask you, Mr. Larson. Why does the Company
□21 believe that the Commission should adopt the joint
□22 recommendation?

□23 A The Company believes that the joint
□24 recommendation is a prudent way of moving towards

□25 the Commission goal of establishing a cost recovery

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□ 1 mechanism that treats supply-side resources and
□ 2 demand-side resources on a comparable basis. In
□ 3 addition, the pilot program will allow the Company
□ 4 and regulators and other interested parties the
□ 5 opportunity to gain valuable experience in the area
□ 6 of demand-side resources as they implement and
□ 7 evaluate these demand-side programs. This
□ 8 recommendation accomplishes this goal while, at the
□ 9 same time, one of the important features is that it
□10 limits the dollar amount that will be expended, and
□11 the net result, as I've shown in Exhibit No. 1, is a
□12 very minimal impact as compared to Utah rate base
□13 and total Utah retail revenues, and for these
□14 reasons that I've stated, the Company respectfully
□15 urges the Commission to adopt the joint
□16 recommendation for calendar year 1994 in its
□17 entirety.

□18 Q (By Mr. Hunter) Does that complete your
□19 testimony?

□20 A Yes, it does.

□21 MR. HUNTER: We offer Utah Power & Light
□22 Exhibit No. 1.

□23 CHAIRMAN MECHAM: Is there any objection?
□24 It's admitted.

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(801) 328-1188

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DIRECT EXAMINATION - BURRUP

□ 1 (Whereupon Exhibit UP&L-1 was received
□ 2 into evidence.)

□ 3 MR. HUNTER: I don't know which order we
□ 4 want to go in now. Do you want to put Mr. Burrup on
□ 5 next?

□ 6 MR. GINSBERG: That's fine.

□ 7 CHAIRMAN MECHAM: Go ahead, Mr. Ginsberg.

□ 8 DIRECT EXAMINATION

□ 9 BY MR. GINSBERG:

□10 Q Would you state your name for the record.

□11 A Ronald L. Burrup.

□12 Q Have you participated in preparing the --
□13 in the collaborative process -- the joint
□14 recommendation and the report that was submitted to
□15 the Commission?

□16 A Yes.

□17 Q You prepared DPU Exhibit No. 1, which is
□18 an outline of the principles embodied in the joint
□19 recommendation?

□20 A It's an outline of the main elements in
□21 the recommendation.

□22 Q Can you go through the main elements of
□23 the joint recommendation.

□24 A Okay. To build on what Mr. Larson has

□25 already said, the joint recommendation starts a one-

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(801) 328-1188

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DIRECT EXAMINATION - BURRUP

□ 1 year trial policy to compute net lost revenues and
□ 2 amortize the amount in rates over a future period
□ 3 beginning in January, 1995. There is no intent on
□ 4 the part of the Division, and I believe also on the
□ 5 part of other parties, that this goes beyond 1994.
□ 6 It is intended as a trial.

□ 7 The second principle element is the
□ 8 establishment of a formula to calculate net lost
□ 9 revenues. The inputs to the formula are not set.
□10 They will be determined by the task force
□11 Collaborative and presented to the Commission in a
□12 report, but the formula itself is established.

□13 Third, to protect customers, it sets a
□14 two million dollar ceiling on the net lost revenues
□15 that can be included in 1994, and I show the rate
□16 base here, which is the same number Mr. Larson uses
□17 in his exhibit. Current Utah jurisdictional rate
□18 base is two billion dollars.

□19 Fourth, it sets a goal based on 1993
□20 RAMMP II goals of 40,000 megawatt hours and 5.9
□21 megawatts of energy and demand to be saved in 1994
□22 on an annualized basis, and the expenditures for
□23 this are anticipated to be 10 to 15 million dollars.

□24 Fifth, it sets accounting guidelines for

□25 classifying DSR costs into rate base accounts and

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DIRECT EXAMINATION - BURRUP

□ 1 into expense accounts.

