

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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IN THE MATTER OF THE) DOCKET NO. 98-2035-04
APPLICATION OF PACIFICORP)
AND SCOTTISHPOWER PLC FOR) REPORTER'S TRANSCRIPT
AN ORDER APPROVING THE) OF PROCEEDINGS
ISSUANCE OF PACIFICORP)
COMMON STOCK.)
_____)

Salt Lake City, Utah

Friday, August 6, 1999

9:10 a.m.

BEFORE:

STEPHEN F. MECHAM, Chairman, Public Service

Commission of Utah; and

CONSTANCE B. WHITE, Commissioner, Public

Service Commission of Utah; and

CLARK D. JONES, Commissioner, Public

Service Commission of Utah.

--oOo--

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1 August 6, 1999

2 9:10 am.

3

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

5 CHAIRMAN MECHAM: Okay. Good morning.

6 Let's go back on the record in this case.

7 This is the day that we've designated as

8 public witness day, and we welcome those who are here

9 who will testify in just a moment who have been

10 participating at this point and who are not parties.

11 It's an important time for the Commission so that we

12 get an idea of what those who are not participating

13 do think about cases before us. We try to do this in

14 all important cases before us.

15 Commissioner Jones is not here. He's not

16 feeling well. He is going to try to get here this

17 morning, but it wasn't clear when he would be able to

18 be here.

19 For those of you who will testify, under

20 our rules, public witnesses do not have to be sworn

21 in as experts appearing before us do, however, if you
22 would like to be sworn in, you can be, and if you
23 are, the Commission can base findings of fact in our
24 order on things that you say, otherwise it will be
25 used strictly for information purposes.

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1 Following the statements by those who will
2 testify orally, I will refer to some letters and
3 memoranda that the Commission received either by
4 E-mail or in writing through the regular mail, and
5 you can find those things to which I'll refer on our
6 docket or in the record in this case on file.

7 Okay. If there's nothing further that we
8 need to address informally, let's move now to Mr.
9 Thomas Breitling.

10 MR. BREITLING: Where do I come?

11 CHAIRMAN MECHAM: Right here, the witness
12 chair. Mr. Tingey, who is the lawyer for the
13 Committee of Consumer Services, will start each of
14 the witnesses by asking your name, the organization
15 or people you represent and your address and that
16 sort of thing. Now, Mr. Breitling, would you like to
17 give sworn testimony?

18 MR. BREITLING: Yes, that would be fine.

19 CHAIRMAN MECHAM: Could you stand and raise
20 your right arm to the square and we'll swear you in.

21 MR. BREITLING: Do what?

22 CHAIRMAN MECHAM: Raise your right arm to

23 the square.

24 //

25 //

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1 THOMAS O. BREITLING

2 called as a witness and sworn, was examined and

3 testified as follows:

4 CHAIRMAN MECHAM: Thank you. Mr. Tingey.

5 DIRECT EXAMINATION

6 BY MR. TINGEY:

7 Q Please state your name and spell it for the

8 court reporter.

9 A Do I make my statement first?

10 CHAIRMAN MECHAM: No. Go ahead and just

11 respond to his --

12 Q (BY MR. TINGEY) Would you please state

13 your name and spell it for the court reporter.

14 A First name is Thomas, T-H-O-M-A-S, middle

15 initial is O., last name is Breitling,

16 B-R-E-I-T-L-I-N-G.

17 Q Would you give us an address, either at

18 home or business. Your choice.

19 A Just home. 4794 South 2124 East.

20 Q Thank you.

21 A Holladay, H-O-L-L-A-D-A-Y, 84117.

22 Q Are you here representing anyone other than
23 yourself?

24 A Not today.

25 Q Please say what you came here to say.

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1 A Okay. Comments regarding anomalies noted
2 in SEC Form 10-K-A from PacifiCorp, page 54,
3 statements of consolidated income revenues, 1998
4 increased from 1997 by 1 billion 31 million dollars.
5 Expenses. Purchased power in 1998 increased from
6 1997 by 1 billion 2 million dollars. Interest
7 expense and other TEG costs and option loss in 1997
8 and 1998 combined add to 179 million dollars. Right
9 now, the investments in energy development companies
10 cost 79.5 million dollars.

11 Loss from discontinued operations in 1998
12 was 146 million 700 thousand dollars. Net income for
13 1998 declined from 1997 by a total of 699 million 800
14 thousand dollars.

15 My questions: What companies or company
16 sold the power to PacifiCorp at a price so high that
17 the increase in revenues did not cover the increased
18 cost of purchased power? Why was power purchased at
19 such a high price? Did any director, officer or
20 executive of PacifiCorp have any interest whatsoever

21 in any company from which power was purchased? Was
22 the purchase price of the power especially high so
23 that the providing company would make a secure profit
24 while PacifiCorp lost on the purchase? Was there an
25 advantage for any entity in having PacifiCorp shares

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1 decline in price? For example, ScottishPower.

2 Is there any conflict of interest among
3 controlling members of PacifiCorp which has not been
4 revealed in the required documents? Is the sale of
5 PacifiCorp to ScottishPower a desperation move by
6 PacifiCorp directors and executives who seem unable
7 to profitably run a regulated electric power
8 company?

9 As a customer of PacifiCorp, I request that
10 Utah Public Service Commission withhold approval of
11 the merger of PacifiCorp with ScottishPower.
12 Directors, officers and executives of PacifiCorp have
13 consistently made decisions which lost money. They
14 have laid off productive workers and rewarded
15 directors and executives for what charitably can be
16 called incompetence.

17 Under their direction net income for 1998,
18 as I stated, declined by 700 million dollars. In
19 their game of monopoly, they never got Boardwalk or
20 even Park Place, but they did well themselves.

21 If, in the years of PacifiCorp's existence,
22 the directors could not make correct decisions, there
23 is no reason to believe their decision to merge with
24 ScottishPower is any better than any of their other
25 decisions.

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1 The present decision before the Public
2 Service Commission is critical. After the merger is
3 approved and effected, this state will never again
4 have the power which it now has to regulate this
5 effective monopoly. I request that the Commission
6 deny approval of the merger. Even though probably it
7 will be approved, I wanted to come down and let you
8 know how I felt about it.

9 CHAIRMAN MECHAM: Okay. Are there any
10 questions for Mr. Breitling?

11 MR. HUNTER: No questions.

12 CHAIRMAN MECHAM: Okay. Thank you, Mr.
13 Breitling for coming.

14 THE WITNESS: You're welcome.

15 CHAIRMAN MECHAM: Let's go off the record
16 just a moment.

17 (Discussion off the record.)

18 CHAIRMAN MECHAM: Okay. Let's go back on
19 the record. The second person on the list is Julius
20 Hoggard.

21 MR. HOGGARD: Yes.

22 CHAIRMAN MECHAM: Would you like to come

23 forward, Mr. Hoggard?

24 I neglected to mention at the outset that

25 if you do give sworn testimony, the lawyers in the

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1 room representing parties can ask you questions, but
2 as you saw, they're very gentle.

3 Would you like to give sworn testimony?

4 MR. HOGGARD: Yes.

5 CHAIRMAN MECHAM: Would you stand, please?

6 JULIUS HOGGARD

7 called as a witness and sworn, was examined and
8 testified as follows:

9 CHAIRMAN MECHAM: Thank you. Mr. Tingey.

10 DIRECT EXAMINATION

11 BY MR. TINGEY:

12 Q Would you please state and spell your name
13 for the court reporter. Please state your name and
14 spell it.

15 A Again?

16 Q Yes. Please state your name and spell it
17 for the court reporter.

18 A Julius M. Hoggard, H-O-G-G-A-R-D.

19 Q And your address?

20 A 2550 Elizabeth Street, No. 4, Salt Lake.

21 Q Thank you. And are you here representing

22 anyone today?

23 A I'm representing only myself.

24 Q Thank you. Would you please proceed with

25 what you came to say?

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1 A To begin with, I have no statistics. I
2 have only the impressions that I bring with me as a
3 result of 35 years of working for the Utah Power &
4 Light Company. I'm prejudiced, there's no question
5 about it, towards Utah Power & Light, and perhaps
6 more deeply toward the customers of the Utah Power &
7 Light system in Utah.

8 Now, as the previous witness has borne out,
9 the combination of Utah Power & Light and PacifiCorp
10 was a disaster. The expenses of the power company
11 have been lowered by reduction in personnel, by
12 reduction in workforces, by lack of reinvestment into
13 the system.

14 Now, perhaps I best give you a little of my
15 background with the power company and my background
16 generally so that perhaps these impressions will have
17 a little more weight. I had two hitches in the navy,
18 one during the war, one during Korea. In the
19 meantime, I went through the University of Utah and
20 had a bachelor's degree in electrical engineering. I

21 later on got a Master of Business Administration at
22 the University of Utah.

23 I worked for Utah Power & Light 35 years.

24 All but a few months of that was in supervision. I

25 was assistant superintendent and superintendent of

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1 the southern division, assistant superintendent and
2 superintendent of the Salt Lake Division, and I was
3 assistant to the vice-president and commercial
4 manager, Jim Taylor, for some years.

5 As such, I had a lot to do with the
6 budgeting, particularly at the time I was in the
7 general office, with the budgeting and the various
8 expenses. As a superintendent, the division
9 superintendent has the -- in the old organization --
10 I'm sorry it's not here any longer -- but in the old
11 organization of Utah Power & Light Company the
12 superintendent had responsibility for the
13 distribution plant, that is, the distribution system,
14 the underground systems, the substations, the
15 subtransmission systems that actually serve the
16 customer. If the power went off in Salt Lake Valley
17 or any part of Salt Lake Valley while I was
18 superintendent here, which most of my career was
19 spent here in Salt Lake Valley, it was my
20 responsibility.

21 That included the budgeting of the monies
22 back into the system in order to keep it a viable
23 operating kind of a system and to keep up with the
24 loads that were coming on.
25 Now, in recent years, the development in

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1 the valley has been horrendous, very rapid. I have
2 the strongest feeling that there hasn't been
3 corresponding reinvestment of customer dollars into
4 the system. No corporation creates money, with the
5 possible exception of PacifiCorp.

6 Money into a power system comes from the
7 customers of the power company by it. It's their
8 system. Stockholders put the money in, of course,
9 but then they are paid for their use of their money
10 through dividends. Up until recent years through
11 dividends.

12 Now, I must be frank with you. I own no
13 Utah Power & Light stock. I own no PacifiCorp
14 stock. As the pattern began to be clear, I sold
15 everything I had at a loss. I did buy back in a few
16 years ago in order to get their annual statements,
17 but after a while I sold that, too, at another loss.
18 The annual statements of PacifiCorp have been
19 masterpieces. My MBA degree -- I had sort of a minor
20 in accounting, but I could not follow their reports.

21 Now, as I've said, I think the power
22 company has been bled down, and I believe that's a
23 good term. Many of their employees -- most of the
24 old hands have been offered retirements and are
25 gone. Revenue has increased, as has been pointed

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1 out. There have been no major expenditures. Think
2 about it. In the last 12 years, there have been no
3 power plants built by Utah Power & Light. There have
4 been no major transmission lines since the Richfield
5 to Nevada line was completed, and it's those two
6 items that really cost real dollars to the power
7 company -- or to the customers of the power company.
8 Transmission and production are the heavy expenses.

9 Now, I have grave concern with a strong
10 feeling that the system needs dollars. Now, I can
11 only see one major project that's been completed in
12 recent years. Gatsby plant has been started up, let
13 down, started up, shut down. Finally now there is a
14 new substation immediately east of Gatsby. It's a
15 bulk substation and I'm sure it was there strictly to
16 stabilize the loads here in Salt Lake.

17 I have no knowledge as to how much
18 redundancy remains in the system. In our time,
19 downtown Salt Lake, this area, had a completely
20 redundant power supply. It was redundant in

21 substations and individual transformers. It was
22 redundant in cables able to deliver. In other words,
23 it was only on an emergency preferred basis. If a
24 cable failed in a vault, an automatic switch would
25 switch to another cable. In order to be fully

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1 redundant, that second cable had to handle its own
2 load, plus the load that comes onto it, a redundant
3 system.

4 There has been some work done on the
5 underground, but I doubt that it's redundant to the
6 degree that it was. In my time, we did reduce the
7 redundancy from substation redundancy to largest
8 transformer redundancy. That means that we could
9 lose the largest transformer in the system serving
10 downtown Salt Lake and still get by.

11 Nowadays, I don't know what exists. I'm
12 sorry that I haven't specifics, but that would
13 involve going back and talking to people within the
14 organization now and I did not want to do that. This
15 is not the organization I grew up with and there is
16 some feeling that we don't talk negatively about
17 what's going on, and I think perhaps for good
18 reason.

19 Now, then, my basic question is this: What
20 possible advantage can there be to the customers of

21 Utah Power & Light Company, in Utah particularly,
22 from adding another echelon of executive management
23 on top of PacifiCorp? Worse than that, a foreign
24 executive management. Now, there have been
25 statements to the effect that they are great

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1 managers; every organization they have taken over has
2 prospered and so forth. I'm not quite sure that
3 there are statistics to back that up. They maintain
4 that they -- there have been public announcements
5 that they are excellent in training the people that
6 they take over.

7 Incidentally, I saw a picture in the Oregon
8 paper where they were training a lineman to do hot
9 work. That is, cover up rubber goods hot work. The
10 primaries were covered with rubber and he was working
11 with his rubber gloves and he was standing on a
12 ladder. That's known in the industry as a ladder
13 lineman. The last ladder lineman in Utah Power &
14 Light Company went out in about 1965, a fine old
15 gentleman by the name of Brady down at Santaquin.
16 You do not do line work in this country from
17 ladders. I'm sorry. No. We do use bucket trucks,
18 and the power company was well equipped with bucket
19 trucks, modern fleet.

20 The power company's fleet back in the early

21 '80s was the finest utility fleet in the nation, the
22 most efficient utility fleet, and we had real money
23 in it. That fleet has been disbanded. Most of the
24 crews are gone. Most of the most of the work is done
25 by contract. That has to be expensive.

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1 I did see a contractor the other day going
2 down the road. He had his line truck and a pickup
3 truck and a material truck, and behind them come an
4 elbow from a rental agency. I did drive out past the
5 service center on North Temple. There were several
6 elbows sitting in the lot. I think, to say the
7 least -- and it was put very well by the preceding
8 witness -- that the management of PacifiCorp in
9 handling of the Utah Power & Light Company has been
10 sadly, sadly deficient.

11 Now, then, the Scottish people have
12 indicated that they thought they could lower the cost
13 of the Utah system so that the system reduced its
14 expense for handling of a customer to meet that
15 that's existing in the national average. That means
16 cutting the costs. That is without production
17 costs. That meant cutting the costs from roughly 350
18 some odd dollars down to 150. Cutting the cost of
19 serving a customer in half.

20 Now, the cost is already down because there

21 are a lot of people gone. Their offices -- make a
22 survey. Check the offices of the power company.
23 They're closed all over the system. Other than Moab
24 a while back, and I wanted to stop and see if any of
25 my lineman friends were still there. I couldn't get

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1 into the service center during working hours.

2 I don't know where the next power company
3 office would be to Moab. American Fork offices both
4 are closed. I have a feeling that the power system
5 has been so constricted that the service isn't there
6 that we used to get.

7 Now, the phone system truly was disaster.
8 Now, I understand that's been redone about three
9 weeks ago. There's a new system working. I tried to
10 report an outage a week ago to my son's house and I
11 wasn't successful. I finally did go out and find a
12 lineman. There was a trouble man in the area and I
13 happened to see his truck and I told him where I
14 heard a fuse blow and he went and put it back in
15 again.

16 I have the strongest feeling that the power
17 company system is at a low ebb, and as I say, I have
18 no dollars to show you that. I wish I did. But I
19 have no way of getting them without going back to the
20 Company and jeopardizing people that I know within

21 the Company.

22 Again, I say I fail to see how echeloning

23 of executive management on top of what's here already

24 with the PacifiCorp, and now the Scottish, I fail to

25 see how that can be beneficial. It worries me deeply

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1116

1 that there has been the implication from the Scottish
2 people that they are going to reduce costs further.
3 They're very adamant about that. I don't know how.
4 In my experience, you're about as low as you're going
5 to get in Utah Power & Light and continue to
6 operate.

