Tuesday, August 3, 1999: 8:45 a.m.

CHAIRMAN MECHAM: Good morning. Let's go back on the record.

As we stated last night, we're going to take up this tax issue, and Mr. Burnett has distributed all those several pink exhibits, which are proprietary and which we will keep sequestered in the record from the rest of the record.

MR. BURNETT: So the court reporter will retain a copy of the pink document?

CHAIRMAN MECHAM: Yes.

MR. REEDER: And the Commission will too.

CHAIRMAN MECHAM: It would be helpful.

MR. REEDER: In the conversation Mr. Hunter and I had with you yesterday, you know that the Commission would keep a copy of it for purposes of writing the order and whatever else.

MR. BURNETT: Now, Mr. Reeder, we are only going to be talking about the one that's marked CCS 12.3, the tax issue?

MR. REEDER: Our attention this morning was going to be the tax issue, yes.

MR. BURNETT: That's the only document

out of the taxes?

MR. REEDER: That was our intention, that we can examine certain other of the documents later in the day, but this morning with respect to this panel, it will be the tax documents, yes.

MR. BURNETT: And that's the document that's entitled Attachment Response to CCS 12.3.

CHAIRMAN MECHAM: Mr. Reeder, are you going to want the rest of these entered?

MR. REEDER: We will during the course of the day, if we get to other ScottishPower witnesses. It depends how he wants to deal with documents.

MR. BURNETT: We'd certainly be happy to accommodate whatever you want to do. If there's just something simple you want to do with the documents, we could do it real quickly.

MR. REEDER: It requires other witnesses, I expect.

MR. BURNETT: It does require the witnesses.

MR. REEDER: Yes.

CHAIRMAN MECHAM: Let's go with this one document. We'll add to the panel today Mr. Graham Morris. Mr. Morris, why don't you identify yourself, spell your name, if you would, and then we'll swear you in.

MR. MORRIS: My name is Graham Morris, spelled G R A H A M, and M O double R I S.

CHAIRMAN MECHAM: Representing ScottishPower.

MR. MORRIS: Representing ScottishPower.

CHAIRMAN MECHAM: All right, why don't you stand and we'll swear you in.

GRAHAM MORRIS,

called as a witness, having been first duly sworn, was examined and testified as follows:

CHAIRMAN MECHAM: Thank you. Okay. Then let's go to Mr. Reeder, I would assume.

MR. REEDER: I believe Mr. Dodge is going to lead the examination with respect to -- could we ask that this be marked? Is it going to Cross Examination No. 2?

CHAIRMAN MECHAM: Yes. I don't know whether they're fastened together or not. Is it fastened together in that package? It's separate ones, so I guess we have Cross Examination Exhibit

No. 2 and Cross Examination Exhibit No. 3?

MR. BURNETT: Well, for the purpose of this tax document, they are fastened.

MR. REEDER: I guess it's one document.

CHAIRMAN MECHAM: A three-page document.

MR. BURNETT: Isn't Cross Examination No. 2 the paragraph that was submitted in response to --

CHAIRMAN MECHAM: Yes, so it will be 3. This will be marked as Cross Examination Exhibit 3.

MR. GINSBERG: We might actually give it a designation of proprietary.

CHAIRMAN MECHAM: Well, Cross Examination 3 Proprietary.

MR. REEDER: And it will be under dash tax, so if someone wants to work on tax documents, that will be the tax document.

(Exhibit Cross 3 Proprietary marked for identification.)

(Pages 265 through 286 are contained in a separate transcript, which is proprietary and confidential.)

CHAIRMAN MECHAM: All right. Let's go back on the record. Before we move forward starting with condition 28, I just wanted to ask Mr. Wright, you had mentioned yesterday that you've seen a transition plan that's due in six months after the merger is approved. You had mentioned that you had the advantage of having seen a transition plan, I'm assuming a draft of the transition.

MR. WRIGHT: No, sir. If I could clarify that. We have previously transformed ManWeb and Southern Water. I was on the Southern Water. I was involved in the transformation of Southern Water.

The transition for PacifiCorp will not be produced until six months after the closure of this merger. We don't have a draft of the transition plan for PacifiCorp.

CHAIRMAN MECHAM: Okay. And then with respect to identifying merger savings, I assume, since there isn't a measurement or a comparison between companies, that it's a subjective exercise. You look and you see savings, and you say, well, that's due exclusively to the merger. I'm still struggling with what the measurement tool is going to be with that.

MR. WRIGHT: I understand. I believe there's a degree of subjectivity in it. I think we will do our best to take that subjectivity out of it by filing transition plans and discussion in that plan the initiatives that we believe that we bring to PacifiCorp. They will be described and quantified such that they can be used as a benchmark against which the savings in the business relative to those initiatives. So we will report progress against those series of initiatives, and that's how the comparison is made. I would agree on the subjectivity point to the extent that PacifiCorp may well have made savings in any event.

CHAIRMAN MECHAM: Identical savings perhaps.

MR. WRIGHT: Perhaps. But the way in which ScottishPower approached this, I think we will bring new skills, new techniques, new methodologies to the way in which we look at the business. For example, we'll be making extensive use of benchmarking of best practice transfer, of business process re-engineering. And all of these techniques that PacifiCorp has not historically used. So arguably, we're bringing a now tool box to PacifiCorp for the purposes of making the business efficient, and we would argue that absent the merger, they would not be able to use those techniques and achieve the level of efficiency that we intend to achieve ourselves.

I can further add that Mr. MacRitchie, who is the witness later on in the proceeding, is our witness with respect to transition plans exercise, and it may be that those questions could be directed at Mr. MacRitchie, or Mr. MacRitchie could perhaps expand upon the transition planning process and give you more clarity as what our intentions are in that regard.

CHAIRMAN MECHAM: All right, we'll take advantage of that. Okay. Mr. Fell.

MR. FELL: Mr. Chairman, for questions, I'm not sure whether anything further is required on condition 29, but for Conditions 29 through 39, we'll be talking about the network performance standards and more engineering type issues, and we would like to substitute Mr. Robin MacLaren for Mr. Larson on the panel for these questions. And Robin MacLaren is now seated at the table. He's a ScottishPower witness.

CHAIRMAN MECHAM: All right. Perhaps, Mr. MacLaren, you could spell your name and then we'll swear you in.

MR. MACLAREN: My name is Robin, R O B I N, capital M A C, capital L A R E N, MacLaren.

CHAIRMAN MECHAM: All right, if you'll stand and be sworn please.

ROBIN MACLAREN,

called as a witness, having been first duly sworn, was examined and testified as follows:

CHAIRMAN MECHAM: Thank you. Okay, by my notes, we were beginning on condition 28. Have you got it?

MR. DODGE: That's correct, I do have a question or two on 28 for Mr. Wright. Mr. Wright, I understand condition 28 to mean that the $55 million in the estimated expenditures for the network improvements will not be incremental expenses to the current PacifiCorp budget; is that correct?

MR. WRIGHT: That is correct.

MR. DODGE: And implicit in that is a belief by ScottishPower that there are at least $55 million that are targeted somewhere that really aren't necessary in the current budget.

MR. WRIGHT: That's not strictly accurate, no.

MR. DODGE: So will you reduce expenses in areas that are necessary in order to fund these $55 million of network improvements?

MR. WRIGHT: No. And maybe there's an amount of difference here. What we will do is, we won't stop investments, we won't pull investments that are necessary investments. We will deliver the outputs of those investments more efficiently, more cheaply, so we believe that we'll be able bring best practice to the area of capital investments and make savings that will allow us to make the investments in customer service performance standards at no incremental costs. And that's both capital and operating costs.

MR. DODGE: And if by chance you chose not to expend the money on network expenses, then that $55 million would be funds that could be reduced from the budget?

MR. WRIGHT: Well, we're making the efficiencies with the object of reinvesting that money back into the network in a different form.

MR. MACLAREN: Can I just add something here? Having been through this process before twice, both Scotland and in ManWeb, that the issue here is about looking for or looking at the way the money that has been invested is actually put into the system. And where, for instance, one is replacing an asset, one might replace it in a slightly different fashion which produces reliability improvements. And you can actually buy having initiatives to reduce costs, release cash, which can then be redirected into the network. The net effect is that you get self funding improvements. And their track records in both Scotland and ManWeb is that we've been able to achieve that over the last five to ten years of work there.

MR. DODGE: But you will acknowledge, Mr. MacLaren, that if the goal were not to redirect the funds into other networks improvement, if one believed the network doesn't need improving, that $55 million would be reduced from the budget and not spent.

MR. MACLAREN: No, I would not agree with that.

MR. DODGE: Do you not agree with that

because you think you have to spend everything that you can?

MR. MACLAREN: The reason that I would not agree with that is that, as I say, there is an element of redirection and better engineering. For instance, when we are going to spend money on fuses and refurbishing an overhead line, I wouldn't necessarily spend the money on that, I would put it in a more talented form of technology which would improve the network performance, so one is redirecting capital. We are also looking for efficiency improvements as well, so there will be an element of that $55 million, which perhaps could be saved, but that would not be of that scale. And in the introduction of SAIFI standards, that in itself will follow through with cost effective efficiencies resulting from the reduction of the standards.

MR. WRIGHT: If I just could put it this into some perspective as well, this is $55 million over five years. That would be out of the capital budget of PacifiCorp of, I don't know, some two billion more, also. So we're not talking a massive of increment of savings in order to be able to fund these commitments. However, the benefit from them is significant.

MR. DODGE: I have no further questions.

CHAIRMAN MECHAM: Thank you. Mr. Mattheis?

MR. MATTHEIS: Yes, just a quick question. This is for Mr. Wright. This talks about funding network expenditures required to implement the service standards in the direct testimony. If you look back up at 7 A, it talks about PacifiCorp complying with the proposed performance standard and service guarantees, and then adds a commitment to not allow its underlying outages to increase above current level. Can that commitment also be funded in the same way we're talking about here in 28?

MR. WRIGHT: That's right. We have set out to improve, significantly improve the reliability for PacifiCorp network. We can't actually envisage a situation where the underlying outages will actually increase against the backdrop of an improvement designed to achieve 10 percent improvement in reliability. So yes, by definition that will be funded the same way.

MR. MATTHEIS: Okay, nothing further.

CHAIRMAN MECHAM: Thank you. Mr. Reeder.

MR. REEDER: Mr. MacLaren, have you had an occasion to inspect the network of PacifiCorp?

MR. MACLAREN: No, but I have looked at the overall performance of the network, and believe that an improvement can be made.

MR. REEDER: Have you examined the practices that they engage in with respect to placing fuses in lines?

MR. MACLAREN: I have examined and talked with PacifiCorp engineering about the techniques that they use, and there is certainly technology that we use in the U.K. that is not used here.

MR. REEDER: What kind of technology is available that could be used by PacifiCorp that hasn't been?

MR. MACLAREN: There are enhanced control facilities that we're using in the U.K. and there are enhancement replacements for fuses and automatic reclosing equipment that has not been used by PacifiCorp on the network.

MR. REEDER: Is it customarily not used in the U.S. or just customarily not used by

PacifiCorp?

MR. MACLAREN: It's customarily not used in the U.S. because it was developed in the U.K. and used in the U.K. We are one of the first utilities to use that in the U.K., and it has made a substantial improvement to network performance, not combined with all the initiatives that we have in ScottishPower, and which will become integral with PacifiCorp as the merger goes through that would lead to improved reliability.

For instance, well, it's a slight issue in the question things, like reporting systems or systems like reporting systems that we've introduced in the U.K. are, in my view, substantially more powerful for network management purposes than what is currently used either here or in most other utilities. I'm speaking from experience here. I've worked in Vasalia for over 20 years. I frequently have had contact with the U.S. utilities and U.S. manufacturing companies, and under this particular idea we have companies

such as Motorola and other companies coming across
to see us and to talk about reliability issues and
what we're doing on the networks in the U.K.

MR. DODGE: Is this technology

proprietary, or is it available commercially for anyone who chooses to use it?

MR. MACLAREN: The technology is available for anyone that chooses to use it, but there are other elements in producing that for performance improvements. The reason that we've said five years is it takes not only an introduction of technology, but a change in the work through the way that the system is operated, and you need to apply management and then change skills on top of the technology to actually achieve the output. And that is why I believe it's not just a straightforward case of going out and buying the technology.

MR. DODGE: Are you looking to change the way the transmission system is operated?

MR. MACLAREN: The short answer to that is yes, because my track record and the track record of the Company is we are never satisfied with the status quo. We believe that we offer a product unlike all other industries and companies.

We are looking for ways of improving the quality of
our product.

MR. DODGE: Is your objective to
improve the efficiency of that product?

MR. MACLAREN: The objective will be to improve the catalog and efficiency of any product, like any other organization.

MR. DODGE: So you're looking for ways to improve the efficiency of the transmission network?

MR. MACLAREN: The short answer to that would be yes, we would be looking for ways to trying to improve the transmission network, yes.

MR. REEDER: Mr. Wright, what is the responsibility for ManWeb or ScottishPower for an outage in the U.K.?

MR. WRIGHT: Could you be more specific?

MR. REEDER: What is the responsibility for ManWeb or ScottishPower for an outage in the U.K.?

MR. WRIGHT: ManWeb has a distribution system that runs 132 thousand volts. And below, ScottishPower has a transmission and a distribution system that runs at 400 kb, and below, so transmission distribution responsibility for Scotland could be ScottishPower and ManWeb would be just on the distribution system.

MR. REEDER: Changing topics from

transmission, I guess that's where -- if the lights go out at my manufacturing facility, what is ScottishPower's or ManWeb's responsibility in the U.K.?

MR. WRIGHT: Depends on where the fault was. If the fault was on the manufacturer's or the company's own system, it would be the responsibility of the company. If the fault was on the distribution or transmission network in Scotland or the distribution network in ManWeb, then it would be the Company's responsibility.

MR. REEDER: What would be the company's responsibility if the fault were on your system or ManWeb's system?