□ 2 Number six, it establishes a
□ 3 collaborative which will retain a consultant. The
□ 4 consultant will be funded by PacifiCorp with the
□ 5 costs included, amortized over a five-year period.
□ 6 And the Collaborative has several important tasks to
□ 7 accomplish, but this is not an all-inclusive task.
□ 8 The Collaborative could, if it sees, do other tasks
□ 9 outside this list.

□10 We want to evaluate the test year and
□11 make recommendations on how the policy worked and
□12 what didn't work, what was possible to calculate and
□13 what was difficult to calculate. We want to also
□14 evaluate statistical recoupling simultaneously that
□15 we're calculating net lost revenues to see how that
□16 policy would work. Third, to evaluate options
□17 regarding incentive programs for DSM activities.
□18 Number D is to evaluate the impact of DSR programs
□19 on nonparticipants. The last two are to develop
□20 performance standards for DSR programs and to
□21 present those to the Commission for adoption, and to
□22 quantify for Commission approval the 1994 net lost
□23 revenues based on the formula.

□24 We want you to note that one thing the

□25 joint recommendation does not do, and this is in the

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(801) 328-1188

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DIRECT EXAMINATION - BURRUP

□ 1 note at the bottom of the page, it does not address
□ 2 how DSM program costs or lost revenues should be
□ 3 allocated between customer classes. This is
□ 4 consistent with item 6 D on the list, to evaluate
□ 5 the impact to nonparticipants of these programs,
□ 6 that certainly the Collaborative intends to study
□ 7 the issue, to report to the Commission on options.

□ 8 And, finally, in response to Commissioner
□ 9 Byrne's question about how program costs and net
□10 lost revenues will be divided among customer
□11 classes, if you turn to Mr. Larson's exhibit, the
□12 second page, I'll give you the percentages of
□13 program costs, kilowatt hour savings and net lost
□14 revenues by customer class, and you can write them
□15 in the columns there next to residential. So the
□16 percentage of program costs for residential
□17 customers is 14 percent, 68 percent for commercial
□18 customers, and 18 percent for industrial customers.
□19 This is the 15 million dollars, how it is
□20 anticipated to be spent.

□21 CHAIRMAN MECHAM: Commercial was sixty
□22 what, Mr. Burrup?

□23 THE WITNESS: 68 for commercial, 18 for
□24 industrial.

□25

Now, the percent of kilowatt hour

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DIRECT EXAMINATION - BURRUP

□ 1 estimated savings by class is 15 percent for
□ 2 residential, 63 percent for commercial and 22
□ 3 percent for industrial. 15, 63 and 22. You can see
□ 4 the percentages are consistent with dollars and
□ 5 kilowatt hour savings.

□ 6 Finally, the estimated net lost revenues
□ 7 by customer class are 41 percent for residential, 32
□ 8 percent for commercial and 26 percent for
□ 9 industrial. The reason for the difference is
□ 10 because the residential classes do not have
□ 11 declining block rates like industrial and commercial
□ 12 classes, and it's the tail block rate -- the
□ 13 difference between the tail block rate and avoided
□ 14 cost determines the net lost revenue.

□ 15 Because of this disparity in the
□ 16 percentages that you see here, this is one of the
□ 17 reasons that the Collaborative thought class
□ 18 allocation should be held off and examined further.
□ 19 We don't see an urgent need for the Commission to
□ 20 decide the issue. We would rather take some time
□ 21 and have the parties study it and then make their
□ 22 recommendations to the Commission. That concludes
□ 23 my testimony.

□ 24 COMMISSIONER BYRNE: Mr. Burrup, just to

□25 make item four clear, you indicated those were

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(801) 328-1188

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□ CURTISS

□ 1 annualized goals, so theoretically the Company could
□ 2 get all of its programs together in December and
□ 3 only save a couple of thousand megawatt hours in the
□ 4 year, but it's an annualized calculation you're
□ 5 looking at?

□ 6 THE WITNESS: That's right. Those --
□ 7 number four are annualized calculations, however,
□ 8 number three, the two million dollar ceiling, is not
□ 9 annualized. Those are actual dollars.