7 It would be my considered judgment that
8 it's going to take a rather appreciable influence of
9 money to bring this system back up to the redundancy
10 and to the operation's efficiencies that it was
11 before being taken over by PacifiCorp. I fail to see
12 how the Scottish people are going to help that,
13 particularly if they are looking for further cash
14 outflow from the Utah system into the PacifiCorp and,
15 consequently, into the Scottish banks. I guess
16 there's no other way to put that. If you like your
17 bills going to Scotland, fine. I have a very strong
18 feeling that that would be disaster.

19 With that, I think that's generally what I
20 had to say.

21 CHAIRMAN MECHAM: All right. Thank you,
22 Mr. Hoggard. Are there questions of Mr. Hoggard? I
23 know Commissioner White has one.

24 COMMISSIONER WHITE: Mr. Hoggard, thank you
25 for your comments. It seems to me that the first two

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1 witnesses already have sort of laid out our dilemma,
2 and I would like your thoughts on how we could
3 resolve this. On the one hand, Mr. Breitling said
4 that we should deny this application for a merger,
5 but on the other hand, I think I hear you telling us
6 that the current owners may not have done a
7 satisfactory job, in your minds.

8 THE WITNESS: I think your last statement
9 that the current owners have not done a satisfactory
10 job is a masterpiece of understatement. They have
11 failed horribly.

12 COMMISSIONER WHITE: But if we deny this
13 merger application, you can see where that leaves
14 us. How would you suggest we resolve this?

15 THE WITNESS: Now, then -- and I realize
16 I'm reaching quite a ways on this. If you deny it,
17 is there a possibility that PacifiCorp may see a
18 glimmering of light and separate Utah Power & Light
19 from PacifiCorp as a Utah system and let it become a
20 Utah owned company again?

21 MR. BREITLING: Amen.

22 THE WITNESS: The stockholders are still
23 here. Now, the stockholders have been treated very
24 badly. That's why I sold. They have voted to go
25 with the Scottish people because they have been

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1 presented a hope of maybe the stock climbing a little
2 bit so they can unload. The ones I have talked to
3 are going to unload if there's any increase at all.

4 If then you reject this takeover, which I
5 call it, maybe there is the chance that Utah Power &
6 Light will separate from PacifiCorp, become a Utah
7 corporation again and be a utility sensitive to the
8 customers here in Utah and none other. That would be
9 my suggestion. Whether that's possible or not -- I
10 have been told it is not possible by the management
11 of PacifiCorp. I know a few of those fellows.

12 COMMISSIONER WHITE: Thanks.

13 CHAIRMAN MECHAM: Any other questions for
14 Mr. Hoggard? All right. Thank you very much for
15 coming.

16 THE WITNESS: Thank you.

17 CHAIRMAN MECHAM: Kem Gardner. Would you
18 like to make a sworn statement, Mr. Gardner?

19 MR. GARDNER: Yes, I would.

20 KEM GARDNER

21 called as a witness and sworn, was examined and
22 testified as follows.

23 CHAIRMAN MECHAM: Mr. Tingey.

24 //

25 //

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1 DIRECT EXAMINATION

2 BY MR. TINGEY:

3 Q State and spell your name for the court
4 reporter.

5 A K-E-M G-A-R-D-N-E-R.

6 Q Mr. Gardner, what's your address, either
7 home or business?

8 A Business address is 127 South 500 East,
9 Suite 1, Salt Lake City.

10 Q Thank you. Are you here representing any
11 persons or entities?

12 A I'm president of the Boyer Company and I'll
13 represent them and myself.

14 Q Please go ahead.

15 A Thank you. The Boyer Company is a real
16 estate development firm located in Salt Lake City.
17 Over the past 25 years, we've developed about 13
18 million square feet of office, retail, medical, hotel
19 space, and we currently own and manage about six
20 million square feet.

21 We value our relationship with the utility
22 company in order to do our development business.
23 Utility companies generally have been helpful in
24 terms of encouraging economic development, working
25 with us to get power to our construction sites and

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1 solve transmission line problems, and particularly in
2 the billing of our tenants and ourselves and the
3 buildings that we own.

4 Back in 1998, I felt that Verl Topham was
5 wise in pushing the merger of Utah Power because I
6 felt that Utah Power was vulnerable and would
7 probably end up with someone that would dismantle it,
8 and I felt that he had some assurances to protect it.
9 That, sadly, didn't work out. But there was proposed
10 rate decreases that did work out. I think about 25
11 percent. I don't know exactly.

12 But we felt that there would be also
13 improved service, and so I supported the merger in
14 those days, but in recent years I feel that there has
15 been a noticeable decline in the service and a lack
16 of attention by PacifiCorp to their core business of
17 producing and transmitting power, and I cite, for
18 example, the fact that we don't see them out in
19 economic development working with the local
20 communities in the state anymore and helping us with

21 economic development issues.

22 We have experienced an increasing number of

23 incorrect billings for our tenants in our buildings,

24 and while Mark Cleary, I think, does an admirable

25 job, he's just really overwhelmed by the number of

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1 incorrect billings, and I think a lot of that is due
2 to the fact that Pacific Power thought they had a
3 better billing system than Utah Power and transferred
4 people up, but I think that's been a real problem.

5 But also the biggest problem for our
6 company has been we need to be able, in doing our
7 development, to cut through the bureaucracy and deal
8 with local people that understand our community and
9 our problems, whether it's moving transmission lines
10 down at Gateway or getting construction power or
11 helping us get a subdivision going.

12 We're doing, right now under active
13 development, about \$450 million of development. It's
14 really a very busy time for us, and yet it's
15 increasingly difficult to have that relationship with
16 the power company that we need and like to depend
17 on.

18 We were disappointed when, right after the
19 initial merger, John Bohling was transferred up and
20 then Verl was re-assigned as Utah Power & Light

21 corporate president to corporate counsel, and then I
22 think Tom Forsgren tried admirably, too, but his
23 position was eliminated, and there really isn't a
24 local person. If we didn't have Paul Barber in the
25 system to help us cut through and get some responses,

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1 it would be difficult for us.

2 Now, you ask the question that you've
3 asked. If service is notably declined, what makes
4 you think that the devil you don't know will do any
5 better. I really support the merger. I don't see
6 that Utah Power is going to ever be able to separate
7 itself and we run our local utility again. I believe
8 that ScottishPower will focus more on their core
9 business and improve the support in the community.
10 Particularly, I think they'll help with economic
11 development issues.

12 I serve on the executive committees of at
13 least five major boards in the valley, including the
14 Salt Lake Chamber of Commerce, and I've heard
15 presentations by ScottishPower, been to lunches with
16 them, and I've been impressed by their discussion
17 with us of understanding the core business, the
18 nature of the power business and their desire to
19 improve service, and I really believe that they will
20 do a better job than Pacific Power.

21 Also, I served a large stint in education
22 as chairman of the Regents and am currently on the
23 Utah Partnership for Education and other educational
24 boards and I've been quite impressed with Jack Kelly
25 and his commitment to education, what ScottishPower

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1 has done for education for disadvantaged, for
2 community education and also education for their
3 employees. I've listened to this and I've heard him
4 express has strong desire to be a corporate partner
5 with education.

6 I think education is clearly the biggest
7 crisis facing our state, more so than this power
8 question. Our public schools really need an influx
9 of assistance, and I would welcome a corporate
10 partner to help us in dealing with the educational
11 issues, and I feel like they're sensitive to those
12 issues and anxious to help.

13 So, while I don't know ScottishPower, I'm
14 hopeful that there will be not just rate reductions
15 that we've had, but an improvement in service, an
16 improvement in economic development activities and
17 improvement in billings and in taking care of our
18 tenants. And after looking at the alternatives, I
19 really believe that we have no choice but to support
20 this merger and encourage ScottishPower to help

21 restore service into our system.

22 CHAIRMAN MECHAM: Okay. Thank you. Are

23 there questions for Mr. Gardner? All right. Thank

24 you, Mr. Gardner, for coming.

25 Barbara Toomer. Ms. Toomer, would you like

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1 to give a sworn statement?

2 MS. TOOMER: Yes, I would.

3 BARBARA TOOMER

4 called as a witness and sworn, was examined and

5 testified as follows.

6 THE WITNESS: My name is Barbara Toomer,

7 B-A-R-B-A-R-A T-O-O-M-E-R. I'm representing the

8 Disabled Rights Action Committee, which is a

9 statewide organization for people with disabilities

10 that are committed to access of people with

11 disabilities.

12 We would like to go on record as supporting

13 this merger. We appreciate ScottishPower for

14 realizing the need of people with disabilities that

15 they have, and low income people, because the

16 majority of people with disabilities are low income

17 people.

18 In a recent Supreme Court decision of

19 Olmstead, they stated that it was discriminatory to

20 keep people in institutions and that they should be

21 put into the most integrated setting, which in a lot
22 of places is a community. In order to live in a
23 community, many of the people who come out of nursing
24 homes and institutions will be living on less than
25 \$480 a month, one-third of which goes to rent. That

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1 leaves you with a very, very low amount of money, and
2 I've been in homes of people with disabilities at the
3 end of the month where there's nothing in the
4 refrigerator at all.

5 And this merger with ScottishPower has
6 promised us that they are sensitive to the needs of
7 people with disabilities, that they will give an
8 additional reduction for people with disabilities,
9 especially those who need it, because we're not
10 asking for a handout. We're just asking for the
11 integration aspect, the ability to live in the
12 community the way everybody else does, instead of
13 being institutionalized.

14 If you sit around and you think that there
15 are people with MS and other diseases that cannot
16 stand the heat, they need air conditioning, and then
17 if you think of people who have polio, who are spinal
18 cord injured, who have very great sensitivity to
19 cold, they need the space heaters, so it's a
20 year-round problem of power for people with

21 disabilities.

22 I use a powered chair. I have to plug it

23 in every two days in order to keep my batteries up.

24 That doesn't take a lot of electricity, but it does

25 take electricity. And so these discounts are very,

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1 very important to people with disabilities.

2 I just would like to just go on record in
3 saying that the people with disabilities support the
4 way ScottishPower has integrated us into the system.
5 Thank you.

6 CHAIRMAN MECHAM: Thank you, Ms. Toomer.
7 Are there questions for Ms. Toomer? All right.
8 Thank you for coming. Roger Monia.

9 MR. MONIA: My name is Roger Monia. It's
10 spelled R-O-G-E-R M-O-N-I-A. I'm just a volunteer.
11 I work at of the Community Action Program. I also
12 sit on the board of directors of the Disabled Rights
13 Action Committee. I am an occupant of low income
14 housing. I live the experience of not having enough
15 money at the end of the month to pay my bills. I
16 make it a point to pay my rent and my bills at the
17 first of every month, and if I need assistance after
18 that, then I go to the food banks or things like
19 this, but since I became a volunteer, I have overcome
20 this problem.

21 But I see families that live on just \$480 a
22 month. I see those kids the last two weeks of the
23 month in the streets. You know, they have ice cream
24 vendors go through there. Kids -- you know, they go
25 to their folks. It makes their folks really feel

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1 bad. You know, they don't have the money for this.
2 And with ScottishPower offering these programs, I
3 think the merger would be really the thing -- really
4 the way to go with the ScottishPower merger if they
5 provide these excellent programs that they state they
6 do. Thank you.

7 CHAIRMAN MECHAM: All right. Thank you,
8 Mr. Monia.

9 CHAIRMAN MECHAM: Betsy Wolf.

10 BETSY WOLF

11 called as a witness and sworn, was examined and
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. TINGEY:

15 Q Would you state your name and address and
16 if you're representing anyone?

17 A My name is Betsy Wolf. That's B-E-T-S-Y
18 W-O-L-F, and my address is 764 South 200 West in Salt
19 Lake City. I work as a utility specialist for Salt
20 Lake Community Action Program, which serves as a

21 direct service provider and an advocate on behalf of
22 low income people in Salt Lake and Tooele counties.
23 While our organization has intervened in
24 this case, I wanted to testify briefly today to
25 supplement the testimony submitted by Jeffrey Fox on

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1 behalf of Crossroads Urban Center and Salt Lake CAP
2 and the stipulation we entered into with
3 ScottishPower and PacifiCorp.

4 We've been impressed since the time we
5 filed our testimony by the commitment demonstrated by
6 ScottishPower to low income people and programs, both
7 by its philosophy that helping low income people is
8 the right thing to do, accompanied by the recognition
9 that carefully designed programs benefit everyone in
10 the system, low income customers, the rest of the
11 ratepayers, the utility company and taxpayers in
12 general by reducing the need for other services.

13 ScottishPower shares our conviction that it
14 is important not only to help with rate assistance,
15 which is very important for helping people, as you
16 just heard, but also to look at the longer term needs
17 of assisting low income households in ways that
18 actually reduce a household's overall energy burden,
19 thus making lives more comfortable and bills more
20 affordable and payable.

21 We're impressed by work with counterparts
22 in the United Kingdom. We've spoken with a represent
23 from EGA, which is the Energy Assistance Grants
24 Agency there, and the person we spoke with, John
25 Cluff, shared his thoughts on working with people --

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1 working with ScottishPower to help low income
2 households. He described ScottishPower as a company
3 with an "acute social conscience," and one that deals
4 with these kinds of issues better than any other
5 electric or gas company in the UK.

6 Since we filed testimony, we've also spoken
7 with low income advocates in other PacifiCorp states
8 who have found ScottishPower eager to work with them
9 on these issues, even when these parties had not
10 formally intervened in the merger cases. We see this
11 also as a demonstration of the Company's commitment
12 to these issues.

13 In Jeffrey Fox's prefiled testimony, he
14 asserted that our organization supported the
15 ScottishPower merger insofar as it relates to low
16 income issues. In addition, we also support the
17 stipulation entered into between the Committee of
18 Consumer Services, the Division of Public Utilities,
19 ScottishPower and PacifiCorp. While the logistics
20 did not permit our signing onto the stipulation, the

21 agreement, in fact, allayed any other concerns that
22 we might have had during this process.
23 So, based on the acceptance of these two
24 stipulations, we do support the proposed merger and
25 look forward to a continued constructive working

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1 relationship with ScottishPower. Thank you.

2 CHAIRMAN MECHAM: Thank you. Are there
3 questions for Ms. Wolf? Thank you.

4 THE WITNESS: Thank you.

5 CHAIRMAN MECHAM: The next witness is Terra
6 Jordan. Would you like to give a sworn statement?

7 MS. JORDAN: Yes.

8 TERRA JORDAN
9 called as a witness and sworn, was examined and
10 testified as follows.

11 THE WITNESS: Hi, again. I testified in
12 this courtroom --

13 DIRECT EXAMINATION

14 BY MR. TINGEY:

15 Q State and spell your name for the court
16 reporter.

17 A Oh, yeah. I'm sorry. Terra Jordan,
18 T-E-R-R-A J-O-R-D-A-N. I reside at 770 Denver
19 Street, Apartment 10, Salt Lake City, 84111.

20 Q Are you representing anyone?

21 A Only other low income people like myself.
22 I'm a single disabled mother of one child. My fixed
23 income is seven hundred dollars and twenty -- \$721 a
24 month. I'm nervous.
25 Normally, big mergers like this scare me

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1 because I have this impression that it's kind of
2 those kind of big powerful companies that are making
3 it harder and harder for the little people, but I've
4 been really impressed with ScottishPower. I had a
5 meeting with Jack Kelly and Pacific Power Corp to
6 discuss their educational programs, and I'm
7 impressed.

8 What impressed me most was that they didn't
9 just come in and say, well, this is what we did in
10 the UK, so we're going to do that here and we hope
11 you all like it. They came in and they asked. They
12 said, What do you need? What's going on here? How
13 should we design our programs so that they work for
14 you? And they didn't ask other people who have other
15 programs. They asked people like me. And they said,
16 Find us some people. We want to know. Help us
17 design this.

18 It seems kind of goofy. I don't usually
19 support this kind of thing, but I think, maybe,
20 considering the times that we're in with welfare

21 reform coming up on us -- do you guys even realize
22 what we're facing with that? This 36-month limit in
23 Utah, we hit that first 36-month limit December 1st.
24 Hundreds of families are going off the rolls, and we
25 can see from other states that it's not working.