MR. WRIGHT: To repair the outage.

MR. REEDER: What would be your responsibility to the customer?

MR. WRIGHT: To get the supply back on as quickly and efficiently as we can, and as safely as we can.

MR. REEDER: If you cause the customer

a loss by your outage, what would be your responsibility?

MR. BURNETT: Excuse me, objection. I think we are now getting into questions of legal responsibility, and I think that's outside the scope of the witness's capabilities.

MR. REEDER: I think the issue is very simply here, in the U.K., we believe the evidence will show that they have no limits on their liability for outages in the U.K. In the U.S. we hide behind tariff limits for outages. We're trying to develop the point that we're more reliable in the U.K. because they face tort liability. In the U.S. they do not.

MR. BURNETT: Is Mr. Reeder under oath at this point?

MR. FELL: Yes, this is argument, and I guess that is exactly why I'm objecting.

CHAIRMAN MECHAM: He's enrolled as an attorney.

MR. FELL: That's correct. It is because it is a legal argument that I object to having this witness be required to try to answer it.

MR. REEDER: I'm looking for facts in

the U.K. system. What was your objection, sir?

CHAIRMAN MECHAM: What's the practice in the U.K.? I mean it doesn't necessarily go to the legal issue.

MR. FELL: I also object to the relevancy of it. Unless Mr. Reeder is proposing to drop the total U.K. competitive electrical system into the United States, into Utah. He cannot pick and choose pieces of U.K. regulation in this fashion. I don't know what the answer is to this question, but I think it's inappropriate to try to pick and choose things like civil law systems that exist in the U.K. and pretend that they somehow can apply in Utah.

MR. REEDER: I think to pretend is to pretend that the service standards improve the liability. I suspect it's the exposure of one's pocketbook that exposes the liability. I'm simply asking the practices.

CHAIRMAN MECHAM: Yeah, I don't see anything wrong with asking the practices. So, Mr. Wright, if you have a response, go ahead and give it.

MR. WRIGHT: Could you ask the question again, please?

MR. REEDER: Sure. What is the responsibility of ManWeb or ScottishPower to the customers for an outage, either of their systems, where the fault is the fault of the power supplier, ManWeb or ScottishPower.

MR. WRIGHT: There would be limitations on liability. If it's a force majeure outage, then clearly there would be no responsibility on the customer. If it was negligence activity, there are no limits on liability under law. If it was a Company's fault, there are limits placed within the contracts, limits on liability, I believe in the connection agreements with the companies. And they would be limited to some reference points of the amount of revenue flowing from that customer.

MR. REEDER: So between you as my power supplier and me as a manufacturer, we'd negotiate some kind of liquidated damages clause to constrain your liability in some way?

MR. WRIGHT: There's no consequential loss. Liquidate damages is the wrong term. We would not compensate customers for consequential loss as a result of loss of supply. I would also add that these contracts were brought in as a result of industry competition. There were model form agreements for contracts introduced at the time of privatization, and they went along with an industry restructuring proposal which allowed competition in supplies. It was therefore felt that we need to have model form agreements between suppliers, distributors, and customers. So it is all encompassed within an industry structure that does not exist in the State of Utah because does exist in the U.K., so the relevance is marginal at best.

MR. REEDER: Mr. MacLaren, I believe you were shaking your head yes, that you do have contracts with customers. Those contracts contain clauses that limit the exposure of the Company to claims by the customer in some fashion.

MR. MACLAREN: That is correct. And as Mr. Wright has said, that our model forms of connection agreement to the system, which effectively exclude any consequential damage, and as Mr. Wright says, if it can be shown that there was some negligence, then if my recollection is correct, the figure is limited to the order of one million pounds or thereabouts.

MR. REEDER: Thank you.

Mr. Alt, it's true, is it not, that

most of the tariffs on file with this Commission contain a provision limiting the liability of the Company for outages, isn't it?

MR. ALT: Yes.

MR. REEDER: I have nothing further.
CHAIRMAN MECHAM: Thank you.
CHAIRMAN MECHAM: Mr. McNulty, go ahead.
MR. McNULTY: Mr. MacLaren, I have a question, and I apologize, I'm going to use terms that I'm probably at risk of committing malpractice for using.
MR. MACLAREN: No I'll see if I can help you.
MR. McNULTY: You indicated a moment ago in response to a question that you would consider bringing to PacifiCorp's system enhanced fuses.
MR. MACLAREN: Uh-huh.
MR. McNULTY: And one of the important things about those enhanced fuses is that it had some automatic closing features; is that correct?
MR. MACLAREN: It works in coordination with the closing features, yes.
MR. McNULTY: All right. I've stepped

off it immediately, haven't I?

MR. MACLAREN: No I was overcorrected. That's fine.

MR. McNULTY: I have a question. And

when you upgrade -- we'll call those an upgrade -- will those new fuses and new upgrades that you were talking about, will they integrate well with other systems, for instance, non-PacifiCorp systems that may rely on the PacifiCorp transmission system or other parts of the PacifiCorp distribution system?

MR. MACLAREN: The short answer is yes, that that is part of the integral engineering design, that what we are talking about here is protection of the network. And we need to make sure in designing these that they integrate properly with other protective equipment, and not include customers' equipment, and specifying what we're delivering at the boundary and working with customers to make sure that we get the coordination. We do that with both large customers and with customers such as cities, where there's a point of entry that's a point of supply.

MR. McNULTY: Would you anticipate that there might be an added expense for other customers to upgrade to meet the new materials that you're planning on putting in the system?

MR. MACLAREN: Not usually, because of the very integrated nature of the network, any change has to be integrated and at least cost. I can't be definitive enough because it depends on the individual circumstances that are associated with that generally. If there are changes, it's usually minor changes to things like protective settings.

MR. McNULTY: Okay. Thank you.

CHAIRMAN MECHAM: Thank you. Mr. McNulty? Mr. Allred?

MR. ALLRED: Mr. MacLaren and Mr. Wright, has ScottishPower performed any baseline studies to determine the status of the network presently?

MR. MACLAREN: ScottishPower has looked at the PacifiCorp data which is currently produced, and we have had a preliminary look at a performance and believe that the reporting systems at the moment are requiring considerable improvement to give us a solid baseline.

To answer the question, we have tried to assess reasonable baseline against which to make movement, and we have agreed that process with the

DPU to establish the solid baselines. So yes, we have looked and believe that there is room for improvement against the current baselines.

In fact, I believe the recent quality

docket, which was on quality of supply, said that matters had not improved greatly on the distribution network over the last ten years. That is very different from the way that we have managed networks in the U.K. and I would be looking to make improvements on that.

But to answer Mr. Allred's question, I think that there is work to be done in properly establishing the baseline, but my engineering judgment is, there is room for improvement here in Utah.

MR. ALLRED: Are you able to determine what amount of the investment would be remedial rather than new improvement?

MR. MACLAREN: I think this particular investment is aimed at an improvement.

MR. ALLRED: So no part of this investment is to upgrade deferred maintenance or old infrastructure that should have been brought to standard prior to the merger?

MR. MACLAREN: I would see that as part

of the normal capital program that we have to have
in place to maintain the existing network.

MR. ALLRED: I'm not sure I follow your
response there. My question directly, is any of

this amount calculated to take care of deferred system improvements?

MR. MACLAREN: The short answer to that is no. This money is for improvement in the existing underlying, the network performance.

MR. WRIGHT: Mr. Allred, I believe I said earlier that this constitutes a fairly small part of the total capital budget for PacifiCorp. The rest of the capital budget will be counted on things like improvements of remedial work. If there are problems with specific parts of the network where it's persistent fault, they would be addressed through the normal capital program, where indeed they could be caught within the expenditure that we are discussing, because there are things like five worst performing circuit standards, and if there's a particularly poor circuit, it would be addressed through this package of standards. But in any event, the capital program would target underperforming parts of the network.

MR. ALLRED: All right. Thank you.

CHAIRMAN MECHAM: Thank you, Mr. Allred. Go ahead.

COMMISSIONER WHITE: Mr. MacLaren, any new equipment that you plan to install, does it meet any current engineering safety standards set by the U.S.? And, in other words, can you bring it into this country and use it?

MR. MACLAREN: I would expect so because, in fact, some of the equipment we are using is imported into the U.K. from the U.S., and not specific fuse links that I'm talking about. But I think we'd just underline that from that point of view that complying with safety regulations is part of the operation of an electricity network. We have been very, very strong in that in the U.K.. In fact, our safety record, I think when it comes to people, would have been six to eight times safer than we were ten years ago. And I've always had a strong emphasis in safety. So I can certainly assure the Commission we would not cut corners in safety and we would simply comply with any legislation, either state or federal in that feeling.

CHAIRMAN MECHAM: Mr. Hunter, did you have something?

MR. HUNTER: I just had something for Mr. Alt.

CHAIRMAN MECHAM: Go ahead.

MR. HUNTER: Mr. Reeder asked you a

question about limitation of liability provisions that are in the PacifiCorp tariff. Are these the tariff provisions that you were talking about?

MR. REEDER: Will you describe it for us, please?

MR. HUNTER: It's Electric Service Regulation No. 4, State of Utah, Supply and Use of Service.

MR. ALT: This doesn't talk about the limited liability. Yes, this is it.

MR. HUNTER: So it was regulation No. 4 that you were referring to?

MR. ALT: It appears to be, yes.

MR. HUNTER: And the causes that are building the tariff are force majeure? Is that 4 A.

MR. ALT: Right.

MR. HUNTER: And the 4 B is the repair, maintaining or improving the system, eliminate the possibility of damage to property or persons, sort of emergency repair conditions?

MR. ALT: Yes.

MR. HUNTER: And then the last is automatic or manual actions. So if your automatically closing system does something automatically to protect the system and that causes damage, that's the kind of thing that's protected?

MR. ALT: Yes.

MR. HUNTER: And those are the only three things that are in the tariff there that you're aware of?

MR. ALT: Well, without refreshing my memory, it's been a while. That's my recollection. I think this generally covers it.

MR. HUNTER: On redirect we'll ask whether or not these conditions are different than the conditions in the U.K. tariff to clarify that point. Thank you. That's all I have.

CHAIRMAN MECHAM: While we're on the point, why don't you just ask?

MR. HUNTER: Okay.

MR. MACLAREN: Well, I don't have obviously a detailed state by state comparison. I see nothing in there that is very different from the conditions that we would provide service in the U.K.

MR. HUNTER: Thank you.

CHAIRMAN MECHAM: Mr. Reeder?

MR. REEDER: Mr. MacLaren, when you and I begin to negotiate a connection agreement, we negotiate the terms under which you would be exposed, would we not?

MR. MACLAREN: Yes, within an overall regulatory framework that does not allow me to discriminate on regulated income between customers, the answer to that is correct. If you wished a higher exposure levels or different terms, then you would pay for the difference.

MR. REEDER: We'd negotiate the meaning of force majeure, wouldn't we?

MR. MACLAREN: I would have a definition of force majeure. You might have a different definition that you wished to apply, and if there was a differing exposure, then that would obviously have an impact on the commercial situation. The force majeure causes that I would use would be, the stopping point would be the ones that agreed with an electricity regulator.

MR. REEDER: But we would negotiate the terms of our force majeure clause, wouldn't we?

MR. MACLAREN: We would certainly to

talk about it. We'd need to think about whether
that would be something that I would actually want
to negotiate on.
MR. REEDER: What's my ability to

negotiate the terms of the force majeure clause
with PacifiCorp?

MR. FELL: Objection, the witnesses
will not know the answer to that.

MR. HUNTER: I'd be happy to testify
that to Mr. Reeder later.

CHAIRMAN MECHAM: I don't know as there
is an appropriate answer.

MR. MACLAREN: I don't know.

CHAIRMAN MECHAM: Okay. Let's move to
29.

MR. DODGE: Just for clarity, 29 and
subsequent paragraphs talks about establishing a
baseline. Is my understanding correct that the
baseline is that which will be used to measure
whether or not PacifiCorp under ScottishPower has
met or has failed to meet the performance
standards?

MR. MACLAREN: That is one purpose of
baseline, yes.

MR. DODGE: And what else?

MR. MACLAREN: The accurate establishment of the baseline also helps us to better manage the network in that when we have accurate figures, it allows us to direct both capital and the effort on the parts of the network that need it, so allows us to get a much better performance and related on management to the network than I believe we currently have.

MR. DODGE: You found, when you began investigating, that it was difficult to find reliable data on the current baseline as to the standards you're proposing; is that accurate?

MR. MACLAREN: That is correct, yes.

MR. DODGE: Okay, and about what time into the future would you expect to have the baseline established?

MR. MACLAREN: We have committed to do that within the 18 months.

MR. DODGE: So it's 18 months down the road when we'll know basically whether existing perform is substantially different than the performance standards you've proposed?

MR. MACLAREN: We have carried some preliminary assessments, as I said in reply to an earlier question, and that leads us to some

conclusions as to what the baseline might be. What
we're trying to do is to get a process in place
that gets the baseline more accurately assessed
than our current one.

MR. WRIGHT: Just to pick up on that slightly,, Mr. Dodge, I believe you said it would take 18 months to establish whether the baselines were the same as the performance and improvements that we were proposing. What we're proposing is an improvement in actual performance as is determined by the baseline, 10 percent improvements over what the actual situation is. It's not a comparison between a baseline to be established and what our targets are. Our targets are derived from the baseline, such that the improvement is an actual improvement and a real improvement.

MR. DODGE: And, too, you know the baseline is hard to know whether the improvement is needed, though, isn't it?

MR. MACLAREN: We have carried out assessments of the baseline, and as I say, I've looked at the way the network is managed, and I have looked at the technology employed, and I believe that the improvement is needed. The baseline assessments at the moment suggest that there are improvements that could be made. And now experience in the U.K. that underpins my view that there is room for improvement and reliability of the network in Utah.