□10 CHAIRMAN MECHAM: Thank you, Mr. Burrup.
□11 Who was next?

□12 MR. GINSBERG: Audrey Curtiss wanted to
□13 make one --

□14 CHAIRMAN MECHAM: Ms. Curtiss.

□15 MS. CURTISS: Two comments. One, I just
□16 wanted to emphasize that the lack of consensus among
□17 parties at the conclusion of the collaborative
□18 process was not the impetus for the joint
□19 recommendation. It was the desire to facilitate the
□20 Company's implementation of a least cost plan while
□21 conducting further investigation necessary for
□22 formulating appropriate DSR policy that motivated
□23 this joint recommendation.

□24 And the second point that I wanted to

□25 raise in addressing Commissioner Byrne's concern

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(801) 328-1188

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□ CURTISS

□ 1 about the cost effectiveness of programs, I wanted
□ 2 to -- and I know this has been pointed out, but,
□ 3 again, to emphasize the provision there for the
□ 4 development of performance standards. In some
□ 5 sense, it's difficult at this point to say they must
□ 6 be cost effective DSR programs without having
□ 7 formally established performance standards, and we
□ 8 see that there is definitely an essential and
□ 9 crucial need to establish performance standards,
□10 what are the appropriate tests, what are the
□11 criteria that are going to be used as we move ahead
□12 in determining what DSR programs are cost effective,
□13 and that's why the task force is addressing this,
□14 and it's considered a high priority for the task
□15 force to address, and so I think that goes right to
□16 your point, Commissioner Byrne.

□17 COMMISSIONER BYRNE: Thank you.

□18 MR. GINSBERG: I guess Eric Blank would
□19 be next.

□20 MR. HUNTER: In fact, why don't we put on
□21 Mr. Lively next.

□22 MR. GINSBERG: Why don't we go ahead and
□23 admit DPU-1 and Joint Exhibit 1, too.

□24 CHAIRMAN MECHAM: It's marked DPU 1.1.

□25 Shall we call it 1?

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(801) 328-1188

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□ 1 MR. GINSBERG: That's fine. Yeah, 1.

□ 2 CHAIRMAN MECHAM: Let's call it 1, then.

□ 3 COMMISSIONER BYRNE: Let me just ask the
□ 4 industrial intervenors who are not participating in
□ 5 the joint recommendation, but have the industrial
□ 6 intervenors agreed to participate in the ongoing
□ 7 collaborative process?

□ 8 MR. EVANS: William Evans appearing for
□ 9 the Utah Industrial Energy Consumers. We have not
□10 agreed to participate in the ongoing collaborative
□11 process. The Company has informed us that they
□12 would provide us with materials that came out of
□13 that collaborative so that we could monitor their
□14 activities, but at this point, our clients have not
□15 authorized a representative to show up at the
□16 technical conference.

□17 COMMISSIONER BYRNE: But you will get the
□18 information and have the opportunity to monitor if
□19 you want to?

□20 MR. EVANS: We're told we will receive
□21 the materials, yes.

□22 CHAIRMAN MECHAM: Is there any objection
□23 to the admission of DPU-1? It's admitted.

□24 MR. GINSBERG: Do you want to go ahead

□25 and admit Joint Exhibit 1 and 2, also?

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(801) 328-1188

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DIRECT EXAMINATION - LIVELY

□ 1 CHAIRMAN MECHAM: Is there any objection
□ 2 to the admission of Joint Exhibit 1 and Joint
□ 3 Exhibit 2? They're admitted.

□ 4 (Whereupon Exhibits DPU-1 and Joint
□ 5 Exhibits 1 and 2 were received in evidence.)

□ 6 DIRECT EXAMINATION

□ 7 BY MR. HUNTER:

□ 8 Q Mr. Lively, will you please state your
□ 9 name and business address for the record.

□10 A Robert C. Lively. My business address is
□11 201 South Main Street, Salt Lake City, Utah.

□12 Q And you're employed by PacifiCorp?

□13 A I'm employed by PacifiCorp as an
□14 administrator of demand-side management policy
□15 development.