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1 People go off the rolls and they go deeper and deeper
2 into poverty. We don't have programs and systems
3 that are really going to effectively help that
4 situation out much.

5 I'm scared. I'm really scared of what
6 we're facing. I think that ScottishPower helps bring
7 some common sense to the whole situation. I think
8 that if other large corporations could follow their
9 example, we might see some hope. That's about all I
10 have to say. Thank you.

11 CHAIRMAN MECHAM: Thank you. Are there any
12 questions for Ms. Jordan? Thank you very much for
13 coming.

14 Henry Eyring. Is Mr. Eyring here? There
15 he is. Mr. Eyring, would you like to make a sworn
16 statement?

17 MR. EYRING: Yes, I would.

18 CHAIRMAN MECHAM: Would you stand and we'll
19 swear you in.

20 HENRY EYRING

21 called as a witness and sworn, was examined and

22 testified as follows:

23 CHAIRMAN MECHAM: Mr. Tingey.

24 //

25 //

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1 DIRECT EXAMINATION

2 BY MR. TINGEY:

3 Q Mr. Eyring, would you state your full name
4 and spell it for the court reporter.

5 A Yes. My name is Henry Johnson Eyring. I
6 live in North Salt Lake at 123 South Eaglewood Drive.

7 Q Are you here representing anyone?

8 A I'm not. In fact, I need to clarify that,
9 though I'm currently an employee of Brigham Young
10 University, I do not speak on behalf of the
11 university. I'd like to say also for the record that
12 I, several years ago, as a management consultant, did
13 some work for PacifiCorp as a client, but I come as
14 an individual today and would like to speak primarily
15 to the issue of the educational development and
16 training programs that I have seen presented by the
17 people from ScottishPower.

18 I'm the director of the MBA program at
19 BYU. We have a fond memory of Utah Power as being
20 our original partner in the creation of our executive

21 MBA program. In addition to the full-time MBA, we
22 graduate each year 65 students in a professional
23 executive MBA program. Class is held in the
24 evening. That program had its genesis about 15 years
25 ago with Utah Power where we met originally actually

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1 in the Company cafeteria with a group of employees of
2 the Company who wanted to advance their education,
3 and from that, we've created quite a successful
4 executive MBA program.

5 I don't have great insight to the
6 particular programs that ScottishPower has proposed
7 to run, but based on some brief presentations and
8 also some knowledge of the work that they've done in
9 Scotland, the consulting company for which I work,
10 Monitor Company, has done work with the Scottish
11 Development Agency in the United Kingdom, and I know
12 of ScottishPower's reputation there as being
13 unusually attentive to the needs of employees for
14 development and training.

15 I have seen the materials and the
16 curriculum that they have developed for employees
17 there in the UK and believe both in the quality of
18 what they're doing and the vision of it and would
19 just like to add my voice of enthusiasm for inviting
20 them to apply those kinds of programs here.

21 And I guess a little bit romantically, I
22 think back to those days when Utah Power was
23 innovating with our MBA program and see the potential
24 for that kind of thing to continue. And that's
25 really all I had to offer.

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1 CHAIRMAN MECHAM: Thank you. Any questions
2 for Mr. Eyring?

3 COMMISSIONER WHITE: I have just one
4 question. What was your experience like with
5 PacifiCorp? We've heard about your hopes for
6 ScottishPower and your experience with Utah Power &
7 Light.

8 THE WITNESS: I, as a consultant, consulted
9 with them purely on economic issues. I have to, in
10 fairness, say that I did not seek out -- did not seek
11 to understand what sorts of programs they were
12 offering, just know of the contrast from the days of
13 Utah Power when there was this executive MBA and
14 great support for that, and my sense is that there's
15 been less emphasis on PacifiCorp's part than there
16 was in those early days and might be with
17 ScottishPower.

18 CHAIRMAN MECHAM: All right. Thank you
19 very much for coming. Are there others who have come
20 to testify? Okay. Thank you very much. Let's go

21 off the record.

22 (Discussion off the record.)

23 CHAIRMAN MECHAM: Let's go back on the

24 record. We did receive a memorandum from a fellow

25 named Lou K. Mitchell, and he asked that this

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1 statement be read. Apparently he has a heart
2 condition and wasn't able to come in and read it
3 himself.

4 This is to the Public Service Commission
5 from Mr. Mitchell it states follows: When
6 ScottishPower assumes control of PacifiCorp, all
7 dividends paid to USA citizens will be subject to a
8 minimum 15 percent income tax to Scotland. As this
9 tax payment will be deductible from the USA income
10 tax, revenue from this source will disappear, not for
11 four years but, in effect, forever.

12 The United States Government and the Utah
13 State Government will not reduce their expenditures
14 by the amount of this loss of income. Therefore, the
15 citizens of Utah will be required to pay an
16 equivalent amount in the form of additional taxes to
17 offset this state income loss.

18 Additional federal taxes will also be
19 required to offset equivalent federal income tax
20 losses. The end result of the situation, in my

21 opinion, will amount to a 15 percent international
22 subsidy to Scotland by Utah's and other USA citizens
23 without any notification or approval of these
24 citizens. This hidden subsidy is not for just four
25 years but forever.

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1 I do not believe a state Public Service
2 Commission has the authority to force this hidden
3 international subsidy to be paid by Utah's or any
4 other citizen of the USA without their and Congress's
5 approval and will probably organize a citizen's group
6 to sue PacifiCorp and ScottishPower, as no mention of
7 this hidden subsidy was made in the "tax
8 consequences" section of their published information
9 explaining the merger and its effects.

10 The benefit from a four-year 1.7 percent
11 rate reduction apparently did not consider this
12 forever income tax loss of 15 percent of all
13 dividends paid to USA citizens and is therefore
14 invalid. If Scotland also has a tax on corporate
15 profits, additional loss of taxes to either or both
16 state and federal governments which would have to be
17 covered by USA citizens.

18 Requested action: Postpone any action of
19 this merger until these issues are resolved. Signed
20 by Mr. Lou K. Mitchell. Mr. Mitchell resides at 9801

21 Jordan Ridge Road, South Jordan City, 84095. That's
22 available. A copy of it is available on the file.
23 There are also numerous messages that we received
24 over the Internet which we'll attach to the file as
25 well for public review.

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1 COMMISSIONER WHITE: Regarding the tax
2 issues, does anybody have any response to those?

3 MR. HUNTER: Other than we don't think
4 that's an accurate representation of the law and that
5 this is an unsworn document that we don't have an
6 opportunity to quiz him about, no.

7 CHAIRMAN MECHAM: Okay. All right. Let's
8 go off the record.

9 (Discussion off the record.)

10 CHAIRMAN MECHAM: All right. Let's go back
11 on the record. While off the record, we marked
12 several exhibits that have been prefiled with the
13 Commission. They are witnesses who are not going to
14 appear but we're going to enter their prefiled
15 testimony.

16 We have marked as UAMPS 1 the direct
17 testimony of Mr. Daniel. We marked as DCED 1 with
18 1.1 attached. That is Mr. Winder's direct
19 testimony. We marked as DCED 2 with 2.1 attached,
20 Mr. Davis' direct testimony. We marked as CCS 1,

21 with 1.1 through 1.4 attached, which is Mr. Gimble's
22 direct testimony. We marked as CCS 1R Mr. Gimble's
23 rebuttal testimony. We marked as CCS 2, with 2.1
24 through 2.2 attached, Mr. Biewald's direct
25 testimony. We marked as CCS 3 with 3.1 attached, Mr.

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1 Chernick's direct testimony. We marked as CCS 4 with
2 4.1 attached. It's Mr. Talbot's direct testimony.
3 And we marked as Emery 1, with 1.1 through 1.3
4 attached as Mr. Malko's direct testimony.

5 Is there any objection to the admission of
6 any of those exhibits that I've identified? Hearing
7 none, we'll admit them.

8 (Whereupon Exhibits UAMPS 1, DCED 1, 1.1, 2
9 and 2.1, CCS 1, 1.1 - 1.4, 1R, 2, 2.1, 2.2, 3, 3.1, 4
10 and 4.1, Emery 1, 1.1 - 1.3 were marked and
11 received.)

12 MR. FARR: Mr. Chairman, I do have one
13 clarifying statement that I would like to make in
14 relation to Exhibit DCED 2. That's the prefiled
15 testimony of Frank Davis. We just want it to be
16 clear in the record that Mr. Davis' concerns raised
17 in that testimony were addressed in the letter
18 agreement between DCED and ScottishPower.

19 CHAIRMAN MECHAM: Okay. Thank you. Is
20 there anything further on those exhibits? All

21 right. Let's take a little recess.

22 (Recess, 10:18 a.m.)

23 (Reconvened, 10:39 a.m.)

24 CHAIRMAN MECHAM: Let's go back on the

25 record. We have on the stand Dr. Richard Anderson

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1 who is testifying for the Large Customer Groups. Or
2 Group. Let's swear you in first.

3 DR. RICHARD ANDERSON

4 called as a witness and sworn, was examined and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. DODGE:

8 Q Dr. Anderson, would you please state your
9 name.

10 A It's Richard Anderson.

11 Q And for whom do you work?

12 A Energy Strategies, Incorporated.

13 Q And in what capacity?

14 A Senior associate.

15 Q And you're appearing today on behalf of
16 whom?

17 A The Large Customer Group.

18 MR. DODGE: We have prefiled the direct
19 testimony and exhibits of Dr. Richard M. Anderson on
20 behalf of the Large Customer Group, which I believe

21 have been marked LCG 1 with exhibits marked in the
22 testimony as RMA 1 through 10 that we would be
23 request are marked as LCG 1.1 through LCG 1.10.

24 Q Mr. Anderson, does that represent your
25 testimony in this proceeding?

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1 A It does.

2 Q Mr. Anderson, would you provide a summary
3 of the testimony as you filed it?

4 A I will. My testimony set out to review the
5 direct application of ScottishPower and PacifiCorp.
6 What I attempted to do in that testimony was to
7 outline basically the components of the benefits that
8 were being proposed by the application, the costs
9 and/or risks that were being incurred by ratepayers
10 and customers of the Company, PacifiCorp, to suggest
11 that that risk be mitigated and then to outline in
12 brief form for the end how risk mitigation had been
13 handled elsewhere in mergers, and finally to suggest
14 some recommendations on how risks could be mitigated
15 in this proceeding and this application.

16 As a way of summary, the benefits of the
17 merger as originally proposed seemed to be extremely
18 uncertain. There was the original \$10 million in
19 corporate cost savings that had been put forth by the
20 applicants as a guaranteed savings. Beyond that,

21 however, the additional savings that were to be --
22 additional benefits that were to be derived by
23 customers of the utility really remained very
24 unclear. There was no quantification of them. There
25 was a suggestion on Mr. MacLaren's testimony that

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1 there were some economic benefits to be derived by
2 system enhancement, but in terms of being able to
3 actually identify and being able to place some kind
4 of value on the benefits that lie in the efficiency
5 measures in which the Company sought -- the combined
6 Company sought to employ, everything remained
7 remarkably uncertain.

8 Having that kind of uncertainty in this
9 application I found to be troubling. It clearly
10 presented substantial risk to customers of the
11 Company. We didn't really know what was to be
12 presented in this -- what was to be developed in this
13 merged Company over time. The transition plan
14 remained illusory. We just really didn't know.

15 I guess the conclusion that was drawn and
16 the testimony was that, because of basically
17 sparseness of the quantified benefits with the
18 substantial risk involved, that there needed to be
19 some kind of risk mitigation.

20 In summary, my recommendation in that

21 testimony, the direct filed testimony, was it
22 presented a number of proposed risk mitigation
23 actions that the Commission could take to ensure that
24 there would a public interest finding in the
25 application.

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1 Q Dr. Anderson, have you reviewed the
2 stipulation entered into among the applicants and the
3 Division and the Committee?

4 A I have.

5 Q And have you also listened throughout these
6 proceedings to commitments or agreements made by the
7 applicant?

8 A I have been here all week long.

9 Q And in your view, is the stipulation with
10 the commitments made during this hearing -- does that
11 present an application adequate, in your mind, to
12 effectively mitigate the risks that you've
13 identified?

14 A No. I think the stipulation -- I think the
15 stipulation does do considerable good in the sense of
16 removing a number of the uncertainties that were
17 present in the direct filing of the application. It
18 is a very good step and, absent that stipulation, I
19 think the original application was clearly deficient
20 in a public interest finding, and I think most

21 parties agree that was there and that's why you see
22 the stipulation being brought forward.

23 However, I do have many problems with the
24 stipulation. There are -- I would categorize them
25 both maybe in two different kind of sets or two

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1 different forms. One is the stipulation -- and both
2 tend to -- both the kind of problems that I see still
3 remaining tend to, not surprisingly, get back down to
4 Condition 43, the merger credit, the price mitigation
5 or a risk mitigation through some kind of price
6 consideration.

7 Originally, kind of going back to my
8 original testimony for just a second, I had suggested
9 in that original testimony that a key component of
10 mitigating risk was some kind of price concession on
11 behalf of the applicants. The merger credit that has
12 been put forth in the current stipulation that's
13 before this Commission is where I would center on why
14 the stipulation is still probably lacking or still in
15 the deficit in terms of mitigating all the risks.

16 The first one is the right size. Is the
17 credit the right size. Is it enough to get us over
18 this hurdle. If you go back to the filing -- direct
19 testimony that was filed not only by myself but by
20 other intervenors, Nucor, Dr. Goins, Mr. Brubaker,

21 who is with us today, the Committee witnesses, the
22 Division witnesses, every witness in this case --
23 those I just mentioned, anyway -- noted that there
24 was substantial amount of risk involved in this
25 application. To the extent that that merger credit

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1 is enough to push us over the bar I have real
2 concerns with.

3 You have a \$48 million credit over four
4 years. I ran a couple of quick net present values of
5 that. Depending on the interest rate you choose, if
6 you want to choose 10 and a half percent interest
7 rate, you come out with something in the neighborhood
8 of about \$39 million. If you choose a 9 percent
9 interest rate, you come out with something in the
10 neighborhood of \$37.5 million.

11 COMMISSIONER WHITE: Excuse me, Dr.
12 Anderson. What does your 39 and your 37 million
13 dollars refer to?

14 THE WITNESS: The net present value of the
15 \$48 million credit.

16 COMMISSIONER WHITE: Okay. Thank you.

17 THE WITNESS: Now, yesterday on the stand
18 in a direct question Mr. Dodge asked -- in response
19 to a direct question, Mr. Dodge asked Mr. MacRitchie
20 whether there was going to be additional guaranteed

21 cost savings beyond the fourth year. Mr. MacRitchie
22 indicated there was not. We can take off -- I assume
23 we can take off now, off the table, the original
24 promise of that direct filing in which there was a
25 \$10 million guaranteed corporate savings, to use the

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1 term that they used, I believe in their testimony, in
2 perpetuity.

3 The applicants had argued that that \$10
4 million had a net present value of \$100 million. If
5 Utah gets roughly a third -- let's make the math
6 easy. Say Utah get \$35 million net present value of
7 that. We've basically taken off the table \$35
8 million in guaranteed corporate savings in perpetuity
9 in exchange for 37.5 million, or 39 million,
10 depending on which interest rate you want to use.

11 It's a very small increment. The delta
12 there in the terms of this application is extremely
13 small, and for me, I don't think that delta, the
14 change that has actually been incorporated into that
15 stipulation, is enough to get us over the bar.

16 The second area where the stipulation I
17 think again -- and it has to do with Condition 43 --
18 the second area where the stipulation I believe still
19 is in deficit has to do with the fact that, even as
20 constructed with the \$48 million credit, it does not

21 provide adequate risk mitigation for all customers.
22 And no surprise, I think those that I would highlight
23 here are special contract customers. And I'll talk a
24 little bit about that in a minute going further, but
25 basically, kind of to summarize where those deficits

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1 I still see lie, is that the delta in the value and
2 risk mitigation that's been put forth in the
3 stipulation is still insufficient to cover the amount
4 of risk that virtually all the parties indicated in
5 their original filing; and two, that the risk
6 mitigation measure as stated remains inadequate to
7 cover all customers. In effect, it has a
8 discriminatory aspect to it.