It is also reflected by conversations with both some customers and with some communities as well, that there is definitely room for improvement. The issue of baseline is important in the longer run and the short run, with the kind of difference in figures that we are talking about here, perhaps is a figure of a hundred minutes, customer minutes, lost on average per customer. When we look at baseline adjustments, the actual figure might lie somewhere between, for instance, 100, 120. So 10 percent, we're talking about the difference between 10 and 12. In the context of making that level of improvement and over four or five years, I believe that the uncertainty in the baseline is there and has to be eliminated, but it is not material in determining the kinds of improvements that are needed or the magnitude of improvements that are needed.

MR. DODGE: Ultimately, the Commission will determine the baselines to be applied; is that your understanding?

MR. MACLAREN: Absolutely. We have a very clear view of working with the Commission and with Commission staff on measurement. The Commission have -- and DPU staff have a duty to oversee what is happening, and taking the appropriate statistics, and we will work with them both in establishing the baselines and setting up a system that is auditable and visible to the Commission on network performance within the state.

MR. DODGE: Okay. No further questions.

CHAIRMAN MECHAM: Thank you. Mr. Mattheis.

MR. MATTHEIS: No questions.

CHAIRMAN MECHAM: Mr. Reeder.

MR. REEDER: No questions.

CHAIRMAN MECHAM: Any other party on this point? Okay. Let's move to 30 then.

MR. DODGE: I might indicate, Mr. Commissioner, that the questions I asked on 29 actually cover all the questions I have on this entire set, again to probably 37 or '8. So I won't have any for some time. I don't know if others do.

CHAIRMAN MECHAM: Well, let's find out. Mr. Mattheis?

MR. MATTHEIS: I don't have any questions for the next four or five.

CHAIRMAN MECHAM: How about you, Mr. Reeder? Anyone else come to ask questions about these particular conditions?

MR. BURNETT: Modern day miracles do occur.

CHAIRMAN MECHAM: Let's go off the record just a minute.

(Off the record.)

CHAIRMAN MECHAM: All right, let's go back on the record. Mr. Sandack, go ahead and ask your question.

MR. SANDACK: Thank you. I guess I'll direct it to Mr. Wright then. No, to Mr. Larson. Is he still here?

MR. DODGE: He's hiding but he's here.

MR. SANDACK: Whoever is representing PacifiCorp just come on in.

Does the information exist now for such a baseline as we've been discussing for performance standards?

MR. LARSON: Well, I think as

Mr. MacLaren has already stated, the information is available. Obviously, there are not sufficient systems in place to make an accurate determination, and that is some of the work that ScottishPower will be doing over the next 18 months, is developing some of these systems to track the level of system performance and reliability.

MR. SANDACK: You're not talking about scheduled outages for maintenance and things of that nature, or is that included in the baseline as to the nature of outages?

MR. LARSON: I think Robin can probably respond to that better than I.

MR. MACLAREN: Yes. As I said, we have had a preliminary look at the PacifiCorp outage reporting system, and the two points. The other proposals are to include the preplanned outages and we're working closely on making sure that these are managed and recorded. We did carry out a preliminary assessment with PacifiCorp comparing telephone calls which customers used to report outages and looking at the internal reporting systems, and found a discrepancy between incidents -- and this isn't customer minutes lost -- but about 80 percent incidents were not included in the reporting systems. So there is substantial work to be done to make sure the reporting systems are accurate.

I must just underline that it is not

necessary to result in an 80 percent difference in the actual report. It's statistics. Because one incident could be two or three customers affected, or it could be 20 or 30 thousand customers affected, and there's a tendency to under-reporting of these things tends to be in the smaller customer number. That is our experience in the U.K., we've had to do a bit of work to make sure our systems are up to Scotch in the U.K., and I believe that there's a bit of work to be done in conjunction with PacifiCorp to get any systems into order.

MR. SANDACK: But these are simply outages that are unanticipated due to overloading the system or for whatever reason is that?

MR. LARSON: It's a combination of both.

MR. SANDACK: Again, you're not talking about maintenance outages that maybe you brought the system in on your own for some reason.

MR. LARSON: I think what Mr. MacLaren just said is that this incorporates both planned outages and unplanned outages.

MR. MACLAREN: Perhaps I can add to that in the context of what we've done in the U.K. And I do realize in this particular area there are some difference between the U.S. and the U.K., but by tracking the planned maintenance outages, we would not be agreed to getting in any way, just the maintenance in the network, but is it does allow us in the U.K., for instance, we have half the amount of time that we'd require to have for maintenance, without reducing our underlying maintenance, because we've been able to apply different techniques to carry out the maintenance work, and we've been able to better plan and direct. And because we're measuring it, people are aware that when they take lines out for maintenance purposes, that it should be properly planned work, and you bring together all the tasks and do as many tasks as you can. As we had in the U.K., maybe three or four outages to carry out different parts of maintenance work. So this helps with the efficiency as well, of the operation.

MR. SANDACK: In your evaluation of PacifiCorp, does it appear that more regular or routine maintenance is warranted?

MR. MACLAREN: I think it is too early to see that at the moment. I don't have a particular issue.

MR. SANDACK: From your review of their

maintenance and outage history, does it appear that their maintenance became less routine and regular?

MR. MACLAREN: I haven't reviewed the maintenance in detail. Maintenance plus planned condition plus technology shipping together are looking for system performance improvements. Sometimes it is about increasing maintenance. Sometimes it's about looking at maintenance that's being done and saying that that maintenance effort would be better directed at teleprompts to the network, and that the maintenance is there to maintain the performance of the network. So I think there's up sides and down sides in the particular issue that you raised. Sometimes there's over-maintenance; sometimes there's under-maintenance.

MR. LARSON: I guess the one thing I would say, you know, just a general statement on this, is that PacifiCorp's reporting of system outages reliability, all of the commitments that ScottishPower is proposing to bring to PacifiCorp, are probably not up to the level that they ought to be, and that's what ScottishPower is talking about, is bringing some systems into place to get an accurate benchmark.

And I think, as Mr. Wright pointed out, I mean the benchmark will set kind of a threshold. And what we're talking about on these commitments what ScottishPower is talking about in these commitments is an actual increase in what is actually being received in system performance and reliability and customer service from the level that it is at today.

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

CHAIRMAN MECHAM: Thank you, Mr. Sandack. Let's go off the record just a minute.

(Off the record.)

CHAIRMAN MECHAM: All right, let's go back on the record. Mr. Dodge. We'll go to you on condition 34.

MR. DODGE: Thank you. Mr. MacLaren, yesterday we were told that PROSPER would be in place in 18 months. Is 34 designed to try and discover some kind of -- I guess I shouldn't use the word baseline -- but targets, et cetera, in the interim? Is that what 34 is addressing?

MR. MACLAREN: 34 relates to a specific issue or meter test where currently standards exist in northern Utah. The DPU asked us during our discussions if we would be happy to confirm that the existing PacifiCorp proposals toward all these targets in southern Utah would be done -- sorry, that the existing targets within northern Utah would be maintained on these internal targets, would also be rolled out into southern Utah as was originally proposed, and in the context of the merger, this condition was designed to give comfort, that we'd do so. So it's more about maintaining the status quo and giving the Commission assurance that we were not going to take away from them information that they couldn't get. And I was very happy to confirm that because I've said on a number of occasions, anything that the Commissioners can't get will certainly be maintained, and what these stipulations do, in fact, is an enhancing the information that the Commission can receive. So that is the answer to your question 34.

MR. DODGE: How about 34, 35 and 36,

where it has reporting requirements, those reports go to the Commission or the Division or who?

MR. MACLAREN: They go to the Division.

MR. DODGE: To the Division?

MR. MACLAREN: Yes.

MR. DODGE: Thank you. I do have one other question on 36. I don't know if others have questions before that.

CHAIRMAN MECHAM: Go ahead.

MR. DODGE: And the period of commitments is again five years in 36.

MR. MACLAREN: The period is over five years, and as we've said in one of the previous discussions, it was mentioned yesterday that there would be a review in 2004 on that stage. I would anticipate again we'd put the package on the table, but the commitment, as far as the stipulation is concerned, is to provide reports of the standards.

MR. DODGE: Thank you. No further questions.

CHAIRMAN MECHAM: Thank you. Are there any other questions on these points?

MR. ALT: I'd like to make a clarifying point on 30, condition 30.

CHAIRMAN MECHAM: Go ahead.

MR. ALT: The stipulation that was filed is worded a little differently in there than the exhibit that the Division filed yesterday. I know there's some people using that, including myself. On condition 30 on the three-column Division, Exhibit 1.0SR, I show in italics one sentence in the middle of paragraph A that reads: PacifiCorp will install PROSPER no later than six months after the merger transaction.

During our negotiations on the stipulation, we assumed that was part of the final stipulation, that when it actually came out printed, that sentence was missing. Mr. Wright, yesterday morning, made the commitment that is somewhat the same as that sentence, so that I want the Commission to know that the stipulation, even though it doesn't have that in 30, the Company is committed to it in all practicality, and Mr. Wright can, I guess, correct me if I misstated that.

MR. WRIGHT: Mr. Alt is entirely correct. I did mention it in my summary yesterday morning. It was an omission from the stipulation and it should have been included.

MR. MACLAREN: And I would concur with that.

CHAIRMAN MECHAM: All right. Thank you. Should we go to 37? Is there anything on 37? 38?

MR. DODGE: No.

CHAIRMAN MECHAM: 39?

MR. MATTHEIS: I have a quick question on 39.

CHAIRMAN MECHAM: Go ahead, Mr. Mattheis.

MR. MATTHEIS: Mr. Alt, I take it this provision was added, there was some risk by the Division. Do you know what the reason is for this provision?

MR. ALT: Yes. On our exhibit, you know, the first column shows the issue, and the issue for condition 39 is that the concern was that service quality for individual customers might deteriorate under the merger. And Mr. Maloney talked about this concern in his direct testimony but didn't offer a specific condition, and quite frankly, in relation to a comment I made yesterday, this is simply pointing out there's a code section that basically gives the Commission authority to take action, if even individual customers have inadequate -- what they term inadequate service quality, and direct the Company to take corrective action. So we basically put that in as a condition that stands with or without the condition in the stipulation. Actually, there were some others like this. The purpose was to point out and clarify that this issue and concern is basically dealt with so that everybody is aware. That's all.

MR. MATTHEIS: Okay. Is part of the concern that there's going to be a more complicated ownership structure with different responsibility that might impact customer service and, therefore, you need to assure that there's --

MR. ALT: No. I think the performance standards that the Company proposed that particularly relate to the average duration of outages, the frequency and the number of momentary interruptions, where they've decided they will do 10 percent, 10 percent, and the third one was 5 percent, at the end of five years. Those are all based on using the baseline that's based on statewide averages. And the problem is that individual customers could actually -- the statewide average could improve, they could meet their target, and yet individual customers or even districts could actually show deterioration.

And so our concern was that we need to be concerned about smaller groups of customers and even individual customers, that they do have a right to adequate service, and the Commission has the power to fix that, if it gets broken, basically.

MR. MATTHEIS: That's what I'm getting at. If these rules are already in the book.

MR. ALT: Correct.

MR. MATTHEIS: The PacifiCorp is obligated after the merger.

MR. ALT: That's right. The only thing is, is that right now with PacifiCorp we don't have performance standards. The Company has volunteered, through meetings over the last year or so, with the Division, come up with quarterly reporting of a number of parameters, particularly the outage ones that I just mentioned that are characterized as acronyms -- SAITI, SAIFI and MAIFI. And they're reporting them, but there are no fixed standards or baselines against which performance is measured, whether -- you know, there's nothing that has been agreed upon as what they would be held accountable for.

So judging what's reasonable or not

gets difficult if you don't have that. And this merger, now for the first time, we actually have committed state performance standards against which the Company is willing to be measured going forward in the future. That makes it more important then to point out that we're not just looking at improving statewide averages, but we also have a responsibility to smaller segments of customers, even down to individual customers that they do have a right to adequate service, and we want to call attention to that fact to the ScottishPower. That's what the purpose of this was.

MR. MACLAREN: On the Company's behalf, that was what the discussion was about and it was really recognizing, as you see, existing statutes and making clear that we were aware that these were in place and just underpinning what Mr. Alt has said, that the old customer service proposals is about providing good service to all customers. And we thought that that should be enchained within this stipulation. That's the underlying reason for putting that in.

MR. MATTHEIS: Nothing further.

CHAIRMAN MECHAM: Thank you, Mr. Reeder?

MR. REEDER: Mr. Alt, is it the intent to make the service standards the floor or the ceiling for service in Utah?

MR. ALT: Well, the system performance

standards for SAITI, SAIFI, MAIFI, at least -- well, I don't know if they're guaranteed, but the commitment the Company has made for improvement, a 10 percent improvement in SAITI, which is the average outage duration per customer in the state, in their service area. So if they're going to improve it by 10 percent, the baseline is simply the benchmark against which you measure whether or not they accomplished it. And I think that's the sole function. I'm not sure I answered your question.

MR. REEDER: Keep pursuing it. I think we're getting close. If they improved performance as they suggested they would improve performance, would it be your position that an individual customer could continue to complain that even the service, as improved, was inadequate under the statute?

MR. ALT: Well, I would say -- and again you can ask Mr. Maloney when he gets on the stand and see if his perception is different. But my perception would be, the baseline will also probably be used as maybe some reasonable level of adequate service, and that if an individual customer was significantly different, their service quality from the baseline, that may very well be used, in my view, in evidence to support that something needs to be done for that individual customer service.

MR. REEDER: So if the service were arguably at the baseline or the improved level, it would be your view that that would be reasonable and adequate within the meaning of the statute?

MR. ALT: I think generally I would say yes to that. I don't know that I would commit precisely and legally to that though.

MR. REEDER: Okay.

MR. ALT: I mean I feel that an individual customer -- this is my view -- I think an individual customer, your client, for instance, if you feel that service is inadequate, I feel you have a right to a informal and then formal complaint process through the Commission, that the Division has employees that take complaints and work with the utilities in trying to resolve them informally. If that doesn't work, we let you know that you have the right to request a hearing and have the Commission actually determine what action to take. And that applies to reliability questions as well. So I wouldn't want to say something that would preclude the determination or judgment about what adequate service is under that type of an environment. Does that make sense?

