BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Rate Making Treatment of Demand-Side Resources and the Analysis of Regulatory Changes to Encourage Implementation of Integrated Resource Planning.	DOCKET NUMBER: 92-2035-04 TAKEN: February 23, 1995 REPORTED BY: Mary D. Quinn CSR, RPR

The Hearing in the Aforementioned Matter held February 23, 1995 at the Public Service Commission of Utah, before MARY D. QUINN, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public in and for the State of Utah.

DEPOMAX REPORTING SERVICES
525 First Interstate Plaza
Salt Lake City, UT 84101

APPEARANCES

THE COMMISSION: James Byrne
Stephen Hewlett

FOR THE DIVISION
OF PUBLIC UTILITIES: Michael Ginsberg

FOR THE COMMITTEE OF
CONSUMER SERVICES: Kent Walgren

FOR PACIFICORP: Edward Hunter

FOR ENVIRONMENTAL
INTERVENORS: Eric Blank

INDEX

EXHIBITS

February 23, 1995 10:00 a.m.

PROCEEDINGS

COMMISSIONER BYRNE: Let's go on the record in Case Number 92-2035-04, in the matter rate making treatment of demand-side resources and the analysis of regulatory changes to encourage implementation of integrated resource planning. Take appearances.

MR. GINSBERG: Michael Ginsberg appearing for the Division of Public Utilities.

MR. HUNTER: Edward Hunter representing PacifiCorp.

MR. WALGREN: Kent Walgren for the Committee of Consumer Services.

MR. BLANK: Eric Blank for the Land and Water Fund of the Rockies, representing the environmental intervenors, a collection of three Utah environmental groups.

COMMISSIONER BYRNE: We have a petition for approval of joint agreement. Who wants to discuss that for us?

MR. GINSBERG: We had three witnesses that we were going to present which will discuss the various aspects of the agreement. They're all

relatively short. And I think PacifiCorp has one witness.

COMMISSIONER BYRNE: Witnesses? All right.

MR. HUNTER: PacifiCorp has individuals available to answer any questions the Commission might have about the joint recommendation. But I think the Division was the only organization that intended to put on witnesses.

COMMISSIONER BYRNE: Why don't we get all of the witnesses close to a microphone. Who else do we have as a witness? If the Division is going to have three witnesses, why don't we just swear them all at once. Mr. Burrup, Ms. Wilson and Mr. Flandro, please stand and raise your right hand. Do you swear the testimony you're about to give in this proceeding is the truth, the whole truth, and nothing but the truth so help you, God?

(Collective yes.)

COMMISSIONER BYRNE: Thank you. Proceed, Mr. Ginsberg.

MR. GINSBERG: Does the Commission have a preference about how this should proceed?

COMMISSIONER BYRNE: However you want to do it.

MR. GINSBERG: I'll do it the way that we

EXAMINATION OF MR. FLANDRO

plan to do it, then.

COMMISSIONER BYRNE: That's fine.

MR. GINSBERG: That would be the easiest way rather than trying to improvise at this point.

COMMISSIONER BYRNE: We can just pass the microphone. We've got them all sworn in.

MR. GINSBERG: Each person had an individual set of testimony that they were planning on presenting which goes through the joint agreement.

COMMISSIONER BYRNE: All right. Proceed.

MR. GINSBERG: The first one was Mark Flandro.

EXAMINATION

BY MR. GINSBERG:

Q Why don't you state your name for the record.

A Mark V. Flandro.

Q Identify what you do in the Division.

A I'm the utilities rate engineer in the electric section of the Division.

Q Describe the purpose of the testimony you're presenting.

A My testimony will look at three different

things. The result -- the first being the results of the 1994 Utah demand-side resource joint recommendation. Secondly, I'll talk about some of the activities of the cost recovery collaborative during 1994 and '95. And then the third thing will address several of the particulars of the joint agreement itself. The new proposal for '95 and '96.

Q Can you go ahead and discuss the 1994 DSR trial?

A The DSR trial has been implemented by PacifiCorp and tracked by the cost recovery collaborative during the year. The 1994 DSR trial allowed for cost accounting mechanism -- a cost accounting mechanism for recovery of DSR program costs and for calculation of net lost revenues to offset the effect of lost sales -- lost sales and for saving kilowatt hours.

As the chairperson of the collaborative, I'd like to report that the 1994 net lost revenue and cost accounting mechanism DSM trial appears to have been successful. The results of the DSR trial were reported to the Commission, and all other interested parties, in two letters. One dated November 30th, 1994, and another one on January 15th, 1995.

PacifiCorp's 1994 Utah DSR energy

EXAMINATION OF MR. FLANDRO

savings target was 40,000 megawatt hours. And they achieved 65,073 megawatt hours. They not only exceeded the 40,000 megawatt hour target in the joint recommendation, but they also exceeded the company's RAMPP 3 action plan goal of 60,508 megawatt hours.

During the year we met quarterly in the collaborative and we challenged, we reviewed, and we modified inputs to the formula and the formula itself as necessary to get the most accurate readings that we could on savings of the DSR programs.

The -- on January 18th, which is the date that PacifiCorp does booking of revenues from previous years -- for the previous year, PacifiCorp booked $386,909 of net lost revenues for the '94 DSR activities. The year end quarterly report has not been provided yet by the company. And that report will show the amount of money that PacifiCorp spent to get those savings. That is estimated at this time to run between 8 to $10 million in 1994 for their DSR programs.

Q What has their cost recovery collaborative been working on for '95 and beyond?

A One of the assignments given to the collaborative by the Commission in early 1994, and I'll quote this, is to make recommendations for a

cost recovery policy to be effective in 1995. Closed quote.

In addition to monitoring and implementing the '94 interim policy joint recommendation, the collaborative through its subcommittees has looked at four separate plans for DSR cost accounting and recovery, et cetera, for 1995 and beyond. These you might say are parallel plans;

at least, they appear to be parallel plans at the outset of the collaborative work. And those four plans were a shared savings plan, a total factor productivity plan, a statistical plan, and a modified continuation of the 1994 net loss revenue plan. And we called that the DSR regulatory agreement or joint agreement, which is before the Commission at this time.