9 Q (BY MR. DODGE) Dr. Anderson, will you
10 describe what you see as the discriminatory aspect
11 and whether or not, in your view, in light of that,
12 it meets the public interest standard?

13 A Well, the discriminatory aspect again gets
14 back to the question of how special contracts are to
15 be handled in this going forward measure. You have
16 most special contracts that are going to come up for
17 renewal at some point in time during this, I think
18 what most witnesses have referred to as a transition
19 period, and I think we've put some definition around
20 that transition period now in terms of the dates that

21 are defined in the stipulation as that the close of
22 2003.

23 You've got -- as it's written today, you
24 basically have at least some risk mitigation for all
25 customers out to that close of 2003. Again, I don't

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1 think it's enough, but there is some risk mitigation
2 out to that point.

3 The special contract customers, however,
4 will face a renewal period coming up roughly midway
5 in that kind -- in that transition period. There is
6 no guarantees been put forth that these customers
7 will not face significant difficulties in extending
8 their contracts, will not face increases in or
9 pressure and upward increases in contract rates that
10 could be brought forth by merger related activities
11 that are forcing the cost of the operations of the
12 Company upward.

13 There are simple risks involved in the
14 renewal of these contracts, midpoint roughly,
15 midpoint in this transition period, and while we have
16 taken a great leap forward, basically, in trying to
17 mitigate those kinds of risks to all ratepayers and
18 customers of this Company, these customers continue
19 to remain kind of exposed, economically exposed at
20 that point in time.

21 Q Mr. Anderson, the customer group on whose
22 behalf you're testifying includes some special
23 contract customers?

24 A It does. I kind of think of myself as a
25 mini CCS here. While Mr. Tingey's customers are

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1 virtually rate one and small commercial, the block of
2 customers that I represent include large commercials,
3 Schedule 6, industrial customers on Schedule 9, as
4 well as two special contract customers.

5 Q Mr. Anderson, in light of all you've heard
6 and done in the context of this merger, do you have
7 any recommendations for this Commission as to how
8 approval of the merger application could proceed and
9 meet what you believe to be the public interest
10 standard?

11 A Yes, I do. In my mind, there's really two
12 ways that the Commission could remove the additional
13 uncertainty I think that still underlies this
14 application. Probably the cleanest way is the filing
15 of the transition plan. The transition plan, as
16 noted in the direct filing of the applicants, is
17 really the heart and soul -- if I understand it
18 correctly, is really the heart and soul of this going
19 forward merged Company. It is where actions are to
20 be identified. It is where cost estimates to employ

21 those actions are to be determined and put forth. It
22 is where estimated benefits of such actions are to be
23 identified, and it is really kind of the -- again,
24 kind of the core instrument by which this merger
25 centers around. The quickest way to remove that

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1 uncertainty would be simply to have that transition
2 plan put forward.

3 We have been told now by numerous witnesses
4 on the behalf of the applicants, that that is simply
5 not possible, that you can't do it. It can't be done
6 under the terms of the merger agreement and the
7 amended merger agreement. It can't be done as a way
8 of matter of course in the way that ScottishPower has
9 addressed similar transitions at Manweb and Southern
10 Water. It just can't be done.

11 I find that unfortunate that it can't be
12 done, but if it can't be done, we'll take that at
13 face value.

14 The second way, then, to remove that
15 uncertainty I think that still remains in this
16 application is again to get back to -- go back to
17 some form of rate concession that is beyond what has
18 been put forth in the merger credit. It is only
19 through some kind of substantial verifiable rate
20 concession that this Commission, I think, can

21 ultimately determine whether this is going to be --
22 this application is going to be in the best
23 interest.
24 I would suggest that it is important that
25 the Commission remove as much uncertainty as possible

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1 as you move forward. You've got an application
2 before you that, in a sense, says we are going to do
3 what we need to do to merge this Company and produce
4 savings sometime in the future. We just can't tell
5 you today what that sometime is going to be. We can
6 tell you that six months out we're going to have a
7 plan, but we can't even tell you, the actions that
8 are outlined in that plan, when those will all be
9 incurred.

10 Mr. MacRitchie has, in his numbers he gave
11 out yesterday or testified to yesterday, indicated
12 that roughly -- and this is a rough guess -- that the
13 goal of this action plan or transition plan is to
14 reduce nonproduction costs somewhere in the range of
15 about \$350 per customer down to \$210 per customer.
16 Quick math on that, you're looking at about 1.4
17 million customers. The goal really centers around --
18 somewhere around 190 million to roughly 200 million
19 dollar cost savings in this Company. That is a very
20 substantial amount of money and a clearly a very

21 aggressive action plan that's going to have to be put

22 forth to achieve that.

23 The ratepayers should not be held

24 responsible for the risk burden of making sure that

25 such an action plan ultimately materializes and

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1 produces 190, 200 million dollars worth of savings.
2 Customers did not ask for this merger. We did not
3 seek it. It was brought to us by the applicants, and
4 the risk of its success should surely lie upon the
5 applicants.

6 I suggested in my testimony, and I still
7 stand by that, this suggestion with regard to rate
8 concessions, that the superior way of moving forward
9 to ensure that the risk of success -- or the risk of
10 nonsuccess lies squarely on the shoulders of the
11 applicants and that customers, all customers be
12 relieved of that risk burden and be made whole in
13 this application and that the way to move forward is
14 a rate cap. I still stand by that. I still think
15 that a rate cap does several things. It is clearly
16 the cleaner of the rate concessions that can be
17 made. It puts into place an assured system by which
18 the risk of this merger will not be shifted over to
19 customers in the future.

20 I think we've already talked about, here in

21 this hearing for several days, the difficulty that
22 this Commission is going to have in tracking merger
23 related savings and merger related costs as you move
24 off further down the line further in line from this
25 proceeding.

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1 The cap will allow -- will remove some of
2 that difficulty -- will remove most of that
3 difficulty in doing so.

4 Secondly, I think the cap presents the
5 proper economic signal and economic incentive to the
6 Company. This Company has come forward and said
7 we're going to save 190 million, 200 million
8 dollars. They will have a cap from which they know
9 that now they are being held responsible to meet that
10 goal. The merger activities that they put forth
11 should, in fact, you know, ultimately be successful,
12 should be able to reduce costs enough so that the cap
13 does not become punitive in that sense.

14 Now, I understand and I'm well aware of the
15 fact that last year in this hearing, in this very
16 proceeding, this very room, there was a rate case and
17 that an \$85 million rate reduction took place and
18 that part of that rate reduction simply centered
19 around the shifting forward of certain expenses that
20 were declared to be out of historical year.

21 If there is reason, if there are sound
22 reasons why those premerger costs should now be
23 recaptured by the Company, then it would be
24 possible -- even though I think this is a kind of
25 theory of second best here, I think it would be

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1 possible to go ahead and have, as Mr. Larson
2 testified early in this week that they have plans to
3 have a rate case, to go ahead and have a rate case to
4 address those premerger cost issues that got shifted
5 out of historical test year.

6 And by doing so, you accomplish two
7 things. You allow the Company to get back to
8 recapturing expenses which they had incurred in a
9 premerger context. Similarly, it establishes a
10 baseline, a premerger baseline from which we can now
11 move forward, and if you cap it after that, now
12 you've got the baseline from which this Company, the
13 merged Company, will be held responsible to making
14 sure that their promise of 190, 200 million dollars
15 worth of savings will be met.

16 So I would suggest, you know, probably the
17 cleanest way, the best way to do this would be simply
18 to have them bring forward the transition plan and
19 make it the core instrument by which we can debate
20 whether this is a good or bad merger. But we can't

21 do that. They say we can't do that. And okay, we'll
22 take that.
23 Outside of that, then let's go to option
24 number two, which is to have some kind of assurances
25 that the risks involved in this merger are absolutely

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1 where they should be, on those who brought this
2 merger forward, and not being shifted in future rate
3 cases, which will become extremely difficult to
4 monitor as to what is merger related and what is not
5 merger related, and the way to avoid that is by some
6 form of rate cap.

7 That cap could take on all kinds of
8 variations. I think Mr. Alt in his testimony talked
9 about soft caps and so forth, so there's all kinds of
10 variations which one could address.

11 Q And, Dr. Anderson, if, notwithstanding that
12 recommendation, the Commission were to approve the
13 merger application with a rate credit, merger credit
14 along the lines proposed, do you have any
15 recommendations for how the Commission should deal
16 with the discriminatory aspect of the merger credit
17 that you described?

18 A Yes. I think the discrimination element in
19 this stipulation that has been put forward truly
20 needs to be resolved. You basically have bifurcated

21 customers of this Company between those that are
22 going to benefit through some kind of risk mitigation
23 and those that are not going to benefit through some
24 kind of risk mitigation. And note that I'm not
25 suggesting that the benefits -- the credit benefits

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1 should flow to those customers.

2 I would suggest that the best way to handle
3 that, what I would consider the split on risk
4 mitigation, is simply that this Commission should
5 make as a condition of the merger the right or the
6 extension of these contracts out to the close of
7 2003, again what, I think, is commonly now being
8 referred to here as the transition period. I would
9 suggest, in doing so, that -- I am not in any way
10 suggesting that the Commission basically abdicate its
11 rights to review those contracts to make sure that
12 those contracts are doing what they supposedly are
13 doing, and that is that they are in line with the
14 costs and that they are adding -- they are
15 contributing -- they're covering the variable costs
16 and contributing to fixed costs under the same terms
17 and conditions that the contracts were originally
18 agreed to. It is simply an extension of the contract
19 during the transition period, subject to the same
20 kinds of terms and conditions that govern those

21 contracts and the Commission's rights to review those
22 contracts as exist today.

23 MR. DODGE: Thank you. Mr. Chairman,
24 that's all I have for Mr. Anderson. I would move the
25 admission of LCG 1 and 1.1 through 1.10 subject to

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1 cross.

2 CHAIRMAN MECHAM: Thank you. Is there any
3 objection?

4 MR. VAN NOSTRAND: No objection.

5 CHAIRMAN MECHAM: All right. We'll admit
6 them.

7 (Whereupon Exhibits LCG 1 and 1.1 through
8 1.10 were marked and received.)

9 CROSS EXAMINATION

10 BY MR. VAN NOSTRAND:

11 Q Good morning, Dr. Anderson.

12 A Good morning, Mr. Van Nostrand. We seem to
13 be spending our summer together, don't we?

14 Q It's our third stop together, is it not?

15 A It is.

16 Q Before getting into your prefiled
17 testimony, I can't help but wade in on some of the
18 issues that you raised in your summary. First of
19 all, the importance you're now attaching to the
20 filing of the transition plan as a precondition of

21 merger approval, that recommendation doesn't appear
22 anywhere in your prefiled testimony, does it?
23 A It does not. I think I -- perhaps in the
24 prefiled testimony of the applicants I didn't really
25 give the amount of credence or didn't understand the

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1 amount of importance of this transition plan as it's
2 been argued by the applicants in the various hearings
3 and here as well.

4 Q So based on your review of the direct
5 testimony, you did not see that to be a huge
6 deficiency in the Company's presentation that they
7 would file the transition plan as a condition of
8 merger approval?

9 A I didn't see it as a deficiency because I
10 didn't really, I think, understand its importance. I
11 think I characterized it as kind of a core instrument
12 on going forward.

13 Q Another point you made in your summary is
14 the fact that the \$12 million merger credit for four
15 years, in your view, displaces any commitment as far
16 as the \$10 million corporate savings guarantee. Is
17 that a fair summary of what you said?

18 A In response to what I heard Mr. MacRitchie
19 say yesterday.

20 Q Now, you would agree, wouldn't you, that,

21 to the extent, in Condition 43, the Company may
22 reduce or offset the \$12 million merger credit to the
23 extent that cost reductions are reflected in rates,
24 you would agree, wouldn't you, that provides some
25 incentive to actually produce the corporate cost

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1 reductions?

2 A I'm not really sure if I agree with that.

3 You know, if they have a choice giving up \$12 million

4 or they have a choice of reducing costs to a greater

5 value -- let's make the arithmetic simple. Let's say

6 they have a choice of cutting costs \$20 million, so

7 you're faced, as a company, with giving up 12 or

8 giving up 20. I'm not so sure that's the proper

9 incentive to have. I'm not so sure it's not, in

10 fact, the reverse incentive.

11 Q As we discussed, you and I have spent some

12 time in Idaho and Wyoming together. You would agree

13 that in those states the \$10 million corporate

14 savings guarantee goes on in perpetuity?

15 A Yes. I -- well, you surely -- the

16 applicants, your clients, surely agreed to that in

17 the stipulation in Wyoming. I was never really clear

18 whether you stipulated to anything in Idaho. I know

19 you talked about making that stipulation available to

20 the Idaho staff, but I -- unless that was resolved

21 the last day of the hearing that I wasn't there. I
22 left the hearing thinking the stipulation had never
23 been resolved.

24 Q So if we stick with the Wyoming
25 stipulation, and to the extent the corporate savings

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1 are actually achieved pursuant to the commitment in
2 that stipulation, would they not flow to Utah
3 customers through the corporate allocation process,
4 cost allocation process?

5 A Yes, they would.

6 Q Let's go back to your prefiled testimony
7 and see if perhaps there aren't some issues in your
8 testimony which have been addressed by the conditions
9 in the stipulation. One issue that you raise is the
10 transaction costs which I think you discuss at page
11 39, the discussion that applicants are holding in
12 reserve the option of attempting to shift the
13 transaction cost recovery.

14 A That's true.

15 Q And you would agree that condition three of
16 the stipulation would prevent that from happening?

17 A Yes. I'm glad to see that you've responded
18 to my testimony.

19 Q I believe ScottishPower has a reputation of
20 being responsive, Dr. Anderson.

21 And, similarly, the acquisition premium
22 paid by ScottishPower that you discuss on page 39,
23 you understand the stipulation prohibits that from
24 being recovered in rates under Condition 26?
25 A I do.

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1 Q Your testimony also discusses what you've
2 described as transition costs of about \$135 million,
3 the first portion of that being the \$55 million to be
4 spent to implement the service quality improvements?

5 A That's true.

6 Q And as to that, do you understand from the
7 stipulation that the Company has committed that this
8 spending will be financed from efficiency savings and
9 redirected internal funding under Condition 28?

10 A I understand that and I find that
11 troubling, yes.

12 Q And that the Company will be required to
13 report funding sources and expenditures against this
14 \$55 million?

15 A Yes.

16 Q And your testimony in 42 and 43 talks about
17 the commitment for renewable generation. You claim
18 that the cost effectiveness is unsubstantiated?

19 A That's true.

20 Q And does it satisfy that concern that the

21 Company is required to demonstrate the prudence of
22 that resource under Condition 41?

23 A It does. However, I would note that,
24 listening to Mr. Richardson on the stand, as well as
25 in Mr. Richardson's rebuttal testimony, he seems to

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1 have suggested a definition of prudence that is
2 something other than what I was suggesting there,
3 which was the more traditional cost effective basic
4 economic criterion that one would use in defining
5 prudence.

6 Q Well, would you accept that, in evaluating
7 the prudence of a renewable resource, that there may
8 be factors other than strictly economic costs which
9 would be taken into account?

10 A Of a renewable resource?

11 Q Yes.

12 A You could argue that. That is not -- there
13 again, you may violate the notion of cost effective
14 or prudent. You may argue that it's socially
15 beneficial. I'm not necessarily convinced that that
16 is a definition of prudent or cost effective.

17 Q But whatever standard the Commission
18 chooses to apply in evaluating prudence, that's the
19 standard the Company will have to satisfy, isn't it?

20 A Absolutely. Ultimately it's going to be a

21 Commission decision.

22 Q Now, on the merger credit issue, I think

23 one of the complaints in your testimony was that --

24 on page 34 you say the applicants have yet to commit

25 to a mechanism that will recognize promised merger

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1 cost savings in present customer rates. Would you
2 agree that that criticism is no longer applicable in
3 light of Condition 43?