□16 Q What's the purpose of your testimony?

□17 A The purpose of my testimony is to explain
□18 the formula for calculation of net lost revenues
□19 that is attached to the joint recommendation as
□20 Exhibit 1.

□21 Q Will you please explain the purpose of
□22 that net lost revenue formula.

□23 A The purpose of the formula in the joint
□24 recommendation is to establish a framework within

□25 which a collaborative task force can work to

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(801) 328-1188

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DIRECT EXAMINATION - LIVELY

□ 1 quantify net lost revenues for 1994. Having
□ 2 established the framework of the formula in the
□ 3 joint recommendation, the collaborative task force
□ 4 will be able to focus its efforts on identifying the
□ 5 proper inputs to the formula which will produce net
□ 6 lost revenue for 1994.

□ 7 Q Will you please explain the formula.

□ 8 A The formula is presented in Exhibit 1 in
□ 9 two major components. The first component
□10 calculates net lost revenue related to energy sales
□11 lost by the Company as a result of conservation
□12 programs. The second component calculates net lost
□13 revenue related to demand sales lost as a result of
□14 conservation programs. The sum of these two
□15 components, the demand plus the energy, equals the
□16 Company's total net lost revenue related to
□17 conservation programs.

□18 The concept of the formula is relatively
□19 simple. The complexity of the formula is derived
□20 from determining the proper inputs to the formula,
□21 and that would be the work of the collaborative task
□22 force over the year 1994. For the energy component
□23 of the formula, the kilowatt hour sales lost as a
□24 result of conservation programs is simply multiplied

□25 by the energy rate per current tariffs to arrive at

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(801) 328-1188

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DIRECT EXAMINATION - LIVELY

□ 1 the energy net lost revenue. It should be noted
□ 2 that in the case of block rates, the tail block rate
□ 3 would be used for that particular calculation.

□ 4 For the demand component of the formula,
□ 5 the energy -- or the demand sales lost is multiplied
□ 6 by the demand rate per current tariffs, quantified
□ 7 demand, net lost revenue. The sum of these two
□ 8 components of the formula equals the total net lost
□ 9 revenue.

□10 Q How does the formula compare with the
□11 methods used in other jurisdictions to measure net
□12 lost revenue?

□13 A Lost revenue formulas may vary in some
□14 respects from jurisdiction to jurisdiction, however,
□15 the general concept of multiplying savings achieved
□16 by conservation programs times the appropriate
□17 tariff rates is consistent from jurisdiction to
□18 jurisdiction. The formula in the joint
□19 recommendation is conceptually consistent with this
□20 method of calculating lost revenues in other
□21 jurisdictions.

□22 Q Will you please identify and explain the
□23 variables in the formula.

□24 A Following along with Exhibit 1, I will

□25 begin with the variables of the energy net lost

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DIRECT EXAMINATION - LIVELY

□ 1 revenue component as shown on Exhibit 1. The first
□ 2 set of parentheses contains the rate portion of this
□ 3 component. The R variable represents the rate
□ 4 customers would have paid but for the Company's
□ 5 conservation programs. This rate is reduced by the
□ 6 AC variable. The AC, or avoided cost variable, is
□ 7 the cost the Company has avoided by not producing
□ 8 the electricity saved by conservation programs.

□ 9 The second set of parentheses contains
□10 the kilowatt hour portion of this component. The ES
□11 variable represents the energy savings stated in
□12 kilowatt hours which were achieved by the Company's
□13 conservation programs. These savings are reduced by
□14 the LG variable, or the load growth variable, which
□15 relates to load growth attributable to certain
□16 comprehensive DSM projects. The rate portion of the
□17 formula is multiplied by the kilowatt hour portion
□18 of the formula to quantify the energy net lost
□19 revenue.

□20 Q Will you please now explain the variables
□21 for the demand portion of that net lost revenue
□22 formula.

□23 A The first set of parentheses contains the
□24 rate portion of the demand component of the formula.