MR. REEDER: Let's explore with some specific examples, if we might. How long under these standards must we endure outage?

MR. ALT: I'm not sure I understand the question.

MR. REEDER: These standards have hours that relate to the duration and frequency of outage, do they not?

MR. ALT: Yes, the SAITI is in hours.

MR. REEDER: What are those standards for the duration of outages?

MR. ALT: The standard hasn't been set yet, because the baseline will be the standard on which their performance increment will be measured, as I said, and they are not going to establish the baseline for 18 months, as you heard Mr. MacLaren say.

MR. REEDER: So you're suggesting --

MR. ALT: So I don't know what the number is today. All we know is we have data under the existing outage reporting system that gives us information of what SAITI is. In fact, Mr. Maloney had an exhibit, and it's the very last page of his testimony, Neil Townsend in our section actually did the graphing of the data, and there was a chart there and we were looking at information outage data from the last merger, from 1990 through 1998, and they've plotted SAITI, the average duration of outages. And so it gives you an idea of what normal range for statewide averages has been over the last nine or ten years.

MR. REEDER: What was average on the chart?

MR. ALT: Well, it varies. It looks like -- I guess the numbers are actually on there. It looks like the lowest number for the total is about 62.3 hours in 1993. And the highest was in '96 at 125.5.

MR. REEDER: So if we improve the outages over 62 hours, that's supposed to be adequate service? Is that what your position is?

MR. ALT: Well, my point is that that could be considered one measure of what reasonable service is. I'm saying that we haven't made that determination yet. I'm not sure that even when you establish the baseline, that that absolutely determines what reasonable service is. I'm just saying that you could argue that that would be a measure of reasonableness in the future. But I don't know that you'd be held to that. There may be other things.

MR. WRIGHT: Mr. Alt, just to be clear, I'm sure you're aware that the reliability targets that we've set up for statewide, they're not relating to individual circuits. It would be a practical impossibility to have every circuit on the system in the State of Utah performing at the same level of reliability. Therefore, the intention is to bring the whole network up in terms of its performance. Individual circuits may be addressed through things like the five performing circuits, standard as part of the performance standards. And of course, if a customer has a complaint about that particular level of reliability and service, that would be something that we would investigate and seek to remedy.

MR. MACLAREN: But as much as we're talking about performance improvement, we got into initially, whether 62 hours was good or bad service. Could I just say that it's minutes that we're talking about, not hours.

MR. ALT: Thank you for that

correction.

MR. REEDER: I feel better, I'm not sure why.

Mr. Wright, would it be your position that the standard of service that a customer could expect would be the benchmark service or would a customer be entitled under the stipulation in the service standards to expect a higher quality standard that that's set out in these service specifications?

MR. WRIGHT: It really depends upon the nature of the configuration of their supply. As I said, it's not intended that whatever the target is -- and let's say for the sake of arguments it was 75 minutes, customer minutes lost. It's not the intention that every customer has 75 minutes off supply. I mean that would clearly be, as I say, a practical impossibility. We would look at the standard of service of the customers and seek to improve it economically sensible to do so.

MR. REEDER: If our outages were 50

minutes a year, and we complained about that, would
you reply to us, if this stipulation were adopted
by the Commission, that our service was adequate
and within the standards, and we had no right to

complain?

MR. MACLAREN: I think the issue here is there is always a cost of value trade-off, and expenditure of making the system has to be prudent so the expenditure can adhere. It's a market for discussion both between Commission, the customers and ourselves, when it comes to investment on the network.

We believe that we have not reached the bottom of that particular curve at the moment. There is room for cost effective improvement, which is beneficial to customers in Utah. But if you were talking about 50 minutes as opposed to the report at 60 minutes, which I think is actually low, but if you were talking about 50 minutes, I would say that there are not electricity networks in the world that achieve 50 minutes. It's not impossible to do, but it would take an awful lot of investment to achieve it. And if the customers wanted to make investment through the representatives of the DPU, you are capable of

achieving it, I personally think that the money
required to do that would be forthcoming, but it is
a matter for balance.
MR. FELL: Mr. Chairman, could I just

ask Mr. MacLaren something for clarification?

CHAIRMAN MECHAM: Yes.

MR. FELL: You referred to the bottom of the curve. Could you explain that expression?

MR. MACLAREN: What I mean by that is that when one is looking at investment on this sort of area, one looks at what the benefits are against the required investment, and you do reach a stage where -- I suppose instead of the bottom of the curve, a better expression would be you reach a stage of diminishing return, and you need very large investments to make small improvements and customers reach the stage where they believe these investments are not required.

MR. REEDER: Mr. Wright, what's the obligation of the Company if the outage minutes exceed the standard? What's the responsibility?

MR. WRIGHT: The responsibility of any utility should, in my view, be if the customer has a problem with the quality, frequency or any matter of that supply, and they wish to raise a complaint, then our responsibility is to investigate that complaint in good faith and seek to respond to the customer's concerns.

MR. REEDER: Is there a monetary

guarantee of service in some fashion to these standards?

MR. WRIGHT: No. The customer guarantees.

MR. REEDER: And what is the customer guarantee for outages that exceed 62 minutes, if that is adopted as a benchmark?

MR. WRIGHT: That's not one of the customer guarantees. Customer guarantees deal with other issues.

MR. REEDER: Thank you. I have nothing further.

CHAIRMAN MECHAM: Thank you. Any from anyone else on this condition? All right. Let's move to 40.

MR. BURNETT: Mr. Chairman, we'd like to now excuse Mr. MacLaren from this panel and bring Mr. Larson back.

CHAIRMAN MECHAM: That's fine. Do you have anything on 40, Mr. Dodge?

MR. DODGE: Nothing on 40.

CHAIRMAN MECHAM: Mr. Reeder?

MR. REEDER: Nothing.

CHAIRMAN MECHAM: Mr. Mattheis?

MR. MATTHEIS: Nothing.

CHAIRMAN MECHAM: How about 41?
MR. DODGE: We do have a question or two on 41.
Mr. Wright, has the Company made a commitment to spend a certain amount of money on renewable resources?
MR. WRIGHT: No. We've made a commitment to seek to install a specific capacity of renewable resources, 50 megawatts.
MR. DODGE: And is that a commitment to do it or seek to do it? And I'm talking about any form, in any stipulation or context. Has the Company committed to 50 megawatts of renewables, or only to evaluate?
MR. WRIGHT: The Company is committed to doing it.
MR. DODGE: And the Company is committed to do it whether or not it proves to be the most cost efficient addition; is that accurate?
MR. WRIGHT: There will be various

standards. I have no doubt that the renewable results will need to meet, and those are different in different states. Our commitment is that we bear the risk of the investment not meeting those standards.

MR. DODGE: And my question is, the Company intends to install 50 megawatts of renewable resources, even it's not the most cost effective. Isn't that accurate.

MR. WRIGHT: Cost effectiveness I think, is just one of the tests that we would look at.

MR. DODGE: And if it failed that test under RAMP or however you wanted to look at it, the Company still intends to install it for other reasons?

MR. WRIGHT: That would be correct.

MR. DODGE: And when you indicate in Paragraph 41 that the Company will make a showing that that investment is prudent, prudent to you, in your view, includes more than meeting the RAMP most cost effective resource test?

MR. WRIGHT: Yes. I don't think I have a specific definition of prudency, but in our view it would include factors other than being the least cost resource that you could possibly portend. I think we would consider, and we feel it's a responsibility of the utility to consider issues such as the portfolio of resources that we have available, and trying to look at the future and the pressures that might be placed upon utilities with respect to, for example, fossil fuel generation, and the way in which we should diversify our portfolio for our risk. Going forward, that's certainly a concern to us. So that would be captured within our definition. We do recognize, however, that we have the burden of the risk of this investment of being passed on in rights.

MR. DODGE: Mr. Alt, initially the Division proposed that the commitment to develop that 50 megawatts meet the cost effectiveness standard of the IRP, and then adopted this other language to require the company is showing prudence. Has the Division taken any position, one way or the other, whether a resource that doesn't meet the cost effectiveness test will be allowed into rates at the full cost? Excuse me, not allowed, but whether you will argue that it should be allowed in the rates at full cost?

MR. ALT: Well, Mr. Powell's witness,

and I don't remember specifically how he dealt with that in testimony, but generally, the condition 41, we feel, meets our needs, because prudency -- the Division would probably argue that the IRP process is probably the main determinant of prudency of generation resources. The most recent use of that, the Division had hired a consultant to review the prudency of the Hermiston generating plant, which is the most recent addition of PacifiCorp. And that consultant's primary determination of prudency was the integrated resource plan at the time the decision was made. That's just an example that the Division uses, the IRP process, as a main determinant of prudency. I'm not going to try to prejudge what our position will be at that future time when we, you know, present our position on what the Company would present in an application.

MR. DODGE: Thank you.

Mr. Gimble, has the Committee taken any position on this issue?

MR. GIMBLE: We're satisfied that the condition meets our concerns about kind of a RAMP test. We're not prejudging that issue either in terms of -- I mean we're giving the Company an opportunity to come forward and say there are other things other than just cost effectiveness to consider in terms of their investment and renewables. However, we think probably number one, or the first order of criterion is meeting the RAMP cost effectiveness test. I think we've relied on it, like Mr. Alt stated, we've relied on RAMP quite a bit in terms of evaluating the reasonableness of resources decisions, since the last merger.

MR. LARSON: I was just going to say, I mean, obviously the Division, the Committee, the Commission staff and many of the intervenors in these proceedings participated in the RAMP process on a regular basis in those meetings, and it is my understanding that as part of that process -- I mean leased cost is one element of that process. There are also other issues that are discussed in those forms dealing with issues that Mr. Wright talked about, externality, environmental issues, and diversity of portfolio. And what this condition really is doing is giving us the opportunity to come in before the Commission, when this project is put in place, and demonstrate that it is prudent. Nothing more than that.

MR. DODGE: No further questions.

CHAIRMAN MECHAM: Thank you. Let's

take a short recess.

MR. FELL: Mr. Chairman, I have one redirect question to clarify the record. Could I do that before the break?

CHAIRMAN MECHAM: Okay.
MR. FELL: It's very short.
CHAIRMAN MECHAM: As long it's short.
MR. FELL: Mr. Wright, isn't it also true that the investment in these renewable resources is subject to the 50 megawatts or whatever amount is installed, qualifying for additional incentive provisions under the alternative form of regulation in Oregon?
MR. WRIGHT: Yes, that is correct.
MR. FELL: That's all. Thank you.
CHAIRMAN MECHAM: Thank you, let's take a recess.
(Recessed from 10:40 to 11:00.)
CHAIRMAN MECHAM: All right, let's go back on the record. Mr. Mattheis, did you have any questions about condition 41?
MR. MATTHEIS: No, sir.
CHAIRMAN MECHAM: Mr. Reeder?
MR. REEDER: No, sir.
CHAIRMAN MECHAM: Does anyone else have

questions on condition 41? All right, then let's move to condition 42.

MR. DODGE: No questions.

MR. MATTHEIS: No questions.

CHAIRMAN MECHAM: Mr. Reeder?
MR. REEDER: No questions.
CHAIRMAN MECHAM: Mr. Sandack?
MR. SANDACK: I have a few questions.
CHAIRMAN MECHAM: I thought you might.
MR. SANDACK: Mr. Alt, if I could ask you, condition 42 is not a measurable benefit to the employees, is it?
MR. ALT: I would think it would be.
MR. SANDACK: Can you explain that? It's basically existing continuing the status quo, are you not?
MR. ALT: Some people might perceive that as a benefit, not being a lawyer like yourself, I'm not sure, when one company acquires another, if they have a legal obligation to maintain all existing contracts, including those with employees, and including the employee benefit plans, whether they have to automatically be maintained. I presume they don't. And so just to make a guarantee that they're maintained for a

two-year period, I would see that as a benefit, because of the uncertainty that they might actually be worse would be the opposite outcome. So keeping the status quo compared to the risk of an unknown that could be worse, I would consider that a benefit, if I were an employee. It may not be a great benefit, but it's certainly a benefit.

MR. SANDACK: Are you aware that PacifiCorp and the represented workers -- operation, maintenance, production workers -- had a contract that requires ScottishPower to succeed to that contract?

MR. ALT: I'm not completely sure what you're referring to. I mean our condition simply is a repeat of what ScottishPower and PacifiCorp have already agreed to in their merger agreement, so it would happen anyway. This is just bringing it forward here and giving it more visibility. But are you talking about something different than that?

MR. SANDACK: The waiver agreement between IBEW 57 and PacifiCorp provides the successors are bound by that labor agreement.

MR. ALT: Well, see, I wasn't aware of that so I can't speak to that.

MR. SANDACK: So assuming that is the case, do you still consider this a benefit?

MR. ALT: I presume that you're saying the contract with the labor union that you're talking about would guarantee this anyway from a legal standpoint, you being the lawyer and me not.

MR. SANDACK: That would be my position.

MR. ALT: Well, I'm not going to argue with you.

MR. LARSON: I guess I would like to respond to Mr. Sandack's question. I think what Mr. Sandack is focusing in on is just one piece of a bigger picture. Certainly PacifiCorp, ScottishPower will abide by the labor contracts that have been negotiated. There are many employees of PacifiCorp who are not represented by the bargaining unit, and all of those employees' benefits under PacifiCorp are subject to review on an annual basis and could be changed. And so as an employee of PacifiCorp, I see this as a substantial benefit from ScottishPower in that they are guaranteeing that the benefits that all employees have currently will continue to exist for two years. So I would disagree with Mr. Sandack on his assumption that this isn't a benefit to employees, I see it as a huge benefit to employees.

MR. SANDACK: Which group of employees are you talking about?