4 A I would agree that you have promised to
5 provide some kind of benefits in rates.

6 Q There is a mechanism that will recognize
7 promised merger cost savings in rates?

8 A There is a mechanism; however, as I
9 explained, I think that mechanism is in deficit.

10 Q And when you made the statement that you
11 felt the risks to customers are simply not
12 commensurate with any of the guaranteed benefits to
13 customers, that statement was made before there was
14 any merger credit proposal, was it not?

15 A That's true.

16 Q Another issue which you raise in your
17 testimony is the executive severance costs, and you
18 point out that the applicants have not explained that
19 they expect these costs to be above the line or below
20 the line; is that correct?

21 A That is true.

22 Q And would you say that that issue has been
23 clarified by the inclusion of Attachment 2 to the
24 stipulation?

25 A Yes.

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1 Q And, similarly, the proposed ratemaking
2 treatment of bonuses and incentive payments that you
3 discuss on page 46, would you agree that that also
4 was clarified by Attachment 2?

5 A Yes.

6 Q And then you talk about concerns about
7 intercompany loans at page 53 and what you describe
8 as concern that ScottishPower will use PacifiCorp as
9 a partial funding mechanism for activities undertaken
10 elsewhere in the ScottishPower family. Would you say
11 that those concerns are largely addressed by
12 Condition 14 which provides that the intercompany
13 loan agreement will continue to apply?

14 A Yes, to the extent that that loan agreement
15 is fully understood by all parties.

16 Q And another issue you raise in your
17 testimony has to do with the requested authorization
18 for an additional \$5 billion in unsecured debt, and
19 is it fair to say that Condition 22 addresses this
20 concern to the extent that it requires PacifiCorp to

21 apply to the Commission for approval of any debt

22 issuances?

23 A Yes.

24 MR. VAN NOSTRAND: Mr. Chairman, I've got a

25 couple of cross examination exhibits. Could we

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1 approach the witness?

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

4 (Discussion off the record.)

5 (Whereupon Cross Exhibits 21 and 22 were
6 marked.)

7 CHAIRMAN MECHAM: Let's go back on the
8 record. While off the record we marked a single page
9 exhibit entitled Present Value of the \$60 million
10 Annual Benefits From Improved System Performance as
11 Cross Examination 21, and we marked a multiple page
12 document which is a response to data requests to the
13 Large Customer Group as Cross Examination Exhibit
14 22.

15 MR. VAN NOSTRAND: Thank you, Mr.
16 Chairman.

17 Q Dr. Anderson I'm looking at the portions of
18 your testimony, I guess pages 13 through 15, which
19 discuss the \$60 million in reliability benefits. Do
20 you understand that this \$60 million value is

21 associated with only two of the network performance

22 measures, just SAIDI and MAIFI?

23 A Yes.

24 Q And it does not attempt to capture the

25 other three network performance measures or the

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1 customer service performance measures or the customer
2 service guarantees?

3 A Yes.

4 Q Your testimony at the bottom of 15 says the
5 customers are left to ponder the value of a
6 substantial portion of their promised benefits and
7 that these benefits cannot be assigned a value and,
8 thus, are likely to be -- ephemeral is the term I
9 believe you used. Is that right?

10 A I did use ephemeral.

11 Q I guess I'm wondering what there is to
12 ponder about promised improvements in SAIDI, SAIFI
13 and MAIFI, all other things being equal. Isn't it a
14 value to the customers to have fewer and shorter
15 interruptions in their power supply?

16 A It's most likely of some value, but I would
17 take issue that this \$60 million has any, whatsoever,
18 tie to the PacifiCorp system.

19 Q But it does have -- you're talking about
20 pondering the value of a substantial portion of the

21 benefits. You would agree it does have -- these
22 other benefits have value?
23 A It could have a value of a dollar. We just
24 don't know what those values are because your clients
25 have not performed the necessary willingness to pay

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1 and survey type tests that would create those
2 values.

3 Q And that would be perhaps the kind of
4 survey that we attempted to do of the Large Customer
5 Group in Request Number 22 in cross examination
6 Exhibit 22?

7 A I'm sorry? What was it, 22?

8 Q The final page of that document where we
9 asked for information about the economic impact of
10 outages by members of your client.

11 A I'm sorry, Mr. Van Nostrand. And your
12 question is?

13 Q You criticized the Company's failure to
14 perform a survey that would assign a value to these
15 economic benefits. I'm inquiring about the sort of
16 survey you had in mind that we would inquire of our
17 customers about the economic impact of outages.

18 A I would think you would want to do that and
19 do it in an updated manner in 1999.

20 Q When this data request was issued?

21 A Yeah. Yes.

22 Q In terms of the value of these other

23 benefits, you would agree, wouldn't you, that if

24 PacifiCorp misses an appointment or fails to restore

25 power within 24 hours, that customers would really be

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1 paid \$50 than not be paid \$50, wouldn't they?

2 A Yes. Well, no. I guess I would say which
3 customers.

4 Q Industrial customers would get \$100.

5 A We've testified that that's lunch money.
6 That's not much value at all.

7 Q But there's not much to ponder about,
8 though, is there?

9 A No.

10 Q If we could turn back to cross examination
11 Exhibit 21, you make the point in your testimony that
12 the applicants have claimed that the \$60 million in
13 annual benefits is -- has a net present value of \$600
14 million which you took issue with and claimed that it
15 required -- it would require these benefits to
16 continue for more than 200 years. Is that your
17 testimony?

18 A I believe it is.

19 Q And would you accept that what we've done
20 in Exhibit 21 is show the net present value

21 calculation ramping in the improvements over the
22 first five years and using the 9 percent discount
23 rate that we discussed in our response to your data
24 request 1.5?
25 A Yes.

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1 Q And will you agree that this exhibit shows
2 that 75 percent of these benefits or about \$450
3 million are captured in the first 18 to 19 years?

4 A If that is the correct choice of the
5 discount rate, then your math works.

6 Q And, similarly, if we go down to the bottom
7 of the page, year 50, by the time year 50 comes
8 around, we have about 97 percent of the \$600 million?

9 A That's true. Fifty years from now we will
10 finally see 90 percent of the value you're putting on
11 the table.

12 Q 97 percent, I believe.

13 A 97 percent.

14 Q So when your testimony talks about the 200
15 million -- or the 200 years, you're basically talking
16 about the 150 years it takes to get that last 3
17 percent?

18 A It was that last increment.

19 Q Yeah. Okay. Another part of your
20 testimony discusses the hypothetical merger partner

21 that's the domestic merger that's being precluded by
22 this transaction. Do you remember that from your
23 testimony?

24 A I do.

25 Q And I believe we asked you in Data Request

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1 No. 3 to identify the subject utility and to identify
2 the synergy savings that would be produced by this
3 utility in Request No. 4. Do you recall that?

4 A I do.

5 Q And there is no domestic utility
6 identified, is there?

7 A No. And, again, I think I stated before
8 that the reference to a hypothetical was not to --
9 hypothetical merger partner was not to suggest that
10 one was in the wings, but instead was an argument
11 that there is an opportunity cost involved in this
12 merger that you were taking off the table any
13 potential discussions with other merger partner.

14 Q Isn't it fair to say that a transaction
15 between two domestic operating utilities faces a
16 somewhat more difficult approval process than this
17 transaction?

18 A To the extent that other considerations may
19 be present, particularly market power type
20 considerations, that would be the case.

21 Q And that when FERC applies its screen for

22 those market power tests, there may be some

23 mitigation that was shown to be necessary?

24 A Could be, yes.

25 Q And it's also likely that -- or it's also

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1 true that the time it takes to obtain the necessary
2 approvals can be much longer in a domestic merger,
3 wouldn't you say?

4 A Again, depending on the conditions. Surely
5 some domestic mergers have exceeded this time, the
6 time frame that we're using on this one.

7 Q I'd like to focus on the portion of your
8 testimony where you discuss Mr. MacRitchie's
9 benchmarking exhibit and your criticisms of that high
10 level benchmarking analysis with Mr. MacRitchie
11 included as an exhibit to his direct testimony. I
12 think there's discussions primarily around page 32.
13 One of the things you say that -- you use a number of
14 customers, I guess to establish the foundation. Mr.
15 MacRitchie's benchmarking analysis was based on
16 nonproduction costs per customer; is that right?

17 A That's my understanding.

18 Q The nonproduction costs that he used were
19 from the 1996 FERC Form 1?

20 A That's my understanding.

21 Q And I think your point on page 32 is that
22 using a number of customers as the denominator rather
23 than the units of consumption, such as kilowatt
24 hours, distorts the comparisons. Is that what your
25 testimony states?

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1 A Yes.

2 Q And the way you illustrate that is you
3 provide a number of studies which rank utilities on
4 the basis of all costs. In other words, production
5 and nonproduction costs in the numerator, and the
6 denominator, rather than dividing by the number of
7 customers, like Mr. MacRitchie does, you divide it by
8 kilowatt hours, megawatt hours?

9 A That's right.

10 Q Just comparing these two approaches, is it
11 fair to say the nonproduction costs tend to be the
12 fixed costs which do not vary by the amount of
13 consumption?

14 A Yes. As a general statement.

15 Q And if you lost 100 megawatts of load, for
16 example, would the nonproduction costs change
17 significantly?

18 A Should not. At least in the short run.

19 Q And it's also fair to say that the
20 production costs tend to be a bit more variable in

21 nature?

22 A A bit more variable.

23 Q And if you lost 100 megawatts of load, your

24 production costs would be reduced by the cost of

25 generating that hundred megawatts?

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1 A Absent commitments on contracts for fuels
2 and so forth that you couldn't get out of.

3 Q Is it fair to say that the production or
4 generation costs are a fairly high percentage of a
5 utility's operating costs?

6 A Yes.

7 Q I guess as an example, if we could look at
8 your Exhibit 4, the second page of that exhibit, you
9 have the statistics on operations and maintenance
10 expenses for a number of utilities. Do you have that
11 in front of you?

12 A Yes, I do.

13 Q So if we look at Idaho Power, for example,
14 out of the \$22 per megawatt hour total, \$16 of that
15 represents production?

16 A That's true.

17 Q And like Florida Power it's roughly
18 80 percent or \$35 a megawatt hour over the \$44
19 total?

20 A That's true.

21 Q So you could have a utility with very low
22 generation costs and high nonproduction costs which
23 may look fairly efficient on a total cost per
24 megawatt hour basis, couldn't you?
25 A It would be possible to have that kind of

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1 conclusion drawn.

2 Q And if we look at Idaho Power, for example,
3 in your exhibit, their cost per megawatt hour is only
4 about 10 mills; is that right? Production costs.

5 A That's true.

6 Q You would agree that's a very low
7 generation cost?

8 A Relatively very low.

9 Q Relatively very low?

10 A Yes, compared to others.

11 Q Probably one of the lowest in the country,
12 isn't it?

13 A It is.

14 Q And then we look at your Public Utilities
15 Fortnightly ranking which you have as Exhibit 5.
16 It's not surprising that Idaho Power comes out as
17 number one?

18 A That's true.

19 Q On a total cost over megawatt hour basis?

20 A That's true.

- 21 Q And in the MacRitchie exhibit, looking at
22 nonproduction costs per customer, Idaho Power does
23 not fare quite so well, does it?
- 24 A Number 76 in the nation.
- 25 Q I believe it's number 70?

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1 A Seventy. Excuse me. So it's the second
2 worst in the nation. That's the conclusion were to
3 be drawn.

4 Q Of those included in that -- there's only
5 72 utilities included in that ranking?

6 A Right.

7 Q Then if we could look at -- on the other
8 side of the coin, you could have a utility with very
9 high generation costs and low nonproduction costs,
10 which would look to be fairly inefficient; is that
11 not true?

12 A That's true.

13 Q And we look at your -- again, looking at
14 your Exhibit 4, if we could look at Florida Power
15 Corporation, which shows production costs of \$35 per
16 megawatt hour or 35 mills, that's a fairly high
17 generation cost utility, wouldn't you say?

18 A I would.

19 Q And so, looking at your Exhibit 5, the
20 Public Utilities Fortnightly ranking which you cite,

21 Florida Progress, which is Florida Power, doesn't

22 look so good, does it?

23 A That's true.

24 Q Like number 65?

25 A That's true.

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1 Q Yet on the -- then if we compare that to
2 the MacRitchie analysis, which uses nonproduction
3 costs per customer, Florida Power looks pretty
4 efficient, doesn't it?

5 A That's true.

6 Q That showed up as number two?

7 A That's true.

8 Q And I think, similarly, Consumers Power
9 might be another example of this situation with,
10 again, generation costs of about 35 mills, according
11 to your Exhibit 4, and it shows up as number 44 in
12 Public Utilities Fortnightly ranking, yet number
13 three on Mr. MacRitchie's list.

14 A That's true.

15 Q So isn't it fair to say that generation
16 costs are the overriding influence on a utility's
17 ranking if it's performed on a total cost per
18 megawatt hour basis?

19 A Given the size, given the relative value of
20 overall operating costs, I would say generation cost

21 is very important.

22 Q So if we look at Exhibit 6, which is

23 another of the Public Utilities Fortnightly articles

24 which you cite as providing a more reliable ranking

25 of utilities, page 31 of that article makes the

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1 observation that six of the top ten performers, if we
2 look on a total cost per megawatt hour basis, are in
3 the Pacific Northwest. Is that a surprise to you,
4 given the amount of hydro generation that the
5 utilities have?

6 A No.

7 Q And, in fact, the article makes the
8 observation there's a strong relationship between the
9 percentage of hydro and operating efficiency as
10 measured by this particular approach, correct?

11 A That's true.

12 Q And further on on that page 31, the article
13 makes the startling observation that eight of the ten
14 bottom performers come from the Northeast. Do you
15 see that in the article?

16 A I do.

17 Q And is it fair to say that most of these
18 utilities that rank so poorly in here have some, if
19 not a significant part, of their generation provided
20 by a nuclear plant?

21 A In the Northeast?
22 Q Yes.
23 A Some are, yes.
24 Q And, in fact, the article makes the
25 observation that a utility's reliance on nuclear

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1 generation shows a strong negative correlation with
2 efficiency; is that right?

3 A That's true.

4 Q The higher the share of nuclear cost, the
5 lower the operational efficiency as measured by this
6 particular --

7 A That's true.

8 Q I guess, looking at these two approaches
9 which you cite as being preferable, one utility in
10 particular, I think, is worth noting in terms of the
11 reliability of this particular approach. If you look
12 at -- if you compare your exhibit 5, you can see
13 Upper Peninsula Energy Corp ranking number nine in
14 the 1996 ratings. Comparing that to Exhibit 6, they
15 drop all the way to number 93 in one year. Is that a
16 fair statement of what happened here?

17 A That is what's reported.

18 Q Are you familiar with why that utility made
19 such a large improvement?

20 A I am not.

21 Q If you look at -- there's a discussion of
22 it in Exhibit 5, which makes the observation that its
23 generation fuel mix showed a drop in steam from
24 nearly \$2 million to zero without a net change in
25 output, so it was strictly a reduction in generation

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1 costs which allowed that change in rankings?

2 A They changed -- they were able to do that
3 by reductions in generation costs.

4 Q A \$2 million reduction in generation cost
5 moved them from number 93 to nine. Isn't that
6 further evidence that the results suggested by
7 production costs -- or by total cost over megawatt
8 hour is driven largely, if not entirely, by the
9 generation cost and production cost?

10 A I would say yes. Ultimately -- and that's
11 reflected in the delivered cost.

12 Q And this article also makes the observation
13 that the holding company system tend to show slightly
14 higher efficiencies than individual operating
15 companies. Do you accept that it states that on page
16 32?

17 A Yes.

18 Q And would you agree that this observation
19 tends to lend credibility to the claims in this
20 transaction of increased efficiencies given that a

21 holding company will be created here as well?
22 A Not necessarily. Again, to the extent that
23 a holding Company, as a general statement, tends to
24 show greater efficiency achievements, I would agree
25 with that. Does that have direct linkage to this

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1 application as it's been put forth? I still am
2 uncertain as to whether those efficiencies are going
3 to be achieved.

4 MR. VAN NOSTRAND: Thank you. I have no
5 further questions, Mr. Chairman. I would like to
6 move the admission of 21 and 22.

7 CHAIRMAN MECHAM: Is there any objection to
8 that? Thank you. We'll receive them.

9 (Whereupon Cross Exhibits 21 and 22 were
10 received.)