□25 The DC variable reflects the demand charge customers

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DIRECT EXAMINATION - LIVELY

□ 1 would have paid but for the impact of the Company's
□ 2 conservation programs. The DC variable is reduced
□ 3 by the ADC variable, which reflects avoided demand
□ 4 cost at the customers' billing peak as a result of
□ 5 conservation programs.

□ 6 The second set of parentheses contains
□ 7 the kilowatt portion of the formula. The NCP sub S
□ 8 variable represents the kilowatt reduction in
□ 9 customers' billing peak, or NCP, as a result of the
□ 10 Company's conservation programs. The NCP sub S
□ 11 variables is reduced by the LGP element, which
□ 12 represents load growth attributable to certain
□ 13 comprehensive DSM programs. As with the energy
□ 14 portion of the formula, the rate -- for the demand
□ 15 portion of the formula, the rate element is
□ 16 multiplied by the kilowatt hour portion to derive
□ 17 the demand net lost revenue.

□ 18 Q Did you mean to say kilowatt portion
□ 19 instead of kilowatt hour portion?

□ 20 A That's correct. I did intend to say
□ 21 kilowatt.

□ 22 The demand net lost revenue is then added
□ 23 to the energy net lost revenue, which I described
□ 24 earlier, to arrive at total net lost revenue.

□25

Q Why is the avoided cost variable adjusted

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DIRECT EXAMINATION - LIVELY

□ 1 for off system sales and line losses?

□ 2 A The kilowatt hour -- a kilowatt hour
□ 3 saved by energy conservation may be sold off system
□ 4 at the wholesale level. The margin of return to the
□ 5 Company on such sales is treated as an addition to
□ 6 the avoided cost variable, thus the customer
□ 7 receives the benefit of not only the avoided cost
□ 8 but also the margin on the off system sale that was
□ 9 made with the kilowatt hour saved by conservation.
□10 Line losses are also reduced by conservation
□11 programs, therefore, the benefit of reduced line
□12 losses is also treated as an addition to the avoided
□13 cost variable to the benefit of customers.

□14 Q Why is the avoided demand cost portion of
□15 the variable adjusted to the noncoincident peak
□16 level?

□17 A Customer demand billing occurs at the
□18 customer's NCP or noncoincident peak, therefore
□19 customer demand revenue, including lost demand
□20 revenue, is determined at the point of the
□21 customer's NCP. Each of the variables of this
□22 component of the formula must be consistently stated
□23 at the point of the customer NCP or billing -- or
□24 point of billing in order to properly quantify

□25 demand net lost revenue.

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(801) 328-1188

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ERIC BLANK

□ 1 Q Does that complete your testimony?

□ 2 A Yes, it does.

□ 3 Q Thank you.

□ 4 COMMISSIONER BYRNE: In evaluating the
□ 5 program itself, however, will the Collaborative look
□ 6 at coincident peak factors in terms of evaluating
□ 7 the program?

□ 8 THE WITNESS: I'm confident that that
□ 9 will be one of the factors that the Collaborative
□10 will look at. I think there will be a broad range
□11 of factors in determining the inputs to the formula
□12 that the Collaborative will examine.

□13 CHAIRMAN MECHAM: Mr. Blank, are you
□14 next?

□15 MR. BLANK: Sure. I just want to make --

□16 CHAIRMAN MECHAM: Do you want to pull
□17 that microphone close to your mouth, please?

□18 COMMISSIONER BYRNE: Are you going to do
□19 both parts here, Mr. Blank?

□20 MR. BLANK: Yeah.

□21 COMMISSIONER BYRNE: Are you going to be
□22 your own attorney and your own witness?

□23 MR. BLANK: Yeah. I'm a little
□24 schizophrenic. I'm also worried about my cross

□25 examination of myself.

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(801) 328-1188

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ERIC BLANK

□ 1 I just want to say that we believe the
□ 2 joint recommendation reconciles the competing values
□ 3 of the parties in an economically and politically
□ 4 acceptable manner. Through this joint agreement, we
□ 5 believe it should enable Utah Power & Light to
□ 6 implement its least cost plan in regard to energy
□ 7 efficiency, a plan that involves several hundred
□ 8 megawatts of cost effective DSR.