MR. LARSON: All employees, both bargaining unit employees and exempt employees.

MR. SANDACK: Could you roughly break down the numbers, bargaining unit versus exempt?

MR. LARSON: Well, I think certainly in Utah, the bargaining unit employees are somewhere in the neighborhood of 2000. I would guess systems within the Company, they're probably in the 3,000 range, and the exempt employees probably, you know, three or four thousand.

MR. SANDACK: Do you know how many Utah exempt employees there are?

MR. LARSON: I don't have that exact figure. But certainly in excess of a thousand.

MR. SANDACK: Have their benefits been decreased at all by PacifiCorp, say, the last ten years?

MR. LARSON: Well, certainly, you know, one of the things that we're constantly doing is looking at costs and trying to achieve, you know, the most that we can for the benefits that are offered. And I think there have been certainly modifications to those benefits over the last ten years on several occasions to insurance benefits and others. And I guess, maybe that response to your question.

MR. SANDACK: Haven't the benefits essentially been as good as the negotiated bargaining benefits? Don't they follow those benefits?

MR. LARSON: I mean there are two different plans. I mean, you know, there are different benefits in the bargaining unit, and obviously the IBEW negotiates its contract, the benefits for exempt employees are separate from that. I don't know that they correspond or correlate necessarily.

MR. SANDACK: Hasn't it been a track record, though, that the exempt employees get at least what the bargaining employees are able to negotiate?

MR. LARSON: I'm not sure that's true in all cases. We have completely different medical plans. You'd have to give me some specifics in order to answer that, Mr. Sandack.

MR. SANDACK: Well, the plans were

separated recently, were they not? They used to be
the same plans, did they not?

MR. LARSON: I think they were
separated as part of the union negotiations, six,

seven, or eight years ago.

MR. SANDACK: I don't know if this is -- Mr. Alt, did you have an opportunity to compare the benefits that ScottishPower otherwise provides for its employees?

MR. ALT: I personally didn't. But I was thinking that Mr. Powell, Ken Powell, the Division witness on this area, may have asked interrogatories. I know he asked quite a number that related to employees and benefits, and I read through responses but that's been some time ago and I don't have specific recollection of that. So I don't know if we made that direct comparison. If you want to ask Mr. Powell later, when he's on the stand, he could clarify that.

MR. SANDACK: Okay.

MR. ALT: Or we could try to find the answer.

MR. LARSON: I guess I would conclude, and at least in response to Mr. Sandack's question, what is really before the Commission is PacifiCorp stand alone versus PacifiCorp and ScottishPower. And certainly, under PacifiCorp benefits to exempt employees are subject to review by management and potential change, so I think there is risk involved in that. The IBEW contracts with represented employees are as negotiated. With ScottishPower, these benefits to employees are being guaranteed for a period of two years to employees. And as an employee, I see that as a benefit.

MR. SANDACK: Well, as an employee, have your employee benefits been stable in the last several years?

MR. LARSON: I think that's exactly the point. I don't know what my benefits will look like under PacifiCorp or stand alone; they may be substantially less in the next two years. Under ScottishPower I know what my employee benefits are going to be, they are going to be stable for the next two years. That is a benefit.

MR. SANDACK: Well, historically, your benefits have been stable, have they not,.

MR. LARSON: I think there have been some decreases in some of the benefits in the areas of health insurance. There have been some redefining of those programs.

MR. SANDACK: Mr. Alt, and I don't know if this is appropriate in terms of what we're doing now in terms of the stipulations here, but I'm wondering in terms of the recommendations that you had made with respect to employee commitments, are those still -- have they been withdrawn or do they still exist and is the Division still making --

MR. ALT: You're talking about Mr. Powell's recommendations on Page 11 of his direct testimony that were not put in the formal conditions?

MR. SANDACK: Right.

MR. ALT: That related to employees?

MR. SANDACK: Right.

MR. ALT: I think it's fair to say that they would still exist. We haven't stricken that testimony, and in his rebuttal we didn't say anything. And I would say that it's still a recommendation, but not what we think the merger approval should be conditioned on.

MR. SANDACK: I understand. And as I understand it, they were only recommendations because you felt you couldn't enforce those conditions?

MR. ALT: Correct.

MR. SANDACK: And we're talking
primarily about job loss there, due to the merger?
MR. ALT: Yes.
MR. SANDACK: Did you ever bring

enforcement action in the old merger to protect job loss due to the merger, the 1988 order?

MR. ALT: The Commission's order approved the last merger that contained conditions related to employees, and our experience since then has been that they were very difficult to measure and therefore, enforce. And that's the prime reason for not including similar conditions in our direct testimony and our proposal here.

MR. SANDACK: Is Mr. Powell going to speak to that in his testimony?

MR. ALT: He'll be made available for cross examination. I think the plan is when we get through with the stipulation, then they'll go to the regular witnesses through the Company and then the Division. I guess if you want to deal with it now, I guess we could bring him -- he's here today.

CHAIRMAN MECHAM: Let's just do it when he's up on the stand.

MR. ALT: Okay.

MR. SANDACK: And again, since the

stipulation covers these commitments to employees made in Mr. Richardson's supplemental testimony, I don't know if it's appropriate to inquire about that, but I've got a few questions.

CHAIRMAN MECHAM: Well, ask and let's see.

MR. SANDACK: The commitments to employee on Page 9 of that says that ScottishPower will honor existing labor contracts with all levels of staff. Mr. Alt, do you consider that a benefit of the merger, that they honor the existing contracts?

MR. ALT: I think the answer would be the same as what I gave you earlier on that, is that to the degree that you eliminate uncertainty and risk of not honoring those contracts, if legally they can do that in a merger, that it would be -- I would perceive it as benefit to maintain them. That's my perception.

MR. SANDACK: How do you interpret all levels of staff in that?

MR. ALT: Just what it says. To me it means any staff that has a labor contract with the Company.

MR. SANDACK: You're not talking about

levels in terms of employment, numbers or anything
like that?

MR. ALT: I interpret that, when I read
it, to mean, you know, whether it's a vice

president or some other lower level position in the Company. That's what I thought level meant.

MR. WRIGHT: All the staff. You could take that if you like.

MR. SANDACK: Okay. Can I ask Mr. Larson, as far as the training that PacifiCorp currently offers, doesn't PacifiCorp offer educational assistance to its employees currently?

MR. LARSON: Yes, I think there's an educational assistance program that deals with pursuing higher education that relates to your specific job function. I think what we're talking about here in education here is work related training, and ScottishPower has instituted some roll class programs related to training employees in the utility areas as well as other areas, and Mr. Jack Kelly will be on the stand to be able to talk in more detail about some of the programs and experiences of ScottishPower in this area.

MR. SANDACK: Hasn't PacifiCorp assisted employees to go back to college with tuition and the opportunities to do that?

MR. LARSON: I think I said in my first answer that there is an assistance program to help employees go back to college and earn a degree.

This commitment here is much broader and can be discussed in detail by Mr. Kelly.

MR. SANDACK: Does PacifiCorp help the employee with tuition in college in your current program?

MR. LARSON: Once again, I think I stated there is an educational assistance program where the Company helps pay for a portion of college expenses related to pursuing a degree.

MR. SANDACK: That's all the questions I have. Thank you.

CHAIRMAN MECHAM: Thank you, Mr. Sandack.

COMMISSIONER WHITE: I just wanted to pursue a little bit the line of questioning as to whether this is a merger benefit or not. It seems to me that today, as far as we know, PacifiCorp has a certain set of employee benefits in place, and they may change them or they may not. ScottishPower has agreed to keep them in place for two years. So it seems to me that it will be two years before we know if this is a merger benefit or a drawback. I mean it seems like ScottishPower could reduce the cost of these programs, deliver them more efficiently or increase the benefits, and then I think it would be easier to say that it is a merger benefit.

On the other hand, they could drop the benefits or make them more expensive or something, and at that point I think it would be easy to say, well, that was something disadvantageous that happened because of the merger. So I'm still not sure I see your point, Mr. Larson, about how agreeing to continue with things as they are today could actually be characterized as a benefit. I just think it would be two years before we know one way or the other.

MR. LARSON: I guess under a hypothetical, if PacifiCorp were to continue with its benefits status quo for the next two years, ScottishPower's commitment would be exactly the same as what PacifiCorp would have done.

COMMISSIONER WHITE: It would be a wash.

MR. LARSON: It would be a wash. The one thing we don't know is what is PacifiCorp going to do in calendar year 2000 and 2001? And I guess I'm here to tell you that PacifiCorp's financial position is not very good. We are not covering our dividend. We are not in the best of financial situations. And so, obviously, we have to look at every area of the Company in trying to figure out efficient ways of doing things.

There's no assurance that our benefits in 2000 and 2001 will be exactly as they are today. ScottishPower has committed, as part of this transaction, to guarantee those benefits to employees, so I see that as nothing but up side. The worst case scenario is, it's a break even, as you stated, Commissioner, but the best case scenario is that it's a significant benefit to employees.

COMMISSIONER WHITE: Okay, thanks.

CHAIRMAN MECHAM: Thank you. Let's go to Condition 43.

MR. MATTHEIS: Thank you. I'll start, Mr. Chairman.

Mr. Alt, is it fair to say that the Division's testimony, direct testimony, identified a variety of risks based by PacifiCorp customers as a result of the merger?

MR. ALT: Yes.

MR. MATTHEIS: Mr. Gimble, that testimony has well identified a variety of risks identified by customers?

MR. GIMBLE: Yep.

MR. MATTHEIS: And the stipulation that we have here met is to mitigate many of those risks; is that correct, Mr. Alt?

MR. ALT: Yes.

MR. MATTHEIS: And Mr. Gimble, do you agree with the purpose of the stipulation?

MR. GIMBLE: Yes, the conditions contained in the stipulation.

MR. MATTHEIS: Yes.

Mr. Alt, does the stipulation mitigate all of the risks that the merger might create? And I'll turn your attention to Page 2, I guess, of the stipulation, and I'll paraphrase it a little bit. It says it will resolve as many of the DPU conditions and the CCS's issues as possible. And I take that to mean that there may be things that can't be mitigated or can't be identified at this time?

MR. ALT: Well, I think practically, unless you have a crystal ball that's really clear, that one can predict the future and what kind of risks, you know, exactly are there. I mean we did what I considered to be an exhausting review and analysis and discussion, we tried to look at every source we could think of, first, to identify the risk and then try to figure out how to remedy or mitigate them. But I'm not here today to say that we did a perfect job, because I don't know that we did. We did the best job we could, and we felt comfortable enough to sign a stipulation and even before that to recommend in our direct testimony that we recommended approval of the merger with 46 conditions.

We think the package we have now is even better than we had before, and we stand on our recommendation. But that doesn't mean that the future, we already know what's going to happen and we've got all the risks covered a hundred percent. We don't feel that. We feel that we've got them adequately covered as best we can based on the information we have today.

MR. MATTHEIS: And part of the reason -- I'm leading into condition 43 -- part of the reason for Condition 43, or maybe the reason, is it's designed to both provide a guaranteed benefit and to mitigate possible cost impacts. Is that paraphrase essentially correct?

MR. ALT: Yes.

MR. MATTHEIS: Okay. And as I

understand the rationale, it's because the risks couldn't be perfectly mitigated, you want to have some guarantee of benefits that essentially put this over the top in terms of meeting the net benefit standard?

MR. ALT: That's right. The other 50 conditions generally, we felt, mitigated the risk sufficiently, but we needed something to make sure we're clearly over the bar, that there is a definite -- at least as far as we can determine, a definite positive benefit and, therefore, meets the tests set out by the Commission. And the merger credit, Condition 43, does that in our view.

MR. MATTHEIS: And Mr. Gimble, is that likewise in the view of the Committee?

MR. GIMBLE: Yes, I would generally agree with what you said. I think the merger credit does one other thing. It provides ScottishPower management with a monetary stick on merger related outcomes that in the last two years, they have an opportunity to offset that $12 million each of those years. So --

MR. MATTHEIS: And Mr. Alt, the credit, as I understand it, is in place through 2003 and possibly later, if closing is delayed. Is that the way this works?

MR. ALT: Yes.

MR. MATTHEIS: Now, this credit in Paragraph 43 does not apply to special contract customers; is that right?

MR. ALT: That's correct. Not in Utah, as I understand.

MR. MATTHEIS: Not in Utah. I should qualify that.

MR. ALT: I'm sorry, that was an unnecessary comment. I was thinking about in our discussions they point out that they have a similar merger credit in the stipulation in Oregon, and they point out to us there that there were some special contracts for large customers that the merger credit applied to. But in Utah that situation doesn't exist, by the difference in the nature of the contracts.

MR. WRIGHT: Just for clarification, I think we have left it to the Commission to determine whether the merger credit applies to customers in the State of Oregon.

MR. MATTHEIS: If this condition is in place to mitigate risks through 2003, why is there nothing in this condition that was protected by special contract customers?

MR. ALT: Well, I think that our perception was that the special contracts already have, by the virtue of a contract that's basically subsidized by other ratepayers, such that they get rates that are below normal tariff rates, that they already have built-in protection in their contracts to some degree that other ratepayers don't have the benefit of. And the fact that the contract still has some time on their term, they already have some protection against risk. The key risk that they have protection against is price increases, which, as I mentioned yesterday when we examined all the issues, two of the most important areas had to do -- that we perceived from all the parties and us, was that service quality and reliability and the impact on rates, that there was a risk and these two areas things could get worse.

Well, we feel that we've got the reliability and service quality nailed down pretty well with quite a number of conditions that we just finished talking about. We feel that that will also apply to large industrial customers, and they will get some benefit from that protection that the other customers wouldn't get. And the price protection that they had built into their contracts, the other customers don't have.

If PacifiCorp files for rate increases during the next few years, let's say, during the remaining term of industrial contracts, all the other customers would be exposed to rate increases, potentially -- well, not potentially but under this merger condition, offset by merger credits for four years. But the industrial contracts would not be exposed to those price increases to the degree they're not provided for in their contract.