11 CHAIRMAN MECHAM: Mr. Hunter.

12 CROSS EXAMINATION

13 BY MR. HUNTER:

14 Q Mr. Anderson, a housekeeping matter to
15 start with. Did I hear you say that the lower the
16 discount rate, the lower the net present value?

17 A Yes.

18 Q Didn't you give a number with a 6 percent
19 discount rate that was -- maybe, for the purposes of
20 the record, would you give me your analysis of the

- 21 \$48 million merger credit, using whatever discount
22 rates you want to use.
- 23 A I used two discount -- I don't think -- if
24 I did say 6, I misspoke. I used two discount rates.
25 One was 10 and half; one was 9.

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1 Q What was the result of using a 9?

2 A The result of using a 9 was thirty -- just
3 under 39 million.

4 Q And using the higher discount rate, what
5 was that number?

6 A Roughly thirty-seven five.

7 Q You talked about discrimination and you
8 talked about discrimination in relation to the merger
9 credit, and I assume, since all the customers you
10 represent, except for Geneva and WECCO, get the
11 benefit of the merger credit, the discrimination
12 you're talking about is with regard to Geneva and
13 WECCO?

14 A That's true.

15 Q Do Geneva and WECCO have any portions of
16 their contract service subject to the tariff?

17 A I believe -- I am not privileged to those
18 contracts, per se. I have a general understanding of
19 those contracts. It's my understanding that WECCO
20 has a small portion of their load that is firm, but I

21 don't believe it's subject to tariff.

22 Q Do you know whether or not the WECCO

23 portion of firm would be eligible for the merger

24 credit?

25 A I do not.

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1 Q The remedy for this discrimination that you
2 proposed was an extension to the contracts?

3 A Extension of the contracts subject to
4 current rights of the Commission to review those
5 contracts for cost implications.

6 Q And the cost implications you're talking
7 about, what kind of costs -- using the criteria that
8 the Commission has, based on the '92 task force, what
9 kind of costs should those contracts recover in order
10 to be eligible for an extension?

11 A It would be --

12 MR. DODGE: Excuse me. I'm going to
13 object. The Commission, to my knowledge, has not
14 adopted any criteria for evaluation of special
15 contracts, so I think the question misstates the
16 record.

17 Q (BY MR. HUNTER) Based on the Commission's
18 order dated January 23rd, 1998 in docket 97-035-07,
19 which specifies the criteria the Commission used to
20 determine whether or not to approve the extension of

21 the Geneva contract, are those the same criteria

22 you're talking about that they should use going

23 forward?

24 A Whatever is before this Commission that has

25 been elected by the Commission as the right way to

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1 proceed, that's what I'm suggesting.

2 Q And those criteria then should include --
3 they cover their full incremental energy costs?

4 A Yes.

5 Q And they should cover their full
6 incremental capacity cost?

7 A Yes.

8 Q And have you done any kind of analysis to
9 determine whether or not, under the current load and
10 resource balance of the Company, the current prices
11 meet those criteria?

12 A I have not.

13 Q Do you know whether the Company's load and
14 resource picture has changed since the Commission
15 approved those contracts in 1998?

16 A I have not. I do not.

17 Q What, then, would the Commission say if
18 they decided to adopt your condition in this
19 proceeding that sometime in the future of the Company
20 and the customers could bring a contract to the

21 Commission for approval using the criteria that we've

22 just talked about?

23 A I don't understand your question. What

24 would the Commission say --

25 Q What are you asking this Commission to put

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1 in the order that is different than the current state
2 of affairs in this jurisdiction?

3 A What I was suggesting was that, as a
4 modified condition to that stipulation that's been
5 put forth that's on the table today, that there be
6 assurances that those contracts that expire during
7 what we'd loosely refer to as this transition period,
8 out to close of 2003, that those contracts be
9 extended out to that period of time, subject to the
10 terms, conditions and rights that this Commission has
11 today governing those contracts for review and so
12 forth.

13 Q Do the parties currently have the option to
14 bring those -- in fact, under the terms of the order
15 approving those contracts, if the parties want to
16 bring those contracts back to the Commission for
17 extension, they're currently required to get approval
18 and meet the criteria I've talked about; is that
19 accurate?

20 MR. DODGE: Objection. Lack of

21 foundation. He hasn't shown that order to this

22 witness and I don't believe he's ever seen it.

23 Q (BY MR. HUNTER) Are you familiar with the

24 order that the Commission issued adopting the

25 extension for the Geneva contract?

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1 A I am not.

2 Q Do you know whether or not the Division, in
3 its analysis of the proposed extension granted in '98
4 by the Commission, specified that its analysis was
5 only good for the initial term of the contract?

6 A I am not. I didn't participate in that
7 order or that hearing.

8 Q Then basically your proposal to the
9 Commission, without being intimately aware of either
10 the orders issued by the Commission adopting the
11 stipulation or adopting the contract extensions or
12 with the criteria used by the Commission for adoption
13 of the contracts, is that contracts should be
14 extended using some criteria at some date, some time
15 in the future?

16 A Existing criteria out to close of 2003.

17 Q If the Commission's special contract task
18 force adopted new criteria, should those criteria be
19 those used for this contract extension condition?

20 A Yes, subject to -- if the -- well, if the

21 task force adopts -- if the Commission adopts the
22 task force recommendations, which my understanding is
23 would be reported at the close of this year, if that
24 changes those terms, conditions and rights of
25 oversight that this Commission has, then it changes

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1 the environment in which those contracts exist, so,
2 you know, kind of in layman's terms, all bets are off
3 if the task force chooses a path and that path is
4 ultimately adopted by the Commission.

5 Q So your proposal is that you wouldn't then
6 seek to reduce the Company's ability to negotiate
7 with its special contract customers? You're just
8 saying that whatever the result of those negotiations
9 are, they come back to this Commission for approval
10 before becoming effective?

11 A I believe that's true.

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

14 CHAIRMAN MECHAM: Thank you, Mr. Hunter.
15 Mr. Ginsberg.

16 CROSS EXAMINATION

17 BY MR. GINSBERG:

18 Q Let me make sure I understand what you're
19 recommending with respect to the special contracts.
20 You are recommending that the Company, as they

21 indicated they would, negotiate in good faith
22 extensions to THE special contracts and that those
23 extensions which are for the period of the rate
24 credit through the end of 2003 be submitted to the
25 Commission for their approval and meet the criteria

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1 that was established for the original contract that
2 was entered into for Geneva or WECCO or any
3 subsequent criteria that the task force or the
4 Commission may establish in a subsequent proceeding?

5 A I think, Mr. Ginsberg, what I've suggested
6 is that, as a form of mitigating their risk, that
7 these customers would be subjected to -- midpoint,
8 roughly, in this transition period, that those
9 contracts be extended under the same terms and
10 conditions and governance that this Commission has
11 over them, subject to either demonstrated changes in
12 the cost drivers of those contracts so that there is
13 not a resulting negative impact on the remaining
14 other customers, and subjected to any changes that
15 the task force would present to this Commission and
16 that the Commission would subsequently adopt.

17 Q Which would mean at the time the extension
18 is requested, whenever that is, that at that --
19 whatever conditions existed at that time, those
20 contracts would have to then meet the criteria that

21 you've outlined meeting their -- fully covering their
22 incremental energy and capacity costs at that time?

23 A That's true.

24 Q Now, do you have in front of you the
25 comments that you filed before the Commission on this

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1 issue?

2 A I do. If you'd just give me a second.

3 Q What I'm referring to is the comments of
4 the industrial customers on the stipulation.

5 A I have them.

6 Q And if we could go to page eight. These
7 are the conditions that you are recommending to the
8 Commission that reflect what you've just told us?

9 A That's true.

10 Q I don't see in Condition -- well, let's
11 look at A. I'm sorry. Number 1. Do you understand
12 that that's a commitment that has been made?

13 A I do, and that's in there just to make sure
14 that everybody understands, but I don't think that's
15 in controversy.

16 Q You don't interpret 1 to mean that if there
17 is an escalation clause in the existing contract,
18 you're not proposing that those be eliminated are
19 you?

20 A No, not at all.

21 Q And Number 2, you also recognize that the
22 commitment that's already been made?

23 A It's a commitment that's been made.

24 Unfortunately, it's a commitment that we currently
25 seem to have a little struggle with. We have not, as

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1 I understand it in discussing this issue with all
2 three legal counsel that is representing some or all
3 industrial customers -- special contract customers
4 here today, that discussions on extension of these
5 contracts, which really need to be either underway or
6 should have already been underway, there has been a
7 refusal on the part of the Company to discuss those
8 kinds of things, so I guess the question of good
9 faith becomes a little bit definitional and a
10 problem.

11 Q May I ask what you see a condition gives
12 you?

13 A Condition Number 2?

14 Q Yes.

15 A It just again restates what we believe
16 is -- should be the practice that be followed.

17 Q You recognize, do you not, that the credit
18 that you are referring to does not automatically
19 exist for all four years?

20 A The \$12 million per year?

21 Q Yes.

22 A It exists for the first two years, subject
23 to being offset in the third and fourth year, is my
24 understanding.

25 Q Now, your whole premise is that there's

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1 some comparability because you're not getting that
2 credit and you're not being provided the protection;
3 is that right?

4 A For the special contracts or for all
5 customers that I represent?

6 Q No, no. Just the special contracts.

7 A We're not -- no, we're not asking that
8 those credits be made available to those special
9 contracts, if that's the import of your question.

10 No, that's not what I'm suggesting. It's -- Mr.
11 Ginsberg, I'm not suggesting that the benefits of
12 this merger in terms of rate reductions be
13 automatically granted to special contract customers
14 as they would through either a credit or a rate cap
15 or any other kind of price mechanism you put forth.
16 It's the flip side that I'm suggesting, that there
17 are risks that are not being mitigated, not that the
18 flow of benefit -- merger credits go to --

19 Q Your risks are completely covered through
20 your contract period, are they not?

21 A Only through the contract period, and that

22 period, again, ends kind of midpoint in this

23 transition.

24 Q About when the credit could end?

25 A Yeah. To the extent that there are offsets

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1 in years three and four, I guess that would be the
2 case.

3 Q So those special contract customers won't
4 be subject to the risk associated with rate -- tariff
5 rate increases, will they?

6 A Well -- under current terms?

7 Q Yes.

8 A Well, to the extent that, if rate increases
9 reflected cost drivers that the company was suffering
10 through that were ultimately affecting overall rates
11 in the system or in the Utah jurisdiction and that
12 there is language in that contract that is a
13 re-opener, they could very well be affected by it.

14 Q I'm not sure I followed what you said.

15 A Well, you suggest -- I said if there is
16 language -- if there's re-opener type language in
17 there that the cost drivers are so pronounced that
18 the contract is no longer meeting the terms and
19 conditions that it was set forth.

20 Q Your proposed conditions don't reflect what

21 you just said where you're proposing that the new

22 contract be submitted to the Commission for its

23 approval of any extensions? Am I missing that?

24 A I'm sorry. What?

25 Q Am I missing in your proposal on page eight

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1 where you've said that any extension in these special
2 contracts will meet either the new criteria or then
3 existing and be approved by the Commission?

4 A Well perhaps it's not in there, and I guess
5 this is the nature of live rebuttal.

6 Q If you could look at paragraph C, is this
7 your recommendation that the Commission give you some
8 termination rights that you may not currently have?

9 A I think the -- what's underlying paragraph
10 C is simply, again, a form of risk mitigation that if
11 there is not an extension of the contracts, if
12 there's not negotiations in good faith, that there be
13 some kind of exit, some kind of out that these
14 industries would have an option to pursue other than
15 being simply subjected to a utility that seems
16 resistant at this point to negotiate.

17 Q Well, I read this to say that if either
18 federal or state law allows you to have special
19 access, that we have predetermined what termination
20 rights you have.

21 A That's true. I'm sorry. That's true.

22 Q Would you agree that has -- provision

23 really has nothing to do with the merger?

24 A To the extent that that state law or

25 federal regulation has not changed.

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1 Q You would still need a change in the law?

2 A Exactly.

3 Q Now, your paragraph D provides you -- is an
4 attempt to provide you a remedy if you don't
5 negotiate a contract; is that right?

6 A That's true.

7 Q Do you currently have that right by filing
8 a complaint?

9 A I believe we do.

10 Q And paragraph four is if you can't reach an
11 agreement, then you should be able to have direct
12 access?

13 A Basically an out language, yes. An exit.

14 Q I was somewhat unclear about -- you accept
15 the rate credit as a mechanism to mitigate risk, but
16 did I understand that you said it wasn't enough?

17 A I said it was in deficit. I did not think
18 that the credit -- there's actually two problems with
19 credit. One is a value problem. I suggested that.
20 In terms of the incremental coverage risk mitigation

21 that it provides as it has been defined in the
22 stipulation, I did not feel like it was enough or
23 that that delta in value is really substantial enough
24 to -- I think we've used the term around here "get us
25 over the bar."

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1 Second, I think it is an inferior way of
2 moving forward in the sense that it provides less
3 risk coverage for all customers. To the extent that
4 once we move off this merger and we move into
5 subsequent rate cases -- not the one that's being
6 proposed now that's a premerger rate case, but we
7 move into the rate cases in those years starting --
8 once this merger is completed, I think it is going to
9 be very difficult for this Commission to track merger
10 related costs, merger related savings ultimately, so
11 that the ability to determine whether customers were
12 placed at risk in this merger is going to be a
13 difficult determination.

14 Q And because of that, you're suggesting this
15 rate cap for --

16 A I would suggest a rate cap. I think it
17 does provide that kind of risk mitigation that this
18 Commission would find helps remove that uncertainty
19 into the future. It also provides that kind of
20 economic incentive.

- 21 Q Now, just with respect to the rate credit,
22 although you may disagree with the amount, do you
23 disagree that it's comparable to other jurisdictions?
24 A I don't understand your question.
25 Q Is it comparable to the credit in Oregon?

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1 A Yes.

2 Q And there is no rate credit being provided
3 in Idaho currently?

4 A No. Nor Wyoming.

5 Q Well, Wyoming has a different type of rate
6 proposal, does it not?

7 A Oh, yes. I think if you would look at the
8 transcript in the Wyoming hearing you will see at
9 least five different references to the point that
10 that rate case and the negotiated settlement in that
11 rate case, the stipulation that followed, had -- and
12 this is testimony on behalf of applicant's
13 witnesses -- had absolutely nothing to do with this
14 merger, so I think there's a confusion here that the
15 fact that the rate cap, if you want to call it that,
16 exists in Wyoming is merger related but is
17 inconsistent with what the Company has argued.

18 Q You have no specific proposal, though, to
19 make to the Commission?

20 A No. I suggested that modifications to the

21 stipulation should be put forth, one, on the
22 extension of contracts; two, on rate cap. A rate cap
23 in place of, Mr. Ginsberg, because one witness
24 yesterday talked in terms of rate cap and credit
25 combined. My suggestion would be simply that there

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1 would be a rate cap in substitute of credit.

2 Q But now your rate cap, as I understand what
3 you have suggested, would start after a rate
4 increase?

5 A I suggested that, as a way of addressing
6 premerger related expenses that this Company has not
7 been able to recuperate. Those particularly, as you
8 well know, those expense items that were determined
9 to be out of historic test year in the last rate
10 case, and we know, sitting here today, that we're
11 likely to be them in the '98 historic test year, that
12 if there is a fairness -- there can be a fairness
13 argument put forth that those rates or those -- I'm
14 sorry -- those expenses be recaptured, legitimately
15 so. I also suggested that, in doing so, what you do
16 is you basically establish a baseline rate, a
17 premerger baseline rate for that, and we can move
18 forward from there.

19 Q You do understand the rate credit would
20 affect the size of any rate increase that you are

21 suggesting?

22 A Yes.

23 MR. GINSBERG: Thank you.

24 CHAIRMAN MECHAM: Mr. Tingey?

25 //

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1 CROSS EXAMINATION

2 BY MR. TINGEY:

3 Q Just a few. They've asked most of the
4 questions. There seems to still remain some
5 confusion, at least with a couple of us in the room,
6 about your proposal on the contract extension. So
7 one more time, hopefully at the most basic level.
8 Your proposal is the special contracts should be
9 extended at their current -- on their current terms
10 if they meet the criteria in existence at that time?