□ 9 We also believe that the joint
□10 recommendation adopts an approach that, in concept,
□11 is similar to that adopted by 16 other states. As a
□12 result, we believe this approach is tested and
□13 there's a fair amount of information in regard to
□14 how it works. Accordingly, we would urge the
□15 Commission to adopt and approve the joint agreement.

□16 CHAIRMAN MECHAM: Thank you, Mr. Blank.
□17 Mr. Mooy?

□18 MR. HUNTER: Could I ask Mr. Blank just a
□19 couple questions.

□20 CHAIRMAN MECHAM: Go ahead.

□21 MR. HUNTER: Mr. Blank, will you identify
□22 which Utah customers of PacifiCorp, groups of Utah
□23 customers, your organization represents in this
□24 proceeding?

□25

MR. BLANK: I'm representing five

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(801) 328-1188

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SANDY MOOY

□ 1 nonprofit environmental organizations. These
□ 2 organizations have members in Utah, over 10,000
□ 3 members in Utah, most of whom are PacifiCorp
□ 4 ratepayers.

□ 5 CHAIRMAN MECHAM: Mr. Mooy?

□ 6 MR. MOOY: I could do the same thing,
□ 7 imply the question, or else I give you the
□ 8 statement, or you can have Mr. Walgren ask me a
□ 9 question and I'll respond.

□10 CHAIRMAN MECHAM: Give a statement.

□11 MR. MOOY: The Committee does support the
□12 joint recommendation. There really isn't much of a
□13 distinction between our position and those of the
□14 Company and the Division and of the other parties.
□15 The Committee does view this as an experiment and
□16 was concerned about the accuracy or the ability of
□17 the net loss revenue formula to accurately reflect,
□18 in our view, what the lost revenues really are to
□19 the Company for demand-side resource programs.

□20 We feel, however, that, because it is a
□21 one-year experiment, that formula will only be in
□22 existence for one year and will continue only after
□23 further deliberation by the parties and approval by
□24 the Commission that that is a sufficient safeguard

□25 for our interests, that we're willing to essentially

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(801) 328-1188

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SANDY MOOY

□ 1 run the risk that the formula could be in error in
□ 2 light of, in addition to the one-year time period,
□ 3 the limitation of the two million dollar total
□ 4 amount of net lost revenue which will be calculated.

□ 5 I wanted to make one response to
□ 6 Commissioner Byrne's question relative to, if there
□ 7 is a 1995 rate case and the Commission does disallow
□ 8 certain programs, whether Section 1.5 would have an
□ 9 impact on the Commission's ability to make
□10 adjustments. It could, theoretically, but the
□11 scenario would have to be that -- let me give you
□12 one as the example I thought of. If the Company and
□13 the parties propose to the Commission in late 1994
□14 an estimate of the net lost revenues based upon the
□15 bookings the Company had through November and an
□16 estimate as to what would happen in November and
□17 December and presented that to the Commission, and
□18 let us assume that the Company, for some reason,
□19 believes that spun gold is a great insulator and
□20 puts a lot of that in in November to increase the
□21 energy efficiency of buildings under construction
□22 and finds out that the estimate, the engineering
□23 estimate of using that insulator was wrong, but then
□24 in December continues and actually puts more spun

□25 gold as an insulator, later on the Commission could

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(801) 328-1188

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□ SANDY MOOY

□ 1 say in November the Company should have prudently
□ 2 stopped the program and not continued, and the
□ 3 Commission at that time could disallow the cost of
□ 4 the spun gold program for November and December as a
□ 5 program cost that would not be allowed in the
□ 6 calculation or the total of the DSR programs for the
□ 7 year; however, the assumption could be that during
□ 8 November, December, there actually was some value,
□ 9 energy consumption for those buildings insulated
□10 with spun gold did go down, but not commensurate
□11 with the value or the cost of the insulation, the
□12 net lost revenue would calculate or include the
□13 reduction in energy for those two months, but the
□14 limitation of 1.5 that the Commission could not
□15 adjust the net lost revenue calculation more than 25
□16 percent would only be affected or a limitation if
□17 those programs which are disallowed by the
□18 Commission in and of themselves constituted 25
□19 percent or more of the net lost calculation
□20 presented to the Commission for the year.