Although the subcommittee final reports are still being circulated to the CRC members, it has become obvious to the collaborative that only the last of these four plans is viable for overall Utah DSR -- for the overall Utah DSR program. Continuing beyond '94. The collaborative has worked out this modified net lost revenue formula and cost accounting mechanism for '95 and '96 and has presented it to the Commission through the Division in its current petition.

Q Why was a joint agreement limited to '95 and '96, and what happens after '96?

A The joint agreement is really a continuation of the DSR experiment in Utah. And the collaborative sees it that way, as a -- still in an experimental stage. Some parties to the joint agreement were not comfortable committing to a plan that goes beyond two years. Originally, we looked at '96 and beyond. But now we've shortened that to '95 and '96. I'm sorry. Originally we looked at it at '95 and beyond and have ended up with the recommendation for just '95 and '96.

We feel there's too much uncertainty regarding the future of the power industry and the regulation of the power industry to commit to a long-term DSR solution. The joint agreement has a sunset clause that requires any party to petition for continuance of the terms of the '95-'96 agreement beyond '96 if that is what is wanted. Absent such action, the agreement will expire on January 1st, 1997.

You might ask the opposite question, too: Why did we go even as long as one year or two years? Why didn't we go two years? We felt that

continuing just for one year or some part of a year with the company being asked at the same time to ramp up its DSR activity from an 8 to $10 million investment in '94 to, at the outside, a $15 million program in 1995, that this being almost double the -- well, at least a third as much more over the '94 amounts -- we're also asking them to double their savings target from '94 to '95 -- that this -- without some direction to the company could act as a disincentive if we only go for a six month or one year program. This would cause uncertainty, thus sending the company mixed signals regarding the Utah regulators' commitment to implementation of cost effective DSR in Utah.

Q This '94 joint agreement called for a report to be issued at March -- the end of March in 1995. And your company recommended to the Commission for approval of the joint agreement prior to the issuance of that report. Can you explain why you're doing that?

A Yes, I can. I guess the simplest response is the clock is running. Time is marching on. We are asking the company to make a step above '94 in their efforts. Regulators have worked hard over the last two to three years as well as company and other

participants to remove disincentives from blocking the implementation of cost effective DSR activity by PacifiCorp.

The '94 interim policy had a drop dead date of December 31st, 1994. Therefore, PacifiCorp has no real policy guidance in Utah regarding regulatory vision of DSR program cost recovery or lost revenues after that date.

As I've mentioned in my testimony, most of what is going to be reported to the Commission regarding the 1994 DSR net lost revenue trial and the final report to the Commission in March has already been reported in the November of '94 and January '95 letters to the Commission. There really aren't going to be any surprises in the March report regarding this issue. The letters not only went to the Commission but also to the collaborative, and we have a list of quite a few other interested parties that get our minutes and get the information which includes most classes of customer. For all classes of customer.

The final report to the collaborative covers a broad range of other information besides just the results of the interim 1994 policy and will take some added time to prepare. The collaborative

felt satisfied with the results of the '94 trial, and they realized as a result of subcommittee work that some sort of net lost revenue plan will be the collaborative's recommendation over the other three alternatives studied in '95 -- studied for '95 and beyond.

The collaborative saw the need to get something in place as soon as possible in 1995 which they knew would be consistent with the March 31st '95 report to help the company keep their momentum going as well as to ramp up their programs in '95. The collaborative is also aware that PacifiCorp is in the midst of planning 1996 activity with their RAMPP 4 plan and wanted the company to understand Utah's DSR position for that year as well as 1995.

The other reason which seems to be unspoken but spoken is that the collaborative was very aware of a change in the Commission, and this Commission has spent a great deal of time helping the collaborative and others to study the DSR issue. We felt important perhaps to get this before this Commission before there was a change. Thus, the joint agreement in February.

One last point here on this issue. I'd like to point out that the joint agreement is not

submitted in lieu of the final report in March, but it just precedes it. And interested parties can still challenge this agreement after it's submitted should there be a need.

Q Can you generally describe the joint agreement for '95 and '96?
A The agreement establishes an accounting treatment for Commission approved DSR programs and establishes a formula for calculation of net lost revenues similar but not the same as the 1994 joint recommendation. Agreement specifies goals and expectations for the amount of DSR savings to be acquired by PacifiCorp in 1995 and 1996. And finally, the agreement provides for DSR reporting to regulators and the Commission and allows for further analysis of other future options for cost recovery.
We don't know that we've still exhausted all avenues in that area as a collaborative. Ron Burrup of the Division will follow any testimony and will discuss the accounting mechanism objectives in the agreement. Following, Becky Wilson, also of the Division, will discuss the link between this agreement and PacifiCorp's integrated resource plan and the 1995 and '96 DSR savings targets associated with the agreement.

Salt Lake City, UT 84101

EXAMINATION OF MR. FLANDRO

Q Can you go through the reporting requirements that are included in the joint agreement?

A I'll try to be brief and do that, yes. When the DSR cost recovery collaborative prepares its final report to the Commission by the end of March '95, it hopes to have answered most if not all of the previous questions and concerns of the Commission regarding DSR in Utah as well as providing recommendations for the future.

The parties to the agreement recommend that at that point or soon after, the collaborative be disbanded and that DSR activity then be followed in quarterly update meetings held by the company and that DSR activity reporting become part of the normal semi-annual reporting process of the company to regulators.

This agreement asks the company to report DSR activity in much the same manner as their previously submitted quarterly DSR activity reports, but in the semi-annual reports starting with the 30th of April and each publication of the semi-annual after that point. The proposed quarterly update conferences will provide a vehicle for continued DSR tracking and monitoring for interested parties. The

Paragraph 5.1 -- I won't take the time to go through this. 5.1 in the agreement Items A through L on Pages 10 and 11 reflect the types of information that can and should be reviewed at the quarterly meetings. And the first one of those quarterly meetings would be scheduled for late May 1995.

In putting this in the semi annual report, the parties would like to see the DSR -- overall DSR subject or report is placed in proper perspective alongside other PacifiCorp operations and acquisitions. And thus the proposal to put it in the semi-annual report.