11 A That's true.

12 Q So if -- pick a date when one of these
13 contracts comes up. Sometime in 2001.

14 A End of 2001.

15 Q End of 2001, a contract comes up for -- or
16 expires. Your proposal would have that contract
17 continue at the same rate through the end of 2003 if
18 it meets the criteria?

19 A True.

20 Q That's what you just said. Okay. So what

- 21 if at that time costs have changed such that -- maybe
- 22 costs have gone up 20 percent, whatever number you
- 23 want, such that that price in the contract wouldn't
- 24 cover costs. What happens?
- 25 A You renegotiate the price at that time.

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1 Q And if you can't, what happens?

2 A If you can't because? I'm not sure --

3 Q If no agreement can be reached, what
4 happens?

5 A Then you would fall back to the existing
6 review process by bringing it forth to this
7 Commission and discussing it.

8 Q If costs have gone down -- look at both
9 sides of this and see if we can understand. If costs
10 have gone down, which presumably would mean the
11 contract price would still cover those costs and
12 maybe a little extra, your right to renewal is at the
13 same price that's in the contract? It's not at a
14 reduced price?

15 A I think if costs were to come down, we
16 would expect to, again -- I see both sides, the flip
17 side of the coin. If costs come down, we could also
18 renegotiate toward a lower cost, but only to the
19 extent that, you know, that can be demonstrated and
20 still -- that the lower price can be demonstrated to

21 still be consistent with terms and conditions that
22 govern it. We would expect -- just one other thing.
23 I'm sorry, Mr. Tingey. We would expect that those
24 costs perhaps would come down, given that these guys
25 have offered \$190 million cost savings.

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1 Q Well, I'm getting more confused. If costs
2 went up, you said renegotiate. If cost went down,
3 you said renegotiate. So what's the effect of this
4 term that says it would be extended on the same
5 terms?

6 A Well, now, to the extent that the -- that
7 there is no demonstration that there has been a
8 significant change in cost, then you would simply
9 extend it out through the transition period. It
10 basically gives -- it's an insurance policy. It
11 basically gives these customers the risk mitigation
12 that they won't come back because the applicants have
13 simply not made clear their likelihood of success in
14 the cost reduction measures that they undertake.

15 Those cost reduction measures are going to
16 entail the expenditure of money. We don't want that
17 to come back so that the repository of where you
18 recapture those kinds of expenses, undertaken because
19 of this merger, that those kinds of expenses
20 basically then get recaptured through some kind of

21 renegotiations of those contracts in an upward
22 manner, that we have the same -- if there's failure
23 to produce cost savings in undertaking these kinds of
24 expenses, that they would undertake to do so.
25 The tariff customers have a cap that says

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1 you cannot come back and basically recapture those.
2 It's your responsibility. The burden of risk is on
3 you to demonstrate that those are cost effective. We
4 would want that same kind of basically insurance.
5 You're not going to -- you're not going to be able to
6 come back and say costs have gone up. We need to
7 renegotiate. Particularly costs have gone up because
8 of merger related activities. We need to renegotiate
9 this contract. And we are left as the only ones with
10 that kind of economic exposure.

11 Q There's a term in the stipulation, one of
12 the more succinct ones, that says rates will not go
13 up as a result of this merger. Does that give you
14 any comfort in that respect?

15 A It gives me heartburn because, as I've
16 already said up here today, I think that may be easy
17 to demonstrate in year one, less easy to demonstrate
18 in year two, significantly hard to demonstrate in
19 year three and very difficult to demonstrate in year
20 four. I think, once you move off this application,

21 that the ability of this Commission to track merger
22 related benefits and merger related costs, as you
23 move further out in time, is going to be a most
24 difficult task.

25 Q I'm going to get back to the original

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1 question, and I'm really confused about what happens
2 if costs have gone up, because your argument now is
3 that there would be some argument about whether that
4 was related to the merger or not. Did I hear you
5 right?

6 A That's true.

7 Q And that's -- under your proposal, that's
8 what would happen?

9 A That's true. The quest -- to kind of go
10 back to where I began this, the quest is to
11 provide -- what we have in front of us is a merger.
12 There are risks associated with that merger. There
13 should be mitigation of that risk to all customers of
14 this Company. Again, as I stated early on in kind of
15 an opening statement. We didn't ask for this
16 merger. It was brought before us. Those kinds of
17 risks should be squarely on the shoulders of the
18 applicants, and so what we look for is risk
19 mitigation, and it's not risk mitigation for some
20 subset of customers. It's risk mitigation for all

21 customers.

22 Q Just more of a general question. Do you

23 know how much of this system load we're talking about

24 accepting to deal with special contracts? Do you

25 know how many kilowatt hours we're talking about,

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1 percentage of load, any of those kinds of things?

2 A Well, I know the size of loads of the two
3 that I'm familiar with.

4 Q Well, do you know special contracts as a
5 whole?

6 A I don't.

7 Q You don't? Any idea as to percentage at
8 all?

9 A I wouldn't want to guess.

10 Q We had an exhibit in the rate case that the
11 Company has produced to the legislature that had
12 numbers on it. If I remember right, it showed about
13 20 percent of the load to special contracts. Does
14 that surprise you?

15 A No, subject to check.

16 Q Do you know the dollar impact of what we're
17 talking about here? And I better define that. And
18 let's use Mr. Alt's definition. The difference
19 between Schedule 9 and the special contract price, do
20 you know what the magnitude of that would be?

21 A I have -- yeah, I have some, you know,

22 rough vision of what that is, yes.

23 Q Can you give us a rough vision?

24 A As a total?

25 Q Yes.

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1 A Oh, no. If you've got a number, suggest it
2 and I would, subject to check.

3 Q I'm looking for information from you.

4 A I don't have that number.

5 Q Substantial number?

6 A Relatively substantial.

7 Q One more topic. One more quick. You
8 talked about establishing some sort of baseline for
9 going forward.

10 A Yes.

11 Q Wouldn't '99 be a more appropriate year?

12 A I don't think so. I think starting now,
13 this is a historic test year. I think it's -- you've
14 already got a considerable amount of merger related
15 expenses that are going to be booked this year. This
16 room is absolutely chock full of billable hours. The
17 '98 historic test year is the cleanest spot to start,
18 I think. I know that there's -- I think, if I
19 recall, there's \$13 million booked at the end of '98,
20 merger related expenses by PacifiCorp. It's a fairly

21 small -- that's subject to check. I think that's
22 what they said. That's a very small value. Starting
23 this year, starting calendar '99, I think merger
24 related -- to an extent, the merger is off and
25 running, to the extent that they're spending money on

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1 trying to get this thing approved. I think '98 is
2 the clean year.

3 Q And the problem you see is the merger
4 expenses?

5 A True.

6 Q Well, if that can be taken care of, such as
7 their agreement that they would be below the line,
8 does that problem go away?

9 A I would still say that '98 was -- you know,
10 '98 was the year in which there was no merger. '99
11 was the year in which the merger basically was placed
12 upon our table. I still would contend that '98 is
13 the cleaner year to begin with.

14 MR. TINGEY: Thanks.

15 CHAIRMAN MECHAM: Thank you, Mr. Tingey.
16 Mr. Hunter.

17 CROSS EXAMINATION (Continued)

18 BY MR. HUNTER:

19 Q I'm slightly confused now, also, but before
20 we get to that, are you aware that the merger

21 expenses you're talking about are going to be booked
22 below the line, and specifically related to my kind
23 of expenses, they're being booked to Pacific Group
24 Holdings so they aren't even in the utility?
25 A I knew they were below the line. I didn't

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1 know they were going to the holding company.

2 Q If they are indeed below the line, how does
3 that possibly affect whether or not 1999 is or is not
4 appropriately a test period?

5 A It's a judgment call, Mr. Hunter. I think
6 that -- as we get further into this merger, I do
7 think it may be a little bit hard to track exactly
8 whose dollars were spent on what. I know from
9 participating in this now in three states, the
10 activity of the law firms and the investment bankers,
11 and both is monumental. It is a huge undertaking to
12 put this application forward. I think it's going to
13 be, even in '99, a little bit difficult, perhaps, to
14 say where dollars were actually placed. I still
15 would contend '98 is the clean year.

16 Q Are you in favor of a future test period?

17 MR. DODGE: Object. Calls for a legal
18 conclusion. Lack of foundation.

19 Q (BY MR. HUNTER) You have a contract right
20 now -- let's use Geneva because we actually have an

21 order, which I can show you to the extent you're not
22 aware of the terms. You have a contract right now
23 which has a provision, as reflected in the order, for
24 automatic five-year extension subject to either
25 party's right to opt out 24 months before the end of

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1 the term. Are you aware of that?

2 A Subject to check.

3 Q And the Commission, in its order approving

4 that contract, said there would be no automatic

5 extensions. Instead, you had to come back to the

6 Commission 120 days before the expiration of that

7 period to determine whether or not the Commission was

8 going to allow an automatic extension.

9 A Subject to check, yeah.

10 Q And you're not planning on changing either

11 the terms of either the order or the contract in

12 whatever condition you suggest to this Commission?

13 A That's true.

14 Q So whether or not you had a merger,

15 contract is in place, order is in place, you'll live

16 with the terms of both?

17 A Well, to the extent that, again, the merged

18 Company --

19 Q And I'll address risk. I'll let you go

20 there. I'm just asking whether or not you agree that

21 both the order and the contract are in place and

22 you're not trying to amend either one?

23 A Oh, yes, that's true. I'm sorry.

24 Q And so the risk that you've identified is

25 what you referred to as the refusal of PacifiCorp to

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1 discuss contract extension?

2 A Well, I think there's a couple. There's
3 actually several categories of risk, or at least a
4 couple categories of risk. First is, I think, as you
5 said, we don't know who these people are, and I don't
6 say that in a pejorative sense at all. I'm sure
7 they're professional and so forth, and from what I
8 can tell in meeting with them, they are, but as
9 business partners and as people that we're going to
10 have to sit across the table from and negotiate and
11 shake hands ultimately and negotiate and derive some
12 final value, there is great uncertainty.

13 We do not know who these people are. We
14 don't have the historic interaction that we've had
15 with both Utah Power and Pacific Power or
16 PacifiCorp. So that is risk number one.

17 I think secondly, you know, we do not
18 understand, as we sit here today, and I think there
19 is still considerable uncertainty, and that
20 uncertainty produces risk, as to how this Company is

21 going to behave in the future in a general manner.
22 They put forth that -- there is a contention or at
23 least an argument put forth by this Company that
24 they're going to do a heroic amount of savings in the
25 combined system of PacifiCorp. We just don't know or

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1 have much degree of comfort whether that's going to
2 actually materialize or not. And like all customers
3 who are subject to that -- to buying from this
4 Company with no other choice, those actions are going
5 to be expensive. If they're going to achieve what
6 they say they're going to achieve, they're going to
7 have to be very aggressive. Those contain expenses
8 and we're not sure the subsequent savings will
9 produce. There's risks there.

10 And so, as the stipulation as written
11 provided some kind of risk mitigation to one set of
12 customers, we would see that it would be, for
13 completeness, similar type risk mitigation for a
14 second set.

15 Q And I understand and I've heard that one.
16 But one of the concerns, then, is that ScottishPower
17 won't negotiate with you. I thought I just heard you
18 complain about the fact that PacifiCorp has refused
19 to negotiate with you, and I thought that was your
20 concern, that the Commission had to order something

21 because PacifiCorp on its own has refused to
22 negotiate. Isn't that what you said?
23 A No. If I did say it, what I suggested --
24 what I meant to suggest was that the new company has,
25 under the new potential management, has at this point

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1 not engaged in any kind of meaningful dialogue as to
2 what their position would be on contract extensions,
3 nor engaged in any kind of detail on those contract
4 extensions.

5 Q Let's discuss your contract specifically,
6 the customers you represent. Geneva is in
7 bankruptcy; is that accurate?

8 A That's my understanding.

9 Q Do you know whether or not this Commission
10 or the bankruptcy court has jurisdiction?

11 A I do not.

12 Q Do you think it would be prudent to see
13 what comes out of the bankruptcy proceeding prior to
14 amending a contract that has another 26 months to
15 run?

16 MR. DODGE: I'm going to object. Lack of
17 foundation. This particular witness, A, has never
18 reviewed the Geneva contract; B, is not privy to the
19 Bankruptcy Code or the filing; C, doesn't know how
20 long the bankruptcy is going to take, nor who has

21 jurisdiction. It's a question not properly directed

22 to this witness.

23 MR. HUNTER: All I'm asking is whether or

24 not this witness has an opinion on whether or not

25 it's good business practice to require a contract

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1 extension with a company who is in bankruptcy when
2 you don't know what the result of that bankruptcy is
3 going to be.

4 MR. DODGE: And I object to the calling for
5 that opinion. This witness is not qualified to issue
6 that opinion.

7 CHAIRMAN MECHAM: Well, I'll allow --

8 MR. DODGE: Given the lack of foundation.

9 CHAIRMAN MECHAM: If he has an opinion,
10 I'll allow him to share it, but --

11 THE WITNESS: I have no opinion.

12 Q (BY MR. HUNTER) Are you generally familiar
13 with the special contract task force that's going on
14 right now?

15 A I'm generally familiar with it, Mr. Hunter,
16 but I'm not participating in it.

17 Q Do you know what the Committee of Consumer
18 Services' consultant, George Sterzinger, has
19 suggested as an approach for special contracts?

20 A Only in the most general terms, basically,

21 and that was through, I believe, his filing in the

22 rate case. I remember that.

23 Q And it hasn't changed much. Basically it's

24 the idea that the difference between full embedded

25 costs and the revenues that you actually get from the

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1 special contract are shareholder money?

2 A You know, again, my understanding is very
3 general, but I think that's my kind of vague
4 understanding of what Sterzinger was arguing.

5 Q Based on the fact that the special contract
6 task force hasn't made any decisions about a lot of
7 things, including that proposal, is it prudent to put
8 off the renegotiation of a contract with two years
9 left in its term, pending the results of that?

10 A I don't think so. I think most of these
11 contract negotiations -- I mean, you know, there is a
12 risk on both sides of the negotiating party that life
13 could change by a task force recommendation that
14 ultimately was adopted by the Commission that, you
15 know, substantially changed how contracts were to be
16 reviewed in the future in terms and conditions.

17 To the extent that these parties -- both
18 sides of the parties need to resolve contract
19 extension questions, do the math, develop the
20 language and move forward, usually that is -- I mean,

21 the stark point on that is that kind of a general
22 rule of thumbs can be 24 months out, and that's
23 really kind of what we're bumping up to right now.

24 So, to answer your question, is it wise to
25 sit back an additional five, six months until this

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1 task force finishes its work with the uncertainty
2 that we don't know what that will be, nor whether the
3 Commission would act on it? No, I don't think it's a
4 smart business way of doing it. I think both parties
5 would be behooved by discussing it now.

6 Q Assuming you know, do you have an opinion
7 as to whether or not ScottishPower has any kind of
8 right to renegotiate the contracts between your
9 clients and PacifiCorp at the present time?

10 A I do not know.

11 Q Do you think the -- in the interest of
12 making sure risks are equitable on all sides and to
13 avoid the discrimination problem, you're talking
14 about that the Commission exercise its right under
15 its order to modify the rates prospectively to ensure
16 that the contract makes a reasonable contribution to
17 costs to the extent that, at this present time, those
18 contract prices don't cover the price of providing
19 the service?

20 MR. DODGE: I'm going to object. There are

21 about four levels of assumptions. There are no facts

22 on the record to support those levels of

23 assumptions. It also asks for a legal conclusion. I

24 object.

25 CHAIRMAN MECHAM: What's he reading from,

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1 Mr. Hunter?

2 MR. HUNTER: He's reading from the
3 Commission order approving the Geneva contract, just
4 to get some foundation as to what the Commission has
5 determined its rights are when it approved the
6 contract.

7 MR. DODGE: And, again, I object to
8 questions directed to this witness as to the legal
9 rights of Geneva in a contract he's never seen.