MR. MATTHEIS: That was my first question. You're not suggesting that the contracts don't adjust for cost in any cases?

MR. ALT: No, but even with those adjustments, I think a fair assumption is that they don't bring you up to tariffed, unsubsidized rate levels.

MR. MATTHEIS: And assuming there are protections, how long would those protections last for contract customers? Would it be just to the end of their contract?

MR. ALT: To the end of their contract.

MR. MATTHEIS: And once the contract

has expired, obviously the cost to the Company would influence what happens in the future upon expiration?

MR. ALT: That's right. And there's one other point that I probably should mention, that in the review of the contracts, in recommending approval to the Commission, the Division used -- although we didn't have commissioned, formally approved criteria to evaluate them, we used the criteria recommended by a previous task force to look at that, and mentioned that in our recommendation, and the Commission approved those contracts based on that analysis.

But that criteria had -- one of the criteria was that for firm special rates, the customer had to have another alternative. In other words, the customer already had the choice of getting their electricity from another source, self generation primarily, and that if they didn't get the special subsidized rate, they would exercise --

the threat was they would exercise that right, that alternative. And our analysis showed that if they stayed on the system, other customers would benefit as long as they covered the variable costs and made a contribution to the fixed cost. That because if they left, then the fixed costs would be entirely be allocated and paid for by all the other customers, and our analysis showed in those cases, which was all of them where we recommended approval of the contracts.

So again, those industrial customers that relied on those alternatives to help negotiate a contract, they still have those alternatives, we presume, and therefore, are not then subject to the risk of rate increases that the Commission might give otherwise, or even for that matter, if they ended back up on the tariffed rates, they still have those alternatives.

MR. MATTHEIS: Let's talk about the risks. Apart from costs and price risks, which of the risks that you've identified, other risks wouldn't apply to special contract customers? Wouldn't they be subject to the same reliability risks, or are there other risks that --

MR. ALT: And as I said, I think we've

got the reliability and service quality risk nailed down with our conditions, which would impact the industrial customers on contract as well as tariffed customers.

MR. MATTHEIS: But I think part of the reason for 43 was to insure a net benefit. I mean there wasn't -- didn't you tell me that the risks weren't perfectly mitigated and this condition is in part to throw it over the top?

MR. ALT: Right, and throw it over the top in the broad public interest, not just for one set of customers.

MR. MATTHEIS: Nothing further.

CHAIRMAN MECHAM: Thank you, Mr. Mattheis. Mr. Reeder?

MR. REEDER: Mr. Alt, assuming that the Commission should accept the condition proposed by ScottishPower, which is back to taxes, and defer consideration of this termination of whether or not that merger benefit from reduced tax cost should be a correction and adjustment, if you will, in future tax cases, applying the language in Paragraph 43 of the stipulation, the last sentence, wouldn't it be the case that ScottishPower would then contend that they were excused from the guarantee credit because merger cost savings had exceeded the guarantee?

MR. ALT: I'm sorry, Mr. Reeder, I was having trouble following that. First you referred to the last sentence in 43 and I was just --

MR. REEDER: Read Paragraph 43.

MR. ALT: And there are a number of paragraphs in 43, and when I read the last one it didn't seem to fit with what you were talking about, so I lost track right there.

MR. REEDER: Sorry, go to the second paragraph on this page. Last Paragraph on Page 9. Hopefully we've got the same pagination.

MR. ALT: Okay.

MR. REEDER: Do you have the question in mind?

MR. ALT: Yes. Well, no, wait, I have the paragraph in mind. Now can you repeat the question? I'm sorry I do not have the question in mind.

MR. REEDER: Assume this Commission should follow the new proposal of ScottishPower and defer the consideration of capturing the benefits of the tax savings upstream, and do that in a rate case, wouldn't it be the case that the guaranteed merger benefits would be no longer available because those tax savings would exceed -- the cost savings, those tax savings would exceed the merger benefit and they could claim cost reduction relating to the merger and no longer perform under the guarantee?

MR. ALT: Well, first I presume you're only talking about the last two years.

MR. REEDER: Right.

MR. ALT: I want to make it clear. I actually hadn't, as I mentioned earlier this morning, that this issue about the taxes was just recently brought to my attention, and the Division staff haven't really spent a lot of time analyzing that, haven't had the time. And I'm not sure, but I mean I can see where you could argue that, because it's related to the merger. But Mr. Dodge, I think, made that point with Mr. Wright, because without the merger you wouldn't get those savings so it would be directly related to the merger.

But assuming you could capture it, which I'm not here to prejudge that, and that was our whole point, that in the future I don't know what our position would be on that. I pointed out that there is apparently someone on our staff thought there were prior Commission orders that dealt with this particular issue. I haven't even read them. I'm not even sure what position the Commission took. That might influence what our position might be. And so whether or not we could argue that those would offset the merger credit for the last two years, quite frankly, I'm not sure I could answer that today.

MR. REEDER: Let's assume, hypothetically, that the Commission finds that it's appropriate to reduce the income tax expenses for PacifiCorp to the effective tax rate for the group and thus reduce the tax cost significantly. Let's use Mr. Talbot's number of a hundred million dollars a year so we don't get on ground we ought not get. If that reduction of a hundred million dollars a year occurs, that's a 33 million dollar cost reduction in Utah, isn't it?

MR. ALT: Well, I'm assume your math is right, but I guess the point is that if we get a savings that's related to the merger, and it eliminates the credit, it doesn't mean people still haven't got the savings. I mean the whole point is to get savings, so are we better off? Of course, especially if it exceeds the amount of the guarantee. So I don't understand the problem.

Assuming you're --

MR. REEDER: We're addressing the proposal of ScottishPower. ScottishPower has something on the table that says, defer and consider it in a subsequent case. If we defer and consider it in a subsequent case, it becomes a trade, doesn't it? The merger guarantee goes away for tax savings.

MR. ALT: But if the customers still get the savings, what's the difference?

MR. REEDER: The customer is still ahead; right?

MR. ALT: Right. And isn't that really what we should be concerned about? I mean that's our view.

MR. REEDER: One impact of not putting it in the stipulation, it becomes a trade rather than capturing it now; right.

MR. ALT: Well, I thought -- if the Division's position was we weren't going to decide, if we didn't feel that we were ready to decide today how to deal with the issue, but we wanted to preserve the right to deal with it in the future. The Company is quite willing to go along with that, and if we are able to capture that savings, assuming we even try in the future, and the customers get it because the Commission passes it through, I don't know that anybody is worse off.

MR. REEDER: I'm sorry, Mr. Alt, we

weren't arguing about the tax; we're arguing about the mechanics of ScottishPower's proposal. It's a trade; it isn't a reduction.

MR. WRIGHT: Could I just speak to that? This is not part of ScottishPower's proposal. This was not even discussed when we were talking about the merger credit. Since you've raised it, it seems to me it's a pretty difficult argument, on the one hand to say that the tax savings computed in rates are not a merger benefit, as they arise as a direct result of the merger. But I can clarify. This issue did not come up at all. What we're talking here about the merger savings related to transition planning activity.

MR. LARSON: And the other thing I guess I would point out -- I mean the State of Utah, at least historically, has been a historical test year state. We don't even know the value of this. Obviously, this is an issue that will be dealt with at the time of a rate case and reflected in prices at that time, when and if it happens.

So --

MR. REEDER: I think we're slowing the mechanics of the operation of this paragraph that ScottishPower has put on the table. I'm trying not to argue the issue on taxes, but I should be pleased to, if you'd like, Mr. Larson. We're just discussing mechanics. So we're correct that on the mechanical operation, Mr. Alt, it would be a trade, the tax savings for the merger credit, the way this paragraph is written.

MR. ALT: Based on the assumption that your hypothetical bears out, I mean that someone would raise it, the Commission would rule on it, the savings would be passed through in rates, during the last two years, such that they would offset the merger credit, yes.

MR. REEDER: Someone over here had something.

CHAIRMAN MECHAM: Mr. Gimble?

MR. GIMBLE: I was just going to add we don't even know if the tax savings are going to -- I mean Mr. Morris testified this morning that the tax -- no, that the tax --

MR. FELL: Excuse me. The record shows what Mr. Morris testified to as to the tax.

MR. REEDER: When we had a confidential session this morning, the testimony in that session is confidential. We intend to respect that.

CHAIRMAN MECHAM: Anything further,

Mr. Gimble?

MR. GIMBLE: Not at this time.

MR. REEDER: Go ahead. But I think we're all set to redo it. Let's go to the stand alone inquiry, Mr. Alt. The stand alone inquiry required by the same paragraph in Paragraph 23, the stipulation. How would you propose, as the regulator, to discern when a savings was merger related? Aside, of course, from tax.

MR. ALT: Paragraph 23?

MR. REEDER: I'm sorry, 43 on Page 9. Let's stick with 43. I may call it several numbers.

MR. ALT: You weren't turning pages, but it threw me off. Okay. Now, can you please rephrase?

MR. REEDER: How can we discern, Mr. Alt, whether a cost savings is merger related without doing stand alone analysis?

MR. ALT: Well, Commissioner White asked questions of me yesterday, and my opinion was that the transition plan as discussed by Mr. Wright yesterday, I think will lay out on an incremental basis the changes the Company is planning, that they would expect would result in net savings. And

I answered Commissioner White that I felt that it wouldn't be that difficult of a task to compare the transition plan to what PacifiCorp was normally doing at that time. Once you get past the merger, and the farther down the road you get, the more difficult it gets, and I think Mr. Larson talked about that, and I'm certainly well aware of the stand alone analysis problem. You might be able to do it for a short time, but years later it's an impossible task.

MR. REEDER: Have you inquired of PacifiCorp whether they've done a multi-year analysis on what their plans would be?

MR. ALT: I personally haven't, but that doesn't mean in the interrogatories somebody else on the staff hasn't asked.

MR. REEDER: In discussing the stipulation, were you aware of any multi-year plan of PacifiCorp that may show a plan of action?

MR. ALT: I'm sorry, I'm not aware, but maybe with other witnesses from the Division, you might be able to get it.

MR. REEDER: Maybe during the recess you could inquire whether there was such a multi-year plan available when you wrote this paragraph.

MR. ALT: Well, I remember Mr. Larson talked about the Company's refocus plan, and that seems to be the primary plan he was talking about. So there's probably documentation on that where you could isolate what they were planning there with the transition plan that will be set forth later.

MR. LARSON: I guess I would say -- I think I said yesterday that the refocus plan was the only plan out there. Now, whether or not, there are probably some projections of earnings out in future years with no plan specifically as to how we were going to get there, and I guess what I'm here to tell the Commission is that ScottishPower is part of how we're going to get there. These incremental savings are part of the way to achieve those financial objectives.

But as far as specific identifiable plans out into the future, that refocus program in October '98 is it. Those savings will be accomplished in calendar year 1999, everything that we're talking about related to this transaction is incremental to that.

MR. REEDER: Mr. Larson, isn't it the case that in January 1998, the Company announced plan to reduce its work force in the United States by approximately 600 positions or 7 percent of the work force? The Company offered enhanced early retirement to approximately 1240. The actual cost reduction from this program was 759 positions. And the Company took a extra tax write-off in 1998 of $113 billion, the result of that plan.

MR. LARSON: That's correct.

MR. REEDER: What effect does that have on costs on a going forward basis?

MR. LARSON: Those cost savings will all show up in calendar year 1999, and that is exactly my point, Mr. Reeder, is that all of the plans that PacifiCorp had in place, the result of those plans will show up in calendar year 1999 results.

MR. REEDER: What's the going forward savings from that action?

MR. LARSON: Well, I think you stated a number yesterday of $50 million.

MR. REEDER: $50 million a year.

MR. LARSON: That's right.

MR. REEDER: So there's $50 million a in addition to the $30 million in the focus of PacifiCorp actions in 1998 to be revealed in 1999.

MR. LARSON: And they will be part of the baseline. I mean they will be included in those results. What we're talking about today, the stuff in the transition plan that I think Mr. Wright has talked about several times, relates to increment at things in addition to that. There's no intent to count those as part of the merger credit.

MR. REEDER: Mr. Larson, there's an indication that in the fourth quarter of 1998, the Company initiated a pay cost reduction program that included involuntary employee severance and enhanced early retirement for employees that met certain age and service requirements. Approximately 167 employees were displaced, with 35 of them being eligible for enhanced displacement. The Company took and reported a $10 million after-tax charge as a result of that action.

MR. LARSON: My recollection is that was part of the refocus programs, and those will be accomplished and those savings, and cost reductions be willing be in 1999.

MR. REEDER: The second employee action in 1998 was part of the focus program.

MR. LARSON: That's my understanding.

Mr. O'Brien could clarify as to whether or not I've got a correct understanding of that.

MR. REEDER: And the savings in addition to the -- and the savings are included in the $30 million?

MR. LARSON: That's my understanding, yes.

MR. REEDER: So it's the case that from action taken by PacifiCorp in 1998, we expect savings in 1999 and years beyond of $80 million or more.

MR. LARSON: What you need to keep in mind is that, as I stated yesterday, the $30 million refocus program was a comparison not to actual, but to budgeted projections for 1999. And so I think those are two different comparisons.

MR. REEDER: How many years will be take to enjoy the full savings from employee actions taken in 1998 and the refocus program, Mr. Larson?

MR. LARSON: It's my belief that the

entire benefits associated with those, at least the majority of those cost reductions, will be achieved and shown in 1999 results, and customers will, on a going forward basis, or costs of 2000 and going forward, will be reduced by the impact of those actions.

MR. REEDER: So we should be able to see in 1999, $80 million worth of cost reductions from 1998 as a result of these actions; is that what you're saying to me?

MR. LARSON: No that's not what I'm saying.

MR. REEDER: Please tell me what you're saying.

MR. LARSON: What I'm saying is that PacifiCorp put together budgeted projections for costs for 1999, and from those budgeted levels of cost, there will be -- the refocus program was a $30 million price reduction. As you're aware, I mean there are many, you know, cost increases that would transpire in the '98, '99 time frame, and these will be net reductions that will be embedded in those.