Finally, the agreement also calls for annual analysis of PacifiCorp's actual annual and accumulative DSR acquisition. The Office of Energy and Resource Planning and Natural Resources has agreed to help the Division conduct these annual reviews.

Q Do you have any additional comments you wish to make in light of the comments of the industrial intervenors filing?

A I've tried to put some of those in here as far as the -- the two-year plan and the -- why the stipulation came ahead of the final report.

Q That's all?

A I tried to answer those.

MR. GINSBERG: That's all we have.

COMMISSIONER BYRNE: Mr. Flandro, you mentioned in the November and January -- I think you called them letters or reports. I think we ought to either further identify those or have them as exhibits. I want to at least make sure they're on the file. I'm not sure they're even both on the file.

MR. GINSBERG: We could provide those as exhibits.

COMMISSIONER BYRNE: Since he referred to them, I think we ought to make sure the record's clear. I think he referred to one as January 15th. I have one that came in on January 18th. Off the record.

(Whereupon a discussion was held off the record.)

(Whereupon Exhibits DPU 1 and 2 were

marked for identification.)

COMMISSIONER BYRNE: Let's go back on the record. We've marked a document in this docket entitled first report 1994 joint recommendation issued November 30th, 1994 as DPU 1. And another document in this docket entitled update record 1994

EXAMINATION OF MR. FLANDRO

joint recommendation issued January 13th, 1995 as DPU 2. Are there any objections to the receipt of those documents? Seeing none, we'll accept them.

Mr. Flandro, the industrial intervenors -- Utah Industrial Energy Consumers I guess is the proper term -- have submitted comments on the joint agreement. I think you have attempted to address those comments. They basically indicate that since the final report has not been filed that it's premature to approve a policy for the next two years. Your response in major part I think was that the information that will be in that report has already been made available. Is it made available to these customers?

THE WITNESS: Yes, I believe it has. The -- at the beginning of the collaborative, we wrote to all those parties that had been part of the technical conference collaborative and the DSR task force and told them about the new collaborative, asked for what level of participation they would want to have in the collaborative. We got back answers from all those parties. We broke that into two groups: Active members of the collaborative and informational members of the collaborative. And these documents it's my understanding Steve McDughal who is accounting for the company made distribution to not only the active members of the collaborative but also all informational. That does did include some of the principals -- both principals that are shown on the document from industrial energy consumers. Both Mr. Reader and Mr. Evans are on that list.

COMMISSIONER BYRNE: Does the agreement deal with the issue of how lost revenue costs that are booked by the company should be recovered?

THE WITNESS: The accounting side of that?

COMMISSIONER BYRNE: Yes.

THE WITNESS: Yes. Mr. Burrup will be explaining that in detail in his testimony. The agreement attempts to also.

COMMISSIONER HEWLETT: Mr. Flandro, why does the 1994 net loss revenue that's shown in your November 30th report differ from the one that --

THE WITNESS: The way this was it up to the joint recommendation to the Commission a year ago was that there would be a November 30th report of what the net lost revenues would be for 1994. But the reason for that is to give the Commission time to look at that number, to determine whether they agreed or disagreed with it or wanted to question it prior

to it being booked on January 18th. The number that produced in that manner eliminates or -- does not allow the company to provide actuals for the months of November and December. The January 13th -- is it 13th or 15th? The January letter updates that number after they've had a chance to look at the actuals for November and December. And doing the best job they could of pulling everything together for '94 before the booking date. And that number went from I believe the 340,000, roughly, to the 386,000 number.

COMMISSIONER HEWLETT: Which number was

booked?

THE WITNESS: The second one.

COMMISSIONER HEWLETT: Okay. Why was the lost revenue higher on lower megawatt hours?

THE WITNESS: On lower megawatt hours?

COMMISSIONER HEWLETT: Yes. That's what it says, based on those reports.

THE WITNESS: I wasn't aware that we were looking at a lower number.

COMMISSIONER HEWLETT: On your November 30th report it says 338,723 based on 21,014 megawatt hours. And the January number said 386,909 based on 20,000 --

THE WITNESS: I'll have to turn to the

preparers of the report and ask that question. There are other issues that had to be written up. Some of those are what are called free riders and other aspects that you may have to deduct some of the hours. But the question still doesn't answer what -- the increase in the money and the decrease in the kilowatt hours.

MR. HUNTER: We can put on Mr. Robinson after the Division has completed their testimony, and he can address that question.

COMMISSIONER HEWLETT: Okay.

THE WITNESS: It's a good question.

COMMISSIONER HEWLETT: Who can address the different options that were looked at by the collaborative?

THE WITNESS: Mr. Burrup was the chairman of the subcommittee that booked that shared savings and total factor productivity. We do not have -- I don't believe Kevin is here. The Office of Energy and Resource Planning for DNR chaired the committee on statistical recovery. But Eric might -- is an expert in that area and was with us and is a member of that committee and could probably address that for us as well.

COMMISSIONER HEWLETT: I would like to know

EXAMINATION OF MR. FLANDRO

why Option 4 was the only viable option and what made the other three options not viable.

THE WITNESS: I could attempt to do that, or we could ask the experts to respond to that. Ron, do you want to respond to the first group?

MR. BURRUP: Because there may be differing points of view, Mr. Blank can comment and I can comment on part of it. Total factor productivity was started in 1987. We applied that to see if it would be an option in lieu of calculating net lost revenues. It didn't work principally because Utah is only 30 percent of the total company now, and in 1987 when the program started, they were 70 percent. So if we applied the kilowatt hour savings to the DSR to

Utah costs and tried to calculate -- tried to calculate a reward for DSR that the amount of DSR savings were so small compared to kilowatt hour sales, it made literally no difference at all. It was lost. The numbers were too large in sales compared to DSR savings to be practical.

The other method was shared savings. Giving the company an incentive above their costs for doing DSR. A popular method used in a number of states. This method in Utah, after the Supreme Court order on the US West case involving incentive rates,

the Division's belief is the incentive rates need to be linked to cost of service. And we found little linkage in between cost of service and incentive rates for DSR. The report will address this more fully.