10 MR. HUNTER: I'm not asking that question.
11 I'd be happy to stipulate I will not ask that
12 question.

13 MR. DODGE: You just did.

14 MR. HUNTER: Well, then I'll stop.

15 MR. DODGE: There's an objection on the
16 record to the question and no other pending. If he
17 has withdrawn the question, I'll withdraw my
18 objection.

19 CHAIRMAN MECHAM: Let's let Dr. Anderson
20 read that portion Mr. Hunter has asked him to read

21 and then we'll see what Mr. Hunter is going to ask

22 him.

23 THE WITNESS: You say number eight, right?

24 Q (BY MR. HUNTER) Please.

25 A To the extent that avoided cost of UP&L are

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1 different than the avoided costs submitted in support
2 of the agreement, the Commission may modify the rates
3 prospectively to make a reasonable contribution to
4 cost.

5 Q Thank you.

6 A Is that all?

7 Q Yes. Since the tariff customers are going
8 to be subject to potential price increases based on
9 this Commission's determination that prices -- costs
10 have changed to provide service to them, as part of
11 that same proceeding, do you think it's appropriate
12 for the Commission to look at what changes in costs
13 of providing service there have been to the special
14 contract customers as some kind of precondition for
15 determining whether or not there should be an
16 extension?

17 MR. DODGE: I'm going to object to the
18 question. A, it misstates the document he just read;
19 B, it calls for a legal conclusion; C, there's no
20 foundation for this witness to answer it.

21 CHAIRMAN MECHAM: To the degree that it
22 calls for a legal conclusion, I'm not going to have
23 him answer. I can't remember all your other
24 objections, Mr. Dodge.

25 MR. DODGE: They were good. They were

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1 good.

2 CHAIRMAN MECHAM: I'm sure they were. Lack
3 of foundation. I remember that one.

4 MR. DODGE: He's asking this witness, who
5 is not -- who has never appeared, to this point, at
6 least, on behalf of the particular customer that's
7 being -- whose contract is being questioned in a rate
8 case, nor been involved in rate case proceedings, and
9 asked to interpret a Commission order as to a special
10 contract when he's never seen that contract, as to
11 whether that should now somehow be brought into the
12 rate case. This isn't the witness for that. That's
13 something for lawyers to argue about if someone wants
14 to raise it.

15 CHAIRMAN MECHAM: I thought he was asking
16 more whether or not it would be prudent to --

17 MR. HUNTER: I'd be happy to restate the
18 question.

19 CHAIRMAN MECHAM: Let's hear it.

20 Q (BY MR. HUNTER) Mr. Anderson, you

21 discussed risk. You said that customers under tariff
22 have risk mitigation your customers don't have,
23 specifically WECCO and Geneva, and the reason is
24 because they have the merger credit, and you have
25 acknowledged in answers to questions that those

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1 customers also face some upward pressure, potential
2 upward pressure on prices as a result of rate cases.

3 Understand that? Agree with that?

4 A That's true.

5 Q Okay. Based on that foundation, do you
6 agree that it is reasonable that a special contract
7 customer whose contract is subject to change under
8 the standard that you read into the record from the
9 Commission's order, that this Commission should look
10 at those contracts using that standard prior to
11 adopting some kind of extension?

12 MR. DODGE: I'm still going to object.
13 This is interposing issues that have nothing to do
14 with each other into a rate case before a witness
15 that is not qualified to answer that. He's also
16 violating the terms of the agreement between the
17 particular contract he's talking about and suggesting
18 it, but we can deal with that separately.

19 MR. HUNTER: I object to that. I am
20 reading from the order. There is nothing --

21 MR. DODGE: Read the contract.
22 MR. HUNTER: I have read the contract,
23 which is why I'm sticking with the order.
24 MR. DODGE: Read the terms of the contract
25 and asking the question. We'll deal with that

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1 separately. I'm just saying I object to this whole
2 line of questioning.

3 CHAIRMAN MECHAM: But the order itself says
4 that we can change those on a prospective basis.

5 MR. DODGE: But they can't support it.

6 CHAIRMAN MECHAM: Well --

7 MR. HUNTER: I'm simply asking whether or
8 not --

9 MR. DODGE: Or suggest it.

10 MR. HUNTER: I'm asking a hypothetical
11 question based on the fact that risk should be evenly
12 balanced, as he testified, and if you're going to
13 evenly balance risk, I'd be interested in his opinion
14 on whether or not special contracts should also be
15 subject to the same upward pressure as other
16 customers are.

17 MR. DODGE: This is why I have trouble with
18 the question. It assumes facts that are absolutely
19 not in existence and are irrelevant and, in fact,
20 don't work with each other. Is he also suggesting

21 they should go back and get part of the \$85 million
22 rate reduction last year and the two-year rate refund
23 because they're subjected to a price decrease they
24 didn't get? Their prices went up last year.
25 Everybody else's went down dramatically. It's a

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1 question without context that can't be answered
2 meaningfully by this witness.

3 CHAIRMAN MECHAM: Well, many hypotheticals
4 are that way.

5 MR. DODGE: And that's why they're properly
6 objected to if there's not a proper foundation laid
7 for it.

8 CHAIRMAN MECHAM: But then he laid the
9 foundation based on Dr. Anderson's testimony, so I'm
10 going to overrule the testimony. Dr. Anderson, to
11 the degree you can remember any of what transpired
12 with respect to that question, I would ask that you
13 answer it.

14 THE WITNESS: I hate to say this. Could
15 you repeat the question?

16 Q (BY MR. HUNTER) One of your concerns is
17 that risk be equitable on both sides. Risk for
18 tariff customers, in your view, has been mitigated to
19 a greater extent that risk has for special contract
20 customers. And you have proposed, as a way to

21 mitigate that risk, that there be forced contract
22 extensions with this Commission as sort of the final
23 arbiter of whether or not PacifiCorp would be
24 required to extend your contract. I'm suggesting, as
25 part of that process, the Commission exercise its

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1 other rights, which are to look at each special
2 contract under its terms and under its order to
3 determine whether or not changes in those contracts
4 should be ordered based on the changes in costs. I'm
5 asking you whether or not that's an a reasonable
6 approach this Commission should take before looking
7 at any other contract extension.

8 MR. DODGE: Mr. Chairman, all the same
9 objections. I understand you've overruled it. He's
10 also restated it and misstated facts. If you want to
11 let him go ahead and try to answer, that's fine, but
12 I object to the question. It's one of the worst
13 questions I've ever heard, other than the ones I've
14 asked.

15 CHAIRMAN MECHAM: I've heard some pretty
16 bad ones.

17 MR. DODGE: And I've heard some pretty bad
18 ones, but this ranks right up there. I may put it on
19 the wall.

20 THE WITNESS: Okay.

21 CHAIRMAN MECHAM: Okay. Give it a try.

22 THE WITNESS: To the extent that the order

23 that you read -- or you had me read, excuse me,

24 allows the Commission to prospectively go back and

25 look at terms and conditions, cost of those

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1 contracts, I have suggested -- I thought I suggested
2 that we were -- I'll do double type talk here -- we
3 were suggesting that nothing really change in terms
4 of the -- I'll use the word paradigm -- which governs
5 those contracts, so if there is reason that there can
6 be -- if there's cause that those contracts somehow
7 all of a sudden are not cost effective in the sense
8 of doing -- meeting the terms that were set out, you
9 have done -- the Commission already has that right to
10 do that, so I don't really understand how -- I mean,
11 I haven't suggested that the Commission -- that
12 anything be taken away from the Commission in terms
13 of what rights they have right now as stated in that
14 sentence when I read it.

15 Q (BY MR. HUNTER) Simply that should be
16 considered along with everything else in the current
17 paradigm?

18 A Yes. The current paradigm doesn't change.

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

21 CHAIRMAN MECHAM: Thank you, Mr. Hunter.

22 COMMISSIONER WHITE: Dr. Anderson, as I

23 understand it, you are recommending a rate cap

24 instead of the guaranteed merger benefits?

25 THE WITNESS: Instead of the credit as

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1 defined in that stipulation.

2 COMMISSIONER WHITE: And how does a rate
3 cap compare with Oregon's plan which is referred to
4 as A-4 or Oregon's regulation that's currently in
5 place?

6 A The A-4 program up there? Commissioner
7 White, I'm really not that familiar with the Oregon
8 A-4. My understanding is so complicated, it's
9 something you want to stay away from. I really can't
10 answer it because I really am not familiar with
11 that.

12 COMMISSIONER WHITE: But Oregon is getting
13 the credits, as I understand it.

14 THE WITNESS: Yes.

15 COMMISSIONER WHITE: Okay. So Oregon is
16 getting the credits and whatever benefits they
17 perceive from their A-4 program, whatever those are?

18 THE WITNESS: Yeah. I mean, again, I don't
19 know how the -- I never have yet understood how the
20 merger credit interacts with the A-4 program.

21 COMMISSIONER WHITE: Now, you also
22 recommend a rate cap as being a superior way to
23 manage the risks and benefits as measured against
24 rate cases; is that right? I mean, you think that a
25 cap is a better way to do this than having rate

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1 cases?

2 THE WITNESS: I think it's a superior way
3 under two different criteria. One, a superior way
4 instead of the credit because I think it provides
5 uniform and consistent protection against the risks
6 that are involved in this merger. Secondly, I think,
7 again, kind of going back to the notion of tracking
8 what this merger is really going to produce, I think
9 a rate cap out through that transition period
10 provides a mechanism that leaves this Commission a
11 daunting task, which is going to be over time trying
12 to track really what ultimately happened, the merger
13 savings, the merger benefits, and for the Commission
14 to feel comfortable that ultimately the risks were
15 mitigated by the savings generated.

16 COMMISSIONER WHITE: Well, believe me, I'm
17 daunted, but a rate cap seems like a pretty rough
18 proxy in that if the Company's costs really go up,
19 they couldn't recover, but if the merger efficiencies
20 were as good as they say they're going to be, then a

21 rate cap would not adequately capture those benefits

22 for consumers, would it? It seems like a pretty

23 blunt instrument to me, actually.

24 THE WITNESS: Well, you know, I

25 respectfully disagree. I think that it is an

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1 instrument that really provides the kind of economic
2 incentive that the merged company should have to meet
3 those kinds of savings. If they don't meet those
4 savings and rates are capped, the failure to do so,
5 the risk that was associated with those programs is
6 all on the shareholders.

7 COMMISSIONER WHITE: I understand those
8 benefits very well, but if they are more
9 efficient than -- the more efficient they are, the
10 higher the rate of return is.

11 THE WITNESS: Right.

12 COMMISSIONER WHITE: I mean, at some point
13 it seems to me the rate cap is unfair to the
14 consumers if they don't get enough.

15 THE WITNESS: And I think that's the nature
16 of a cap.

17 COMMISSIONER WHITE: It's just a gamble.

18 THE WITNESS: Caps are ceilings. Caps are
19 not floors. If the merged company is capable of
20 achieving what they hope to achieve and the cost

21 drivers are substantially reduced, rates of return
22 are ultimately going up. Then you, the Commission,
23 has the right to lower rates under a cap. It's a
24 ceiling. It's not -- I carefully avoided the
25 suggestion here of a freeze. It simply provides a

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1 cap, a risk mitigation cap. It does not suggest that
2 if they are able to achieve what they think they can
3 achieve, then rates can come down and consumers will
4 benefit accordingly.

5 COMMISSIONER WHITE: And you would be
6 comfortable with setting such a cap after the next
7 rate case, which we assume is coming?

8 THE WITNESS: You know, I mean, if I could
9 have my way, we would do it today, but it isn't going
10 to happen, and I think there's probably legitimate --
11 I don't think. I know there are legitimate arguments
12 that surround, surprisingly, a fairness argument to
13 the Company here that the rate case last year did
14 take off the table certain expenses, and the argument
15 for taking those, if I understand it correctly, the
16 argument on taking those off the table wasn't a
17 prudence argument in the sense of were these or were
18 these not legitimate expenses. It was a historical
19 test year argument.

20 We know that those expenses -- that Mr.

21 Larson testified, you know, that we're going to see a
22 rate case and we know right sitting here today what's
23 going to be involved in that rate case, to a large
24 part, is coming back and saying, okay, now the
25 correct historical test year is here. To the extent

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1 that they are allowed to recapture those expenses
2 that were legitimate that can now be tested not out
3 of the argument over historical test year but in
4 terms of were they prudent or not, I'm not signing
5 off on all those expenses. I'm simply saying the
6 test changes from historical to prudence. I think
7 that's probably quite fair for the Company.

8 I, also, again, like the notion that it
9 basically does set a kind of premerger baseline from
10 which we can judge going forward.

11 COMMISSIONER WHITE: So it sounds like you
12 would be suggesting a cap accompanied by regular
13 reviews, rate cases or whatever, to see what kind of
14 efficiencies are being achieved.

15 THE WITNESS: Well, I think in the
16 stipulation it says that the Company continues to be
17 pledged to filing their semiannual reports with the
18 Division, so the Division has a long history of
19 monitoring where these -- where the Company is, and
20 so you've got that kind of data being deposited over

21 here from which such monitoring can take place.

22 COMMISSIONER WHITE: Moving on, one of the

23 things I'm not sure what to make of this, and maybe

24 you could help me, is the discussion in some of the

25 written proxy materials and so forth, and that is the

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1 return to shareholders. PacifiCorp has been greatly
2 concerned about it. ScottishPower, you know, is
3 talking about benefiting shareholders, driving costs
4 down. We hear a lot about obtaining shareholder
5 value, and I understand that means they want their
6 share price to go up, but given the costs that they
7 say they are not going to achieve in this merger --
8 they're not going to recover, I'm sorry, recover in
9 rates, not only does it give the Company a lot of
10 incentive to be very efficient, which could be a good
11 thing, but does it also -- well, does it give you any
12 concern that a company that's trying to achieve very
13 high shareholder returns is interested in taking over
14 a rate of return regulated utility? Does that seem
15 compatible?

16 THE WITNESS: Does this give me concern. I
17 suggested in my direct testimony that there were
18 substantial pressures that this Company, the merged
19 Company, was going to be under to meet and that -- I
20 suggested that not in terms of therefore they should

21 go away, but only as a picture of under what
22 conditions and under what environment I think they
23 will be operating under. I think they will be under
24 a lot of pressure.
25 COMMISSIONER WHITE: I mean, if we're good

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1 at keeping them at a reasonable rate of return, it
2 seems to me the shareholders are not going be happy
3 with that.

4 THE WITNESS: That's Mr. Richardson's
5 problem. You know, I don't find that to be -- these
6 are very intelligent smart business people. I'm sure
7 that there is a strategy there to alleviate that kind
8 of pressure.

9 COMMISSIONER WHITE: Well, as I understand
10 it, one of the strategies may well be to sell off
11 generation, which you've indicated doesn't
12 particularly concern you. Do you think there's any
13 need to deal with that possibility in this case?

14 THE WITNESS: I think what I suggested in
15 the direct filing was that selling off generation may
16 very well be a strategy that they choose to pursue in
17 out years. They have argued, as you well know and
18 understand, that that is not their strategy. I think
19 we'll have to take them at face value on that.

20 Does it bother me that the potential could

21 exist out there for them to sell off generation? I
22 think what I also suggested along those lines -- I
23 think what I suggested in the testimony was that it
24 wasn't the selling off of the generation that was
25 good or bad. It was the terms and conditions under

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1 which it was being sold off and that that remained
2 something that was going to have to be addressed in
3 the future if they choose to pursue that strategy.

4 COMMISSIONER WHITE: Do you think this
5 Commission could adequately address that in the
6 future or do you think there's some need to try to
7 address it in this order?

8 THE WITNESS: I think -- well, that's an
9 interesting question. I think -- I'm probably going
10 out on a limb here, but I think you probably could
11 address it in the future. I mean, you have to
12 take -- you know, they said they're not going to do
13 it, so if they come in here and tell you that they're
14 going to do it, remember that, and when you do review
15 it in the future, that will be the opening question.

16 COMMISSIONER WHITE: Thanks.

17 CHAIRMAN MECHAM: Any redirect?

18 MR. DODGE: No.

19 CHAIRMAN MECHAM: All right. Thank you,
20 Dr. Anderson. Let's recess for lunch and return at

21 2:00.

22 (Recess, 12:44 p.m.)

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