MR. REEDER: If we look at your cost of service for 1998 and 1999, will we see a $80 million reduction?

MR. LARSON: No.

MR. REEDER: In what year will we see that $80 million reduction?

MR. LARSON: That $80 million reduction will be embedded in it, but will not be a reduction from 1998. There will be cost increases that occur in that time frame too, that these will go to offset some of the cost increases.

MR. REEDER: If we look through O&M costs, will we see an $80 million reduction in 1999?

MR. LARSON: No.

MR. REEDER: Will all of the effects of those employee actions and other parts of the focus action reveal themselves in 1999, or will they be carried for forward years?

MR. LARSON: The vast majority of these will be reflected in 1999.

MR. REEDER: Let's assume, Mr. Wright -- we'll let Mr. Larson rest for a minute.

MR. WRIGHT: Let's do that.

MR. REEDER: Let's assume for a moment that there was a course of action planned by Mr. O'Brien and his staff of cable utility operators, which action would have reduced costs in the year 1999 or the year 2000 in some fashion, that they know what they're doing, they know how to plan, they know how implement and have some planning place, but you at ScottishPower say, we think there's a different way we want to try. And you assume further, that Mr. O'Brien's plan would have reduced costs and your plan doesn't. What does the stipulation suggest we do under those circumstances?

MR. WRIGHT: My memory might not be as good as it used to be, but I think we covered this yesterday, inasmuch as I think I stated that, under a specific stand alone PacifiCorp plans, we will not seek to count that benefits towards this merger savings offset. If there are demonstrable plans that exist, be it a refocus plan or some other plan, that is detailed plans for efficiency that PacifiCorp, already having trained, then we will not be seeking to count that towards this target.

I would also point out that we have the benefits of the chief operating officer of PacifiCorp amongst our witnesses, and perhaps if you have questions about what PacifiCorp are planning in the future, maybe you better direct to that to Mr. O'Brien.

MR. REEDER: I think Mr. O'Brien is taking notes on my question already.

But let's suggest that this is a

foregone opportunity. This is an opportunity that Mr. O'Brien had planned. This is an opportunity that you choose to forgo at ScottishPower. Are you suggesting that this paragraph allows us to claim that lost opportunity for those costs?

MR. WRIGHT: I don't know how many stages of hypothetical were actually in here for a moment, but I think what we're saying is that we will put forward our initiative in the transition plan, we will justify those initiatives, they will be linked directly to ScottishPower's skills, initiatives, methodologies that we intend to bring to the business, and those will be the bases for demonstrating whether merger savings have been achieved.

MR. REEDER: When do we first see this transition plan?

MR. WRIGHT: You'll see the transition plans six months after the closure of the merger.

MR. REEDER: What's the status of the preparation of that transition plan.

MR. WRIGHT: Very preliminary stages. We also have the benefits of Mr. MacRitchie, who will be leaving the transition plan exercises, who is also a witness in this case.

MR. REEDER: What are the barriers to keep us from having it done earlier?

MR. WRIGHT: The barriers are the fact that the transition planning exercise is a very detailed, very thorough, and can be a very intrusive process. In our experience, having conducted similar transition planning exercises three times in the U.K. at ScottishPower and Southern Water, more particularly of Southern Water, you cannot conduct a transition planning exercise on the scale of the thoroughness that we intend to do, where you're not part of the same corporate entity; in other words, before that transaction has taken place.

I would add it is a costly exercise to some degree, it's usually time consuming, and to do that with the risk of the merger still out there would not be appropriate. Equally, you would not get the benefits of the transaction plan if you did it that way, because it involves the sign on the file, in this case the PacifiCorp management and employees. And until they're part of the same organization, it would be extremely difficult to get that sort of commitment and loyalty and buy off the transition plan. So it's a practical impossibility to complete the transition plan before the closure of the merger.

MR. REEDER: Does the practical impossibility arrive from the absence of employees or the absence of knowledge?

MR. WRIGHT: The absence of a common shared vision towards the way in which we're going to take the business forward, the absence of some of the techniques and methodology that ScottishPower brings.

MR. REEDER: Let me see if I understand the hypothetical that you're drawing for us. You're going to invest $3.6 billion and then decide how you're going to run the Company?

MR. WRIGHT: We have conducted -- you can go into some detail with Mr. MacRitchie -- we've conducted high level bench marketing that gives us that there are efficiencies in PacifiCorp that we can deliver. We have a very clear strategy in respect to the PacifiCorp merger which is part of ScottishPower's ongoing plan.

We're very clear in terms of the way in which we would want to take the business forward. There'll be a twin focus on improving efficiency, on improving reliability, and the product we deliver to our customers. So in general terms, we're very clear in the way we want to take PacifiCorp forward. What we haven't done is the detailed work that will allow us to put the transformation of PacifiCorp into place.

MR. REEDER: What are the barriers that keep this Commission from being able to see how you plan to take PacifiCorp forward and compare that with how PacifiCorp proposed to take PacifiCorp forward before they find your methods in the public interest? Why can't they have that look?

MR. WRIGHT: Well, I've already said that the transition plan can only be completed after the merger. We have agreed to file the transition plan with the Commission so they will have ample opportunity to look at our plans and look at the way in which we intend to take the business forward.

MR. REEDER: If this Commission were to say, you may complete the merger, but before you may consummate it, you must present your transition

plan for our approval? Would that assist you in
getting your incentive in the right order?

MR. WRIGHT: I've already discussed this. If the merger is not completed, then you cannot complete a transition plan. There is by definition some doubt about whether the merger would go ahead. You would not get the commitment necessary to conduct the transition plan in that scenario.

MR. REEDER: If this Commission has approved the merger subject to conditions, the only condition is you present a transition plan that they approve of, why can't you get the right incentives?

MR. WRIGHT: Well, again, as I discussed yesterday when the subject of the transition plan came up, we believe the transition plan is about us as utility managers having the competence to take the business forward, with respect. We believe that that is a utility management function. That is ScottishPower's core competence. We believe that we are best placed to run the business.

What we think the Commission's role is, and I certainly don't want to dictate what that is, but if that is more to do about the provision of service, which is safe and adequate and reliable, it is about the fairness of the rates which we charge customers, that they are fair and reasonable. It is not about micromanaging the utility or saying what is best for the utility in the terms of the management of its business, the organization of its business, whether it should adopt particular best practice, what business processes it should have in place to deliver its service to customers. All of those are issues that the utility is best placed to consider.

MR. REEDER: Don't we really need that plan in order to implement this stipulation where they must evaluate the stand alone against the merged company on an ongoing basis?

MR. FELL: Objection. This is argument. This is not evidentiary examination.

CHAIRMAN MECHAM: We have kind of plowed that ground, Mr. Reeder.

MR. REEDER: That's okay.

CHAIRMAN MECHAM: Mr. Allred, are you curious about this condition?

MR. ALLRED: Yes.

Mr. Alt, in your introductory remarks

yesterday, you testified that in coming up with the conditions that you had originally put together, you looked at the potential negative effect on a number of entities, including communities. What groups did you include within the communities?

MR. ALT: Well, I think that includes Salt Lake City that you represent. I think it includes some of the concerns of the Utah League of Cities and Towns. Is that what you mean?

MR. ALLRED: Yes. I am specifically curious whether or not you looked at the potential negative effects on municipalities.

MR. ALT: Yes. The broad public interest, we felt that the direction we got from the Commission required us to consider a broader public interest than maybe what the Division normally views when we're in rate cases and dealing with utility issues. The merger is a little bit different.

But on the other hand, when we framed conditions, we felt we had to keep in mind that the Commission is the one with the authority, and it's their authority in what restrictions that are on it that enable enforcement of the conditions. And so you have to factor that in, and that's what we did.

MR. ALLRED: Do you have a recollection of any specific negative effects that you viewed would be applicable to municipalities?

MR. ALT: I don't recall any specifically.

MR. ALLRED: So I assume it follows that you didn't find the need for solutions to mitigate those potential risks?

MR. ALT: Well, one just popped into my head. I think the condition that we finished moments ago may be a little longer, No. 38, that deals with transmission reliability. I think that you could safely say that that took into consideration concerns of municipalities.

MR. ALLRED: All right. I think both you and Mr. Gimble have testified that the condition set forth in Paragraph 43 is the condition that put your recommendation to support the merger over the bar, or was the most critical condition; is that correct?

MR. ALT: Yes, it was a very important condition.

MR. ALLRED: The merger credit, as I've listened regarding the discussion, it's my understanding that the merger credit has no mathematical basis to it; is that correct?

MR. ALT: You mean support for the numbers?

MR. ALT: Yes.

MR. ALT: I think that's a fair assessment.

MR. ALLRED: And you indicated during my questioning that your review was a little bit different because this was a merger case, not a rate case; correct?

MR. ALT: Correct.

MR. ALLRED: And you still see this as not a rate case; correct?

MR. ALT: Correct.

MR. ALLRED: In an exchange with Mr. Reeder regarding the second paragraph of Paragraph 43, or Condition 43, you made the comment that it's the Division's view that the customer is still ahead. Do you recall that testimony?

MR. ALT: Yes.

MR. ALLRED: Is that your or the Division's definition of net positive benefit?

MR. ALT: Yes, I think so.

MR. ALLRED: All right. Thank you.

MR. ALT: I'm trying to visualize how it would not be, but I think it is.

MR. ALLRED: Do you have an opinion regarding the effect of the merger credit on municipal franchise fees?

MR. ALT: The first time I thought about that was my attorney mentioned to me, I think it was just yesterday, that --

MR. ALLRED: I want to give your attorney an object to an attorney-client privilege.

MR. GINSBERG: No, that's fine. It was based on your conversation.

MR. ALLRED: I assumed it was.

MR. ALT: And I don't recall if he told me where the source was, but he said that the way the wording was in terms of applying the credit to customers' bills before taxes, like we did with the refund in the most recent PacifiCorp rate case, would cause a concern for municipalities. And so I'm not surprised that you brought it up.

MR. ALLRED: Well, I'm not sure I have an answer to my question though. Do you presently have an opinion as to whether or not the merger credit has any negative effect on municipal franchise fees?

MR. ALT: Well, I think it's fair to
say that if we did it the way this characterized
the implementation that it would have a negative
impact.

MR. ALLRED: Thank you.

Given that, is it important for the Division now to make some effort to mitigate that negative impact?

MR. ALT: Possibly so. And I'm not sure I know what the right answer is. But I think it's a valid concern that you raise. When we were -- and I'd like to add, when we were negotiating over the wording of these different conditions, and particularly this one, they simply asked for the Division's recommendation about how you would implement this credit on customers' bills, and my attorney asked me, and I offered up quickly without a lot of thought or discussion amongst other people in the Division, that, well, we just had the rate case, we had this refund, let's do it in a similar fashion.

We went through a lot of meetings and discussions trying to figure out a fair way to implement the refund so that one customer compared to another saw this fair and got a fair proportion of the refund. And so I said, well, let's just use the language we worked out there, and that's what was offered up and put in. And I don't think PacifiCorp had a problem. I don't know what thought they gave to it either. And they can respond.

I don't think -- I personally didn't think of any negative consequences, but you've clearly pointed out one. I agree with it. I'm not sure what the answer is. I'd be quite willing to work that out through further discussions, because a refund is a little bit different. Because there we were thinking we had to do it before taxes. But I haven't given a lot of thought about how this merger credit would work in that relation.

MR. ALLRED: But you agree with me, Mr. Alt, it certainly deserves more attention before this condition can be finalized?

MR. ALT: I will grant you that, yes.

MR. LARSON: I guess speaking on the behalf of the Company, there were couple of --

MR. ALLRED: May I direct my questions to the witness I choose?

CHAIRMAN MECHAM: Yes, but I want to hear from Mr. Larson. So go ahead, Mr. Larson.

MR. LARSON: Thank you.

There were a couple of things that kind of went into this decision, because the Commission is aware taxes, franchise taxes, the rates vary from city to city.

MR. ALLRED: I'm going to object to Mr. Larson's testimony to characterization of franchise taxes. They're franchise fees.

MR. LARSON: Okay, franchise fees, the rates vary from city to city. And so the objective in this was to pull aside those fees that are simply a pass-through item, something we collect from customers and remit to the cities, and calculate the merger credit on a basis of the actual electric revenues that customers pay, so that there's not a distortion in the credit, depending on the level of these fees that are in the various cities. So that was the number one consideration related to doing it before tax, and that's similar to the way we did the refund and this Commission approved it in the last case.

I guess the second thing that I would say related to this, is that I guess the logic that is used that, if we have a credit and this credit is nothing more than, I think, a downpayment for

benefits that we believe will come in the
transition plan, it really is a price reduction.
And I guess what I see being argued here is that
every time we have a price reduction, it's a

detriment to the cities. And so that, I guess, would argue that we ought to be charging higher prices in some way to increase the fee. I guess I don't see it as a detriment. It's something that that fee actually follows whatever reasonable utility prices are.

And if the Commission approves this transaction and the credit or price reduction goes to customers, then their bill will go down, they will receive that benefit, the citizens of those cities, and correspondingly, there will be an adjustment to that fee that is percentage based.

CHAIRMAN MECHAM: Mr. Allred.

MR. ALLRED: Mr. Larson, you've indicated that there is no detriment to the ratepayer. Many times those ratepayers, if not always, are also taxpayers, aren't they?

MR. LARSON: I think that's an accurate statement.

MR. ALLRED: And the franchise fee is a significant part of most municipalities' budget, isn't it?

MR. LARSON: You would know better than I.

MR. ALLRED: It's logical to assume,

isn't it, that if there is a significant reduction in one area of revenue, there is likely an increase in another area of revenue?