But there may be a method linking cost of service to environmental savings and savings through -- of potential environmental taxes. This will be addressed in our report. And certainly my answers will be clarified further in the report. But there was unanimous agreement among the parties of the collaborative that these two methods were not viable at this time. I should let Mr. Blank talk about the other method.

MR. BLANK: We would not say that statistical recoupling wasn't viable. In fact, in Oregon, they're trying an approach like it for the residential sector. But it's still in the very early stages of development. There's only four or five states that are considering approaches like it. While in contrast, net loss revenue mechanisms have been around for close to, I don't know, five or seven years. There's dozens of states that use them. There's a long track record of experience. So it seemed like a sensible approach to adopt that mechanism for at least the next two years while we continue to look at what -- what statistical recoupling would do in Utah and what happens in other states.

MR. BURRUP: In response to that, there is less enthusiasm on the part of the Division for this method. Because we believe it shifts the risk of weather to rate payers. In the two years we tested this, '94 and -- '93 and '94 where we applied the program, there was a shift of $1 million one year and $7 million the other year from the company to customers. That's the opposite of this lost revenue calculation of $387,000. The difference was due to weather. One year was drier than the other. The risk of weather has historically gone to shareholders, and perhaps it should remain that way.

The Division is looking at it. We don't have a firm position. And even within the Division, there's disagreement.

COMMISSIONER BYRNE: Is the electric pod discussing these issues with the gas pod as you go along, since Mountain Fuel is interested in looking at some mechanisms that --

THE WITNESS: Within the Division -- excuse me, I'm sorry. Within the Division, there has not

been a great deal of discussion between these two. But the gas company has been a very active participant in the collaborative. They have had a member there for the majority of our meetings.

I might respond to one more thing, Commissioner Hewlett's question. I mentioned in my testimony that we have some ongoing -- the joint agreement recommends some ongoing work to look at other cost recovery methods. One of those will be looking at least one more year at statistical recoupling. Taking the numbers from '95 and putting them into the same formulas and seeing how that looks even with one more year of data. So that statistical recoupling is one that we will continue to look at for one more year at least.

COMMISSIONER BYRNE: Is there any cross of Mr. Flandro? If not, Mr. Ginsberg, do you want to proceed with your next witness?

MR. GINSBERG: Next witness is Ron Burrup.

EXAMINATION

BY MR. GINSBERG:

Q   State your name for the record.

A   Ronald L. Burrup.

EXAMINATION OF MR. BURRUP

Q You have participated in the collaborative and have testified before the Commission before?

A Yes, I have.

Q What are your objectives with relation to the accounting mechanism?

A The Division wanted the accounting mechanism to remove any disincentives that may be associated with DSR implementation. To accomplish this, we tried to make cost recovery for demand-side and supply-side investments equal to the extent possible and to simplify key manned side cost recoveries.

Q Can you go through the accounting mechanisms that are included in this new joint agreement?

A There are three elements to the accounting mechanisms. The first allows demand-side resource program investments. That is, the cost associated with installing water heater raps or lighting measures to be capitalized or amortized over the life of the measure. This is to the treatment -- to the accounting treatment for supply side generating resources. They are capitalized and depreciated over their useful lives.

The second element allows for these

capitalized program costs to accrue a carrying charge for the -- from the time they're installed until the end of the calendar year. The agreed upon rate is the current AFUDC rate. This is also similar to supply side resource treatment. Supply side resources accrue a carrying charge during the time of construction until they are put in the service at an AFUDC rate. These carrying charges are capital, used with other capital investments and amortized over the life of the asset. So again, this treatment is similar to supply side accounting treatment.

And finally, this agreement establishes a formula that is very much identical to the prior formula and calculates net lost revenues. This formula can be changed by the parties during this two-year period by mutual agreement to reflect a more reliable method of calculating avoided demand and energy costs. The agreement allows lost revenues to be accrued each month for 12 months following the measures installation. Net lost revenues will be updated and corrected based on monitoring and evaluation results after the initial calculation is made. And net lost revenues will not accrue any type of a carrying charge and will begin to be amortized over the program life at the beginning of the year following the program's installation.

Q Can you explain the differences in accounting between the previous joint agreement and the one that's being submitted today?

A There is one significant difference. This agreement allows a 12-month limit on the calculation of lost revenues. The company has sought a calculation of all the months between a rate case. Other parties have different views. The prior agreement calculated net lost revenues from the time the measure was installed until the end of 1994. And last year we realized this was a problem with that agreement, because if a program -- if a measure was installed late in 1994, it would only accrue two or three -- a few months of lost revenues, not 12 months' worth. The $387,000 figure for net lost revenues recorded in 1994 if those programs had been allowed to accrue lost revenues for 12 months would have been approximately $930,000. So there was a $550,000 difference between the program -- the lost revenues that ended in 1994 that would have gone on in '95 if they had been allowed 12 months' worth.

Q How are residual lost revenues treated in the joint agreement?

A I paused too soon. This $550,000 figure is

called residual lost revenues. These residual lost revenues, $550,000, this agreement, the parties would agree that ongoing programs that occur year after year such as industrial or commercial financial programs should have lost revenues calculated for the full 12 months. While programs that are not ongoing and for purposes of this agreement, there's only two of those. The ECONS contract and Schedule 5 Showerhead program.

The lost revenues will terminate after the end of the calendar year in which they're installed. So they may get six months or 12 months or less of lost revenues. The impact of this agreement is to roughly split this $550,000 figure so that about half will be recognized as lost revenue in 1995 and about half will never be ready to be showed as lost revenue at all. Since we've agreed to 12 months, this will not be a recurring problem at the end of this agreement.

Q Do you have any comments with respect to the comments filed by the industrial intervenors dealing with rate making treatment?

A Yes. I wanted to read from the agreement. On the bottom of Page 2 and top of Page 3, the agreement states that this agreement establishes an

accounting treatment for Utah Public Service

Commission approval approved DSR programs and calculation of recording net lost revenues. Nothing in this agreement precludes or prohibits any party from challenging the recovery of PacifiCorp's DSR costs in a future rate proceeding. These -- it is presumed by the parties that these costs will be subject to the same scrutiny and review as supply side resource costs will in a rate case. This doesn't guarantee that all these costs are reasonable. It establishes an accounting mechanism.