□21 So if the program itself was only
□22 estimated to provide 10 percent of the net lost
□23 revenues, you're still within the 25 percent
□24 reduction that the Commission could make. It would

□25 only be if the program is disallowed, in and of

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(801) 328-1188

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DIRECT EXAMINATION - WILSON

□ 1 themselves have been estimated to generate more than
□ 2 25 percent of net lost revenues. And I don't think
□ 3 that possibility is great, and again, the amount
□ 4 that we're dealing with is two million dollars for
□ 5 the year, and even if that case were to occur, the
□ 6 amount of money that we're dealing with is not great
□ 7 relative to the rate base of the Company and the
□ 8 revenues associated with the overall Company
□ 9 operation.

□10 CHAIRMAN MECHAM: Thank you, Mr. Mooy.
□11 Mr. Alder?

□12 DIRECT EXAMINATION

□13 BY MR. ALDER:

□14 Q Would you state your name and your
□15 employment.

□16 A I'm Rebecca Wilson and I work for the
□17 Office of Energy and Resource Planning, Department
□18 of Natural Resources.

□19 Q Do you have a statement to make with
□20 regard to the --

□21 A Yes. We would like the Commission to
□22 know that the Department of Natural Resources has
□23 been following the demand-side investments that the
□24 Company has been making for the last few years and

□25 we've noted that the lack of cost recovery mechanism

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(801) 328-1188

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□ 1 is a great concern and we see the joint
□ 2 recommendation that we proposed right now as a very
□ 3 good method to examine a cost recovery mechanism and
□ 4 quantify some of the impacts that would come out of
□ 5 a cost recovery mechanism without committing to a
□ 6 long-term strategy for cost recovery, and so we
□ 7 would like to see the Commission adopt this. We
□ 8 think it's a valid approach and we could gain a lot
□ 9 of information for the next year.

□10 CHAIRMAN MECHAM: Thank you, Ms. Wilson.

□11 COMMISSIONER BYRNE: Mr. Blank indicated
□12 that 16 other jurisdictions use a similar mechanism
□13 and Mr. Lively indicated that the formula was
□14 consistent with other net lost revenue recovery or
□15 the mechanisms in other jurisdictions. Does
□16 PacifiCorp currently have net lost revenue recovery
□17 mechanisms in place in any of its jurisdictions?

□18 CHAIRMAN MECHAM: Mr. Lively?

□19 MR. LIVELY: Currently we have a net lost
□20 revenue calculation in place in our Oregon
□21 jurisdiction.

□22 COMMISSIONER BYRNE: How about
□23 California?

□24 MR. LIVELY: I don't --

□25

MR. LARSON: There are demand-side

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(801) 328-1188

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□ 1 programs in California. I'm not intimately familiar
□ 2 with the net lost revenue piece of it. I don't
□ 3 think that that's a huge issue in California because
□ 4 the administrative law judge just issued an order,
□ 5 and I think it goes before the full Commission on
□ 6 Friday, relative to California ratemaking for
□ 7 PacifiCorp which deals with incentive ratemaking,
□ 8 and so the demand-side programs will all be
□ 9 incorporated in this incentive ratemaking approach
□10 that is anticipated to be approved by the California
□11 commission this week.

□12 COMMISSIONER BYRNE: Will there be an
□13 incentive for implementing demand-side programs in
□14 California; do you know?

□15 MR. LARSON: I think it's all
□16 incorporated just in the incentive ratemaking. I
□17 don't think there's any explicit incentive over and
□18 above what's in the ratemaking, but I could be
□19 corrected on that. I'm not intimately familiar with
□20 the details.