MR. LARSON: Well, I guess, you know, to the extent that the franchise -- you know, that utility rates go down, and I think that's at least our objective as a utility, to be as efficient as possible. I mean that's certainly what the Commission mandates with us. And they set the prices to the extent that that drives down the amount of the franchise fee that is paid to the cities, then, you know, I guess the cities have a couple of, you know, alternatives, either to raise other fees or cut costs to come in line with a budget that is commensurate with the fees that are coming in, the same conditions that we work under.

MR. ALLRED: So to the extent that there is a rate reduction and a corresponding requirement to increase revenues from another area, it's really a false benefit, as far as the checkbook of the ratepayers and taxpayer is concerned, isn't it?

MR. LARSON: Well, I don't think that's the case, Mr. Allred. I guess I would say that if I as a resident of Ogden, and I'm going to get a

$10 a year price reduction and the franchise fee is 6 percent, and so my taxes are going to have to go up 6 percent, that I think I would take the $10 price reduction from the utility and pay 60 cents more to compensate for the franchise fee. I'm not sure they're a wash.

MR. ALLRED: Well, let me add an additional fact that I think you haven't taken into account in your analysis. Ratepayer consists of a number of entities that don't pay taxes -- churches, government, schools; correct? Those all pay rates to PacifiCorp; correct?

MR. LARSON: Well, some of those that you mention don't pay certain types of taxes. I don't know exactly the forum for whether they're in lieu of taxes or different types. But they also are ratepayers, and they also -- cities receive the same benefits of the merger credit, and the reduction in their electrical bills. That's one area that helps to offset some of the reduction in the franchise fee.

MR. ALLRED: That's my point, Mr. Larson. It's correct that the loss in franchise fee, which is paid by almost everyone, has to be made up by a much smaller group of property tax payers; correct?

MR. LARSON: I don't know the answer to that question.

MR. ALLRED: All right. Thank you.

You've earlier referred to the franchise tax, and I objected to that and you corrected your statement. Franchise fee. Do you have an understanding of what that fee is actually paid for?

MR. LARSON: What it's paid for? I mean within the city's budget, what you spend it on?

MR. ALLRED: No, do you understand the basis upon which PacifiCorp makes those payments to municipalities?

MR. HUNTER: Are we talking about the legal question as to what the statute allows the city to charge?

MR. ALLRED: Isn't it true, Mr. Larson, that the fee is paid so the Company has the use of the public right-of-way?

MR. HUNTER: Objection. I don't think we have a common understanding on that all the time, and that's a legal issue that we'd be happy to address in some other forum, maybe an argument on the Motion to Strike.

MR. ALLRED: If necessary, I'd be happy to put a sample franchise agreement, which makes it very clear, Mr. Hunter.

MR. HUNTER: I have one with me, Salt Lake's.

MR. ALLRED: And would you be prepared to stipulate --

CHAIRMAN MECHAM: Do we need to waste time on this? Is that your understanding? And if it's not, say so. Let's move along here.

MR. LARSON: I'm not that familiar with the franchise agreements or exactly how it all applies.

CHAIRMAN MECHAM: That's fine, let's go to the next one.

MR. ALLRED: Mr. Larson, are you aware of any operating cost that is dependent upon the rate base of the Company?

MR. LARSON: Well, let me at least restate the question and see if I can answer my question, or if you're satisfied with my question. For example, you would have a rate base item like Hunter Power Plant, there would be operating expenses associated with Hunter Power Plant. The two are tied together.

MR. ALLRED: I'm making the assumption, Mr. Larson, that the franchise fee that you pay is an operating cost of the Company. And my question, based on that assumption is, are you aware of any other operating costs that the Company incurs that is tied to rates?

MR. LARSON: Well, my understanding of the franchise fee is that it is nothing more than a pass-through item. I mean it is not reflected in our rates. That's why it's a separate line item on the bill. And so it is simply something -- it's a percentage calculation of city to city, that we calculate and collect from customers on a monthly basis, and we sum up all of that money and remit that in the form of a check to the cities. So it is not reflected in our tariffed prices.

MR. ALLRED: Mr. Larson, is it your understanding that the parties to the proposed Condition 43 intended municipal budget to be adversely affected?

MR. LARSON: We certainly didn't intend for municipal budgets to be affected. We simply were looking at implementing a merger credit that we felt would be beneficial to customers, citizens of the State of Utah, and intended to calculate the franchise fees in accordance with the rules of this state, and comply with those.

MR. ALLRED: Mr. Gimble, it would be correct to state, wouldn't it, that it's the Committee's position that rates shouldn't be kept artificially high in order to provide an enhanced franchise fee revenue stream for municipalities?

MR. GIMBLE: Well, I think I agree pretty much with what Mr. Alt said, this is an issue, at least from the Committee standpoint, to carefully think through when we put together Condition 43. I mean we'd be willing to sit down and discuss this further but --

MR. ALLRED: Thank you all right. Lastly, Mr. Wright, is it ScottishPower's position that it intends to decrease the sum that it pays to municipalities for the use of the public right-of-way.

MR. WRIGHT: I can merely confirm that this subject was not discussed when negotiating the size or the impact of the merger credit.

MR. ALLRED: Is ScottishPower willing to proceed with further discussions regarding that issue?

MR. WRIGHT: I would think so, yes.

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

CHAIRMAN MECHAM: Mr. Randle, do you have something?

MR. RANDLE: Thank you. Were we planning on breaking at 12:30.

CHAIRMAN MECHAM: Yes.

MR. RANDLE: I'm going to address this to Mr. Alt and Mr. Wright, just so that I have some idea of what the parties agreed on, and if I get into areas where you really didn't have an agreement, if you'd let me know.

I'm concerned about the mechanics of this credit and how it's going to be implemented, and I think those are some of the things you mentioned a minute ago, the things you've contemplated, Mr. Alt. Just assume hypothetically that the merger was in place by January 1, 2000. Then you say about half-way way down in the first paragraph of 43, that at the end of each year the aggregate amount of the credit allocated in that year shall be calculated. What do you mean by that? So at the of the year 2000 -- I assume that during the year 2000 nothing will be reflected in rates to ratepayers at that point as a result of this credit? Mr. Alt?

MR. ALT: It sounds like they want to answer that question.

MR. RANDLE: All right, Mr. Wright.

MR. WRIGHT: I just thought it was an easy one.

MR. RANDLE: All of my questions are intended to be easy.

MR. WRIGHT: Oh, excellent. I think the intention is that the merger credit applies in 2000. The idea behind the aggregate amount of credit allocation is to be calculated is that you have to some degree get estimates up front, you know, in percentage terms, how the credit applies. So that if you got to the end of year and it was actually 12 million that you had credited, then you need to see how much had been credited, and then you carry that forward by some means to subsequent year. I think that's right, isn't it?

MR. ALT: That's my understanding.

MR. RANDLE: Okay. Well, you fellows have thought about this so much more than I have, that I am just totally in the dark. Let me ask you a few questions.

MR. ALT: To me, the whole idea was to get the full amount of credit that was promised in the condition. And like Matthew Wright said, that they have to make an estimate to be able to put the credit on, because you never know what the customers' bills are going to be in advance. And so you don't know whether for sure you're going to get the full 12 million the first year. Plus there's the fact that if they start a little late in the year, around January 1st, that will make it harder because they'll have to recompute the percentage. The whole idea was just to make sure they get all the money that they promised, is my understanding.

MR. RANDLE: So you're talking in that sentence about looking at the customers' bills and calculating the amount of the credit for each customer. Is that what you're talking about?

MR. LARSON: What we'll do in calculating this is that no later than 30 days after the consummation of the merge, the credit will start. It will run for 48 months. And in each twelve-month increment we will give back to customers or try to give back to customers in that twelve-month window $12 million, as Mr. Alt said, I believe we don't know exactly if you use historical revenue and there is higher usage going forward, you could potentially give back more of the credit.

So we will have to project what revenues will be for the coming 12 months and then we will develop a percentage that will go back to the customers based on that calculation. At the end of that twelve-month period, we will look at how much has gone back to customers, compare to the 12 million. If not all of it has gone back or too much of it has gone back, then we will adjust the next $12 million and continue the same cycle until we've got through all four cycles and the $48 million has been given back. It is our commitment to give back the full $48 million of this commitment to customers.

MR. ALLRED: All right. So in the last sentence of the Paragraph 43, where you talk about a merger credit tariff, and assuming that the merger was in place by January 1, 2000, and I take it that you're talking about filing a tariff that reduces customers' bills on a projected basis, based on their projected usage, that would result in a $12 million reduction Company wide for the

Utah jurisdiction?

MR. LARSON: That is correct. No later than 30 days, we would file a tariff and implement a line item on a customer's bill that would represent their proportionate share of the $12 million, and that would commence 30 days after the consummation of the merger.

MR. RANDLE: So in my hypothetical, by the end of January 2000, you'd file such a tariff with this Commission?

MR. LARSON: We would file it with the Commission, and the credit would be implemented on customers' bills. If the merger were consummated December 31st of -- hypothetically December 31st of 1999, then on January 31st or February 1st, that the credit would show up on customers' bills. If we consummate it in October or November, then the credit will start showing up earlier.

MR. RANDLE: Okay, that's helpful. Now, I take it that you'd file another tariff at the end of January or early February of 2001.

MR. LARSON: I don't know that we would have to file another tariff. We would just modify the one that was in place to adjust the percentage up or down so that the customers were getting the full $12 million.

MR. RANDLE: And during those first two years, you would not be concerned about what actual cost reductions had been incurred as a result of the merger. They would just be automatic in those first two years, the reduction; is that correct?

MR. LARSON: I think we'd certainly be concerned about what costs are, but for the purpose of the tariff it will have no impact.

MR. RANDLE: All right. Now in the last paragraph on Page 9, Paragraph 43, where you talk about cost reductions related to the merger and that offsetting the credit in the final two years, I assume that the bargaining was that the burden of proof of proving those cost reductions is the company's?

MR. ALT: That's my understanding.

MR. REEDER: So neither the Company nor you would have any problem if that was specifically set forth in the stipulation?

MR. ALT: I personally wouldn't have a

problem.
MR. GIMBLE: For the Committee, I wouldn't have a problem either.
MR. RANDLE: Would the Company? See,

you get into this problem of maybe there's some cost reductions where, as Mr. Reeder was pointing out, and Mr. Alt saying the further you get down the road, the harder it is to tell. Was it the agreement that the Company takes on the burden of proof as to what those costs reductions are, so that if it's not convincing they don't get it?

MR. HUNTER: I object to the question. The burden is clearly a legal issue. In every case before the Commission we effectively have a burden of convincing the Commission. If Mr. Randle is asking in the sense that do we have to convince the Commission, I have no problem with having him answer the question. If burden is meant in the legal sense, I object to it.

MR. RANDLE: Is the Commission involved? That's another question I had. Does this involve a rate case or a mini case where they come in and say the credit is offset, or is it an automatic thing as a result of bargaining between the Division and the Company or --

MR. WRIGHT: We had assumed this to be class to rate case, so if the Company was incorrect during this period, it would have the job of convincing, with the term that Mr. Hunter used, that the merger savings were attributed to ScottishPower's actions.

MR. RANDLE: What if you don't have a rate case?

MR. WRIGHT: Then the merger credit will continue, for years three and four.

MR. RANDLE: Okay.

MR. WRIGHT: Incidentally, if we have the rate case, of course, then the benefits are captured in rates and we'll be in jury.

MR. RANDLE: So there's nothing in this that would prevent the Company from coming in and filing a rate case and saying, well, our expenses not related to the merger have gone up and so we want a rate increase related to that, regardless of what the cost reduction related to the merger are.

MR. WRIGHT: This approach was specifically designed such that the Company's ability with respect to rate cases is not affected. What we were trying to do is clearly ring fence the benefits of the rate cases to run their course in the business as usual sense.

MR. RANDLE: But when you say the merger credit shall be allocated among PacifiCorp retail customers based on the percentage of their bill, exclusive of taxes -- maybe this question was asked, but if it was, I didn't understand. What do you mean by exclusive of taxes?

MR. LARSON: Just in calculating how the bill will go back -- I mean how the credit will go back to customers. Rather than let the percentage of revenue be influenced by taxes, some communities or fees, as Mr. Allred said, some communities have different rates, fee rates, and so we didn't want that to impact the calculation of the percentage of how this credit would go back to customers, and so it will be calculated based on their electrical rates as set by this Commission and not fees that are charged.

MR. RANDLE: So you weren't referring in that sentence to the Company's taxes?

MR. LARSON: No.

MR. REEDER: So I assume there would be no adjustment to the $12 million as a result of the Company's tax rates?

MR. LARSON: No.

MR. RANDLE: Okay. Now, when you talk about offsetting in years 2002, 2003 for cost reductions related to the merger that are reflected in rates, and that's talking about your rate case?

MR. LARSON: Right.

MR. RANDLE: If you have a rate case then, and you've approved that, there's certain reductions related to the merger the Commission has bought off on, and implements a tariff accordingly, then they're reflected in rates. That's what you mean by that?

MR. WRIGHT: That's correct, sir.

MR. RANDLE: Now, are you talking about cost reductions there related to years 2002 and 2003, or would that accumulate to earlier years as well? In other words, if you came in and proved to the Commission that in -- say, you filed a rate case in 2002, at the end of 2002, and you came forward with proof to the Commission that the cost reductions related to the merger for years 2000, 2001 and 2002 combined were over 75 million. Would your position be then that the credit for 2000 and 2002 and 2003 was entirely consumed?

MR. WRIGHT: Sorry, my understanding of this is that the State of Utah uses a historical test period. It will be the amount of merger related savings reflected in the test period year, such that if there were a rate case in 2002, we would be using a 2001 test year, and we would be looking at merger related savings in that test year with respect to offsetting the merger credit going forward.

CHAIRMAN MECHAM: Mr. Randle why don't we take a lunch recess and we'll return at 2 o'clock.

MR. RANDLE: I'm just about done.

CHAIRMAN MECHAM: We'll finish after.

MR. RANDLE: All right.

(Lunch recess at 12:30 p.m.)