COMMISSIONER BYRNE: Does the accounting mechanism, would it permit a consideration of recovery of these costs other -- in some method other than spread them across the board, that is, directing the cost to the class of customer that the program was targeted to?

THE WITNESS: No. This agreement doesn't address rate spread at all. This is -- that will be addressed in the March 30th report.

COMMISSIONER BYRNE: The question was, does the accounting treatment, would it permit such treatment in a future rate case?

THE WITNESS: I believe it would. I'd have to check. I think the accounting records I've seen

EXAMINATION OF MR. BURRUP

are in such detail that you can see which class received a program. And specifically identify the costs to that class. These were -- there were some costs in the last semi-annual report we saw. And they are in such great detail, it is not difficult to identify which class incurred the costs and which class generated the last revenue. So they could be specifically class assigned if the Commission desired that. Commissioner Byrne asked about how these revenue -- lost revenues would be recovered. Did I address your question? I believe I answered it. Is that satisfactory?

COMMISSIONER BYRNE: Yes.

THE WITNESS: Concerning the industrial

customers, industrial energy consumers comments, the Division wouldn't be opposed to the Commission waiting until after the March 31st report is received, and some 30 or 60 days after that if the party desired to make comments to reopen this proceeding, we would not be -- that wouldn't be appropriate to allow them that time, then the Commission could determine after the 30 or 60 day period if there is enough reason to reopen this agreement. And on a prospective basis change it. If there's no comments received or if the comments

received are not persuasive to the Commission, then this agreement should stand for the remaining year and a half or so of its term.

COMMISSIONER BYRNE: Is that the same thing as saying if the Commission approved this agreement on an interim basis for 1995 subject to a review after the full report is filed that that would not cause -- I guess I should ask the company this -- that would not cause the company a problem?

MR. HUNTER: The -- if I understand the question correctly, if the changes to be made would be made prospectively, then that's not different than what the Commission traditionally does. Any party has a right to petition the Commission for changes on a prospective basis. Our only concern would be the amounts we booked in reliance on the recommendation not be changed retroactively.

MR. GINSBERG: I think our preference also would be that it be done inter -- interim would be a final order that could be -- just like any other order be reopened or changed based on the information that came up and that not automatically have to have a new proceeding to deal with comments that come out after the March report, because there may be no comments.

Salt Lake City, UT 84101

EXAMINATION OF MR. BURRUP

COMMISSIONER HEWLETT: What happens if the Commission waits that issue and order until after the March 31st comments?

MR. HUNTER: The company's concern obviously has been that during the interim, they are expending amounts for DSR activities without an approved accounting treatment. And absent that accounting treatment, they'll never have an opportunity to recover those costs. If the Commission's order issued on March 31st was retroactive to January 1st of this year, that would probably solve our problem. But there are a lot of ways to address the issue.

Our preference would be that the Commission approve the joint recommendation in the final order, which is obviously subject to change based on new information. And we think that provides adequate protection to -- to all parties. We would of course be willing to talk to the Commission about other alternatives. The one you suggested is a possible alternative with a retroactive approval to January 1st. That certainly has some kind of chilling effect on the company's willingness to spend money without an approved accounting procedure in place.

EXAMINATION OF MR. BURRUP

COMMISSIONER BYRNE: US West has been -- has argued a similar problem in terms of some of these things.

COMMISSIONER HEWLETT: So will -- Mr. Burrup, will the March 31st report have a recommendation on how the DSR costs should be allocated among the different classes of customers?

THE WITNESS: It will.

COMMISSIONER HEWLETT: It will?

THE WITNESS: It may have a minority opinion also, a party disagreeing.

COMMISSIONER HEWLETT: We don't have that information now?

THE WITNESS: We may have it in draft form. The subcommittee was finalizing that. We could make -- Mr. Taylor is here, chairman of that committee, if you'd like to address him.

COMMISSIONER BYRNE: That information presumably wouldn't be utilized until we had a rate case?

THE WITNESS: That's correct.

MR. FLANDRO: One of the things that the collaborative was asked and asked by the Commission to address was the impact of DSR on nonparticipants. And we have a whole subcommittee that was assigned to that topic, and we have completed their report, and that will be part of the March report. But again, as Commissioner Byrne says, that wouldn't be utilized until a rate case. And there -- we may not agree at the time of a rate case that that's the approach that should be taken.

MR. GINSBERG: You haven't asked the Commission to take any action, then, on how to allocate these cost of classes after the March report comes out?

MR. FLANDRO: No. We are just making a recommendation as to how the impact should be addressed.

COMMISSIONER BYRNE: Mr. Ginsberg, do you have anything else with Mr. Burrup?

MR. GINSBERG: No thank you.

COMMISSIONER BYRNE: Is there any cross examination of Mr. Burrup? Continue, Mr. Ginsberg.

EXAMINATION

BY MR. GINSBERG:

Q Can you state your name for the record?

A Rebecca Wilson.

Q What's the purpose of your testimony?

EXAMINATION OF MS. WILSON

A As Mark indicated earlier, I will discuss the link of this agreement to IRP and also clarify the Division's position regarding the targets that are associated with this agreement.

Q Can you explain how this joint agreement is linked to the IRP process?

A The intent of this agreement is to link short-term company actions with long-term IRP analysis. And so the Division sees this agreement as instrumental in removing the short-term disincentives that are caused by regulatory lag. And therefore, the level of the playing field between supply and demand-side resources. Removal of the disincentives specifically discussed by Ron and Mark enables the company to implement its least cost plan and therefore secure the benefits to rate payers that are identified in the IRP.

Q Can you explain your understanding of the meaning of the DSR targets listed in the joint agreement?

A We see the targets represent the amount of DSR that the company plans to acquire. This gives us a sense of the likely magnitude and the impact of this agreement. The targets were set in -- by PacifiCorp in conjunction with their RAMPP 3 action plan. As you will recall, the Division provided comments to the Commission in the IRP docket with concerns about these action plan goals for DSR.