□21 COMMISSIONER BYRNE: Would you inform the
□22 Commission when that order is issued and let us know
□23 how it treats these programs?

□24 MR. LARSON: Okay. The one thing I can

□25 tell you in the commission order is that there is a

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(801) 328-1188

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□ 1 phase-in of demand-side programs in this California
□ 2 incentive ratemaking that will, you know, expense
□ 3 the programs in the year that they occurred, and
□ 4 they are reflecting that in the price increase
□ 5 that's currently reflected in California. That's
□ 6 one component.

□ 7 COMMISSIONER BYRNE: I think one of the
□ 8 issues that the Collaborative is going to look at is
□ 9 incentives, and so I guess the California program
□10 would be something to take a look at.

□11 MR. LARSON: We'll inform you.

□12 MR. BLANK: I would also add, it's my
□13 understanding that at one point PacifiCorp's
□14 Washington state jurisdiction also had a net lost
□15 revenue adjustment. I don't know if that's still in
□16 place or not, but that might be another thing to
□17 look at.

□18 CHAIRMAN MECHAM: Thank you. Let's go
□19 off the record for a moment.

□20 (Discussion among the commissioners.)

□21 CHAIRMAN MECHAM: Let's go back on the
□22 record.

□23 Mr. Evans, did you want to mark your
□24 client's comments?

□25

MR. EVANS: We're not sitting at counsel

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□ 1 table, only because we couldn't find a chair here.
□ 2 The Utah Industrial Energy Consumers have submitted,
□ 3 on November 17th, comments to the proposed joint
□ 4 recommendation. On the same day we mailed those to
□ 5 all the parties and we would request that they
□ 6 become a part of this record and marked as --

□ 7 CHAIRMAN MECHAM: Do you want to mark
□ 8 them as UIE-1?

□ 9 MR. EVANS: Industrial Exhibit 1.

□10 MR. HUNTER: We would object to their
□11 admission as an exhibit. Their argument, a
□12 statement of counsel, for the purposes of the
□13 Commission, that's fine if they're part of the
□14 record, but they are clearly not evidence on which
□15 the Commission could base a decision.

□16 MR. EVANS: We concede that they are not
□17 sponsored testimony of any witness but we would
□18 request that the Commission consider them as
□19 application to approve the joint recommendation.

□20 CHAIRMAN MECHAM: Well, perhaps, rather
□21 than marking them, I will simply deem them as part
□22 of the record.

□23 MR. EVANS: Okay. We don't have any
□24 problem with that.

□25

CHAIRMAN MECHAM: Okay. Are there any

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□ 1 other matters that we need to address before we
□ 2 basically approve the joint recommendation? We'll
□ 3 approve the joint recommendation and ask Mr. Hunter
□ 4 if you will draft a proposed order.

□ 5 MR. HUNTER: I will, Mr. Chairman.

□ 6 CHAIRMAN MECHAM: Thank you. Are there
□ 7 any other matters? Rich?

□ 8 MR. COLLINS: What's the mechanism to
□ 9 establish the new collaborative? Do we need an
□10 order?

□11 CHAIRMAN MECHAM: As I recall, the joint
□12 recommendation requests that the Commission
□13 establish that by order, so I'm assuming that this
□14 order would have a proposal in it that would include
□15 the new collaborative process or a continuation of
□16 the old, however you view it.

□17 MR. GINSBERG: Does the Commission want
□18 the Division to act as the chairman of that again?

□19 CHAIRMAN MECHAM: That's probably not a
□20 bad idea, but why don't you make that proposal, and
□21 as we review the draft, we'll make that ultimate
□22 conclusion in the final order.

□23 MR. HUNTER: We'll include language in
□24 the order and distribute it to the parties and get

□25 any comments.

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(801) 328-1188

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□ 1 CHAIRMAN MECHAM: That would be good.
□ 2 Any other matters? Thank you and we'll adjourn for
□ 3 the day.

□ 4 (Whereupon the hearing was concluded at
□ 5 11:09 a.m.)

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RENEE L. STACY, CSR, RPR
(801) 328-1188

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