Specifically, the Division is concerned that the action plan amounts are not consistent with providing rate payers with all the benefits possible according to the IRP analysis. Therefore, the Division wants to make it clear that by signing this agreement, we are not providing up front agreement that the amounts associated with this agreement represent the amounts of DSR that provide the greatest benefit to rate payers as supported by the IRP. And further, that by signing this agreement, we are not abrogating our responsibility in a future rate case proceeding to make sure the costs low growth provide rate payers with the benefits associated with IRP.

Q Does the Division expect the targets associated with this agreement to yield rate payer benefits?

A Yes. The IRP analysis consistently

indicates that demand-side resources in Utah and elsewhere on the system will reduce revenue requirements and reduce total costs for energy services by significant amounts in comparison to

least cost supply side alternatives. And thus providing direct economic benefits to on the average to rate payers in Utah.

And additionally, IRP analysis consistently indicates that carbon emissions are significantly reduced through DSR acquisition in comparison to supply side acquisition. Thus, DSR reduces the risk to rate payers of future legal or regulatory costs imposed on carbon emissions that are associated with electric power generation.

IRP analysis is less consistent or clear about the impact of DSR acquisition on average revenue required per kilowatt hour. For example, RAMPP 2 indicated that under conditions of high load growth, including DSR in the portfolio of resources acquired resulted in lower average revenue required for kWh as compared to a resource portfolio without DSR resources.

RAMPP 3 did not have this same outcome. However, the impact on rate levels including DSR in the resource portfolio appear to have a negligible impact on real rate levels over the planned horizon.

RAMPP 4 analysis, the upcoming IRP and additional analysis here in Utah should provide continuing examination of these impacts. And the

performance standards subcommittee, one of the subcommittees that will provide a report in the final next month, will give additional insight on how such analysis might be undertaken and tracked.

Additionally, I think it should be noted that IRP is based on planning assumptions and generic projects. So far, we have some evidence that here in Utah, the cost of DSR is a bit lower than we were expecting. The company planned to acquire 80,000 megawatt hours last year at a cost of $13 million. It looks like that cost is going to be more in the 8 to $10 million range for the same amount of DSR. Those impacts that are listed in the IRP are probably overstated. Again, we are concerned about this issue and will continue to track this information.

Q Do you have any additional comments?

A No, I don't. That's it. Thanks.

MR. GINSBERG: That's all the testimony we have.

COMMISSIONER BYRNE: Is there any cross examination of Ms. Wilson?

MR. HUNTER: Just a couple of questions.

///

EXAMINATION OF MS. WILSON

EXAMINATION

BY MR. HUNTER:

Q Miss Wilson, I think you said 80,000?

A I meant to say 60, I'm sorry.

Q You mentioned that the Division had some concerns about the target levels in the agreement, specifically, that they might not provide the amount that was -- of the greatest benefit to the customers. Is the Division's specific concern that those targets are too low?

A Yes.

Q And the Division is comfortable with the fact that the 60,000 megawatt hour number is the

least that the company should be -- amount of DSR
that the company should acquire in Utah in 1995?

A I think the goal for 1995 is 80. For '94, it was 60. So -- oh, I see. You're referring to the minimum target of 60,000?

Q I am. Page 8 of the recommendation, 1996 target for Utah DSR acquisition will be part of RAMPP 4 in late 1995. But the minimum target for Utah DSR energy savings acquisition in 1995 will be 60,692 megawatt hours. And my question is whether or not the -- you talked about your concerns and the

company's responsibility to determine that the amounts we acquire are prudent. But the Division fully supports acquiring at least that much, the 60,000 minimum amount in Utah in 1995?

A Yes.

MR. HUNTER: Thank you. That's all I have.

COMMISSIONER BYRNE: Mr. Ginsberg, have the documents that have been used by the witnesses to testify in this proceeding, are they in a form where they could be filed as exhibits? Or not?

MR. GINSBERG: No. They're really not. Since they've been transcribed into the record, I'm not sure it's necessary. But they could be made in that form. They weren't read verbatim, either. Either by me or by them.

COMMISSIONER BYRNE: Okay. Let's go off the record.

(Whereupon a short recess was taken.)

COMMISSIONER BYRNE: Let's go back on the record. Is there any additional testimony or comment on these --

COMMISSIONER HEWLETT: PacifiCorp was going to answer my question why there's a difference between lost revenue.

COMMISSIONER BYRNE: Okay.

Salt Lake City, UT 84101

EXAMINATION OF MR. ROBINSON AND MR. LIVELY

EXAMINATION

BY MR. HUNTER:

Q Mr. Robinson, would you please state your name and business address for the record?

A I'm Scott Robinson. Manager of demand-side policy and strategy. Portland, Oregon.

COMMISSIONER BYRNE: I guess to be fair to the other witnesses, we have to swear you too, Mr. Robinson. Stand and raise your right hand and be sworn. Do you swear the testimony -- we have two witnesses? Okay. Both of you raise your right hands. The testimony you're about to give in this proceeding will be the truth, the whole truth and nothing but the truth, so help you, God?

(Collective yes.)

COMMISSIONER BYRNE: Okay.

Q (BY MR. HUNTER) Mr. Robinson, Commissioner Hewlett asked a question regarding a discrepancy between the net lost revenue numbers between the November and January reports. Can you clear up that issue for us?

A Yes. I believe I can provide additional clarity to that. There are really two underlying

factors which contribute to that. First of all, recognize that the November report is an estimate of what will occur through the year end. So there were three months of estimation involved effectively. November -- excuse me, two months. November and December. In that estimation, we had anticipated specifically in the residential sector that we would acquire less than was actually acquired as well as that the timing would be later than was actually acquired.

In the January report, you will see that there's a higher level of acquisition in the residential sector from ECONS specifically, which is a direct install program, and that acquisition occurred earlier in the year than we had anticipated. Both would reflect in terms of a higher net lost revenue. So that if you compare the two reports, the megawatt hour acquisition in total is not all that different. The November report is 21,014, the estimate at least, and the actual is reported in January 13th as 20,709. Yet the difference in the residential acquisition by ECONS is 9,762 versus the 9214. So there's a higher level of acquisition there.

Another factor which has been identified is -- can be explained by Mr. Lively and revolves around the calculation of the net lost revenue.

MR. LIVELY: The issue relates to assumptions that were made in the estimate --

COMMISSIONER BYRNE: I think you need to state your full name.

MR. LIVELY: Robert C. Lively. My position is administrator of demand-side management policy development. And my -- and I'm located in Salt Lake City. Back to my point. The issue relates to assumptions that were made relative to avoided demand costs. In the November estimation, it was presumed that there would be an avoided demand cost element to the calculation. However, when actual information was available in January, it was determined that there was no -- a zero deemed value to avoided demand cost. So that in and of itself would cause the -- given no other changes, that would cause the net lost revenue estimate in November to be lower than the estimate in January.

COMMISSIONER HEWLETT: Why was that determined at that time for that change?

MR. LIVELY: If you'll -- I would just direct your attention to Exhibit 1 of the joint agreement where the -- where the avoided demand cost

is defined. And that is element A D C sub I. You'll see that it describes that the avoided demand cost is based on certain specific capacity purchase and sales contracts. And that if -- and that the value of those contracts will be based on actual transactions during a particular month. If there are no transactions during a month, then the value is zero. So it just turned out that in those months, there were no transactions, and the value became zero for

November and December.

COMMISSIONER BYRNE: Is this consistent with the treatment in the avoided cost docket?

MR. LIVELY: I can't respond to that. I don't know.

MS. WILSON: Wilson. It's consistent, but it's different.

COMMISSIONER BYRNE: Thank you for clarifying that.

MR. LIVELY: Does that answer your question? The fundamental reason is that estimates of avoided demand costs were lower in the November estimate than they were in the final January report. Thus causing the net lost revenue to be higher for the January report.

COMMISSIONER HEWLETT: Are you saying that there was a change in the heart of how to calculate that between November 30th and January 30th?

MR. LIVELY: No, no. Both calculations were based on the same definition of that element of the formula. It's just that per the terms of that element, if transactions occur in those specific contracts that will define the avoided demand cost, then an avoided demand cost is assumed. If those transactions occur in those particular months, then a zero avoided demand cost is assumed. In the November report, we assumed that there would be transactions, and thus an avoided demand cost. In the actual report in January, it turned out there had been no transactions, and thus a zero avoided demand cost.

COMMISSIONER BYRNE: Could you explain the protections that were in the prior procedure and in the recommended procedure in dealing with limits on changes in the numbers that occur at the end of the year?

MR. LIVELY: In the 1994 joint recommendation, there was a limit in place that once the net lost revenue had been determined for 1994 that -- that regulatory adjustments to that net lost revenue would be limited by 25 percent, either up or down.

EXAMINATION OF MR. ROBINSON AND MR. LIVELY

COMMISSIONER BYRNE: And when were those determined?

MR. LIVELY: Those were to be determined during -- during 1995 as actual information, program evaluation results were -- became available.

COMMISSIONER BYRNE: Are those changes that would apply after the January 13th report?

MR. LIVELY: Yes.

COMMISSIONER BYRNE: They didn't refer to changes between the November preliminary report and the January --

MR. LIVELY: No, no. Those were to apply to the net lost revenue number in the January 13th report. So that number is subject to a 25 percent adjustment, either up or down.

COMMISSIONER BYRNE: And then in the new agreement?

MR. LIVELY: In the new agreement, there's no such -- no such term or protection or -- or factor addressed. Well, what will happen -- we understand that when we calculate net lost revenues, we're calculating net lost revenues, at least initially, based on engineering estimates of savings that are achieved by conservation measures. We also understand that in the normal course of evaluating

and measuring the impact of conservation measures that we may have an adjustment to make either up or down from the original estimate that we used in the net lost revenue calculation. So on an ongoing basis, we will adjust net lost revenues for the results of evaluation activities.

COMMISSIONER BYRNE: When will -- if there are adjustments to the January 13th numbers that are subject to this 25 percent limit, when would they occur?

MR. LIVELY: They would occur at some point during 1995 as measurement evaluation activities are completed for energy conservation measures that were installed in 1994.

COMMISSIONER BYRNE: And in the consideration of these costs in future rate cases, how much lag will there be before there's some -- the numbers are -- start to look pretty reliable?

MR. LIVELY: I understand that in the normal course of evaluating our program activity, it could run from 12 to 15 to 16 months following the installation of an energy conservation measure.

COMMISSIONER BYRNE: But presumably as these measures go forward, the confidence in those numbers will improve month by month or year by year?

MR. LIVELY: I think we -- as we -- as the company becomes more familiar with the activities and the programs and the measures that we're dealing with, we will naturally become more confident in our -- more able to better estimate the savings achieved in the initial estimate of net lost revenues or in the initial calculation of net lost revenues.

MR. ROBINSON: I can elaborate. In other jurisdictions where we have had the programs up running longer primarily in the commercial and industrial arenas, we have seen realization rates upwards of 93 percent. In some cases, higher. On average, 93 percent. So we fully expect that we will see a similar pattern in Utah jurisdiction.

COMMISSIONER BYRNE: Ms. Wilson indicated that it appeared that the cost of DSR programs in Utah seemed to be coming in at less than was anticipated or less than might have occurred in other states. These programs in Utah I think have lagged a little bit behind some of the programs in, say, Washington or Oregon. Has there been some benefit achieved from the company's involvement in these programs in other states? That is, accruing to Utah in terms of lower cost programs?

MR. ROBINSON: No. The largest issue

really leading to the difference between anticipated planned expenditures, if you will, emanating from the integrated resource planning process and what has actually occurred is a function of the realization of the types of projects that actually come in the pipeline. Integrated resource planning occurs based on generic assumptions regarding the types of structures that are in place and the amount of savings that one can realize.

One thing we have been able to do quite successfully so far in Utah is to be able to identify distinct opportunities where customers have large savings potential. They have unique projects, generally speaking. And they are projects in which we have been able to get the customer to participate with their own dollars. So that although the utility expenditures are lower per se than we had experienced in some cases in other jurisdictions, the total expenditure as defined in integrated resource planning context of total resource costs are virtually the same.

COMMISSIONER BYRNE: Is there anything else that the parties have or any additional questions or comments?

MR. HUNTER: Mr. Burrup deferred to Mr.

Lively a question about whether or not the accounting records would be kept in sufficient detail to provide the material necessary to make allocations. Mr. Lively is available to address that issue.

MR. LIVELY: There is sufficient accounting information available to accomplish the objective that was discussed.

COMMISSIONER BYRNE: Mr. Lively, what would happen in an accounting sense to these programs if the Commission did not approve the agreement or something similar to it? How would the company treat these programs without such treatment?

MR. LIVELY: I'm sorry. If the Commission did not approve --

COMMISSIONER BYRNE: Did not approve this agreement.

MR. LIVELY: From an accounting perspective, you know, I don't think I know the answer to that. I think we would have to address that concern at the time of that eventuality.

COMMISSIONER BYRNE: If you didn't have some kind of approval to allow you to capitalize some of these costs, would accounting rules require that you expense them?

MR. LIVELY: I don't know that I know the

answer to that.

COMMISSIONER BYRNE: Is there anything else?

MR. BURRUP: Can I comment on that? It seems from the Division's point of view that without this order at the end of the year, the company would not be able to record net lost revenues. That's a regulatory asset created by regulatory action. In addition, the carrying charge on DSR program costs could not be included as an asset. That's a regulatory created asset. In our opinion, there would be little impact on program costs. Which are the major dollars. But certainly, at the end of this year, their auditors would not allow them to claim revenues which this Commission had not authorized as net lost revenues.

COMMISSIONER BYRNE: Okay.

MR. ROBINSON: With the Commission's indulgence, I'd like to clarify one last final set -- there have been a number of numbers thrown around and discussed in this proceeding. Just wanted to clarify to make sure everybody understood the difference in terms of what was being discussed today.

The target for 1994 was identified as 60,000 megawatt hours which was exceeded on an annualized basis. Meaning if we were to count full 12 months of actual megawatt savings occurring from any given project. The amount of megawatt hours actually booked in 1994 were closer to 20,000 megawatt hours. We're talking about the difference now of what actually went through the meter in terms of savings. So it's important to recognize that distinction. When we look forward to the 1995 target, then what is being discussed is an 80,000 megawatt hour target. That would be on an annualized basis with a minimum threshold of the 60,000.

COMMISSIONER BYRNE: A minimum threshold of the 60,000?

MR. ROBINSON: That's correct.

COMMISSIONER BYRNE: Does that mean a realized number? Or still an annualized number?

MR. ROBINSON: Annualized number also.

MR. FLANDRO: The point is on the two letters we handed out to you say 20,000 or 21,000, and that was the subject of Commissioner Hewlett's question. But in my testimony, I indicated that the '94 target or the actual achievements in 1994 by PacifiCorp were in the 60,000 plus range. All we were trying to point out is that the 60,000 -- the numbers that are being used as targets in both the

old agreement and the new agreement are annualized numbers. The numbers that are used in these two letters were nonannualized numbers. The 20,000 versus the 65. It's the same -- we're talking the same thing, but one is annualized and one is not. We just thought maybe after you left today you'd wonder, why were they talking 60 and the letters talk 20?

COMMISSIONER BYRNE: Okay.

MR. LIVELY: Just one more point of

clarification. Pardon me, Commissioner Byrne. To your question earlier about the company's reaction, if this joint agreement were not approved in terms of accounting for the costs of DSR programs, certainly we would be very reluctant to -- after a moment of reflection, certainly we'd be very reluctant to continue to defer the costs of DSR programs and net lost revenue as we have done under the terms of 1994 joint recommendation. That would lead us then to the alternative of expensing those costs which would certainly cause greater concern within the company about price impacts of DSR activity. So if I could just leave you with that thought.

COMMISSIONER BYRNE: Well, one of the concerns about these kinds of programs is related to changes that are going on in the industry. And either restructuring or whatever else may happen in the future. And there is an ongoing informal process, and I would urge -- in some cases, it is different people in the company that come to those kinds of discussions. And I would urge that there be some consideration of these costs and how demand-side programs might be implemented in a restructured environment, perhaps even one where we were dealing strictly with a regulated distribution company. And I think those -- these considerations do need to be considered in the informal process that's going forward.

If there are no additional comments, Commissioner Chairman Mecham has had a higher calling, I guess. The telephone legislation is moving rapidly on the Hill, and he wasn't able to participate. He did tell me that I had his vote, but I think we probably need to discuss this with him. So we're going to take this under advisement. But in the interest of efficiency, I'm going to ask that a draft order be prepared approving the agreement. And

I don't know, Mr. Hunter, whether you and Mr. Ginsberg --

MR. GINSBERG: He voluntarily agreed to do it.

COMMISSIONER BYRNE: He volunteered already?

MR. GINSBERG: He already agreed.

COMMISSIONER BYRNE: We'll get the man with the meter running to do the order. We request that he do that. And I would request, Mr. Hunter, that you specifically refer to 54-3-1 and also to 54-1-10 in drafting your order. Is there anything else we need to deal with this morning? If not, we'll be in recess until further notice.

(Whereupon the proceedings were

adjourned at 11:30 p.m.)

STATE OF UTAH)

) SS.
COUNTY OF SALT LAKE)

I, MARY D. QUINN, Certified Shorthand Reporter, Registered Professional Reporter and Notary Public in and for the State of Utah certify:

That the foregoing hearing was taken before me at the time and place therein set forth;

That the testimony of the witnesses and all statements made at the time of the hearing were recorded stenographically by me and were thereafter transcribed;

That the foregoing transcript is a record of the testimony at the time of said hearing.

I FURTHER CERTIFY that I am neither counsel for nor related to any party to said action nor in anywise interested in the outcome thereof.

IN WITNESS WHEREOF I have subscribed my name and affixed my seal this ______ day of _________________, 19___.

____
MARY D. QUINN CSR, RPR
My Commission Expires 1/9/98