0378

1 BEFORE THE WASHINGTON STATE

2 UTILITIES AND TRANSPORTATION COMMISSION

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3

WASHINGTON UTILITIES AND )

4 TRANSPORTATION COMMISSION, )

)

5 Complainant, )

)

6 vs. ) DOCKET NO. UE-100749

)

7 PACIFICORP, d/b/a PACIFIC ) VOLUME V

POWER AND LIGHT COMPANY, ) PAGES 378-616

8 )

Respondent. )

9 ------------------------------)

10 A hearing in the above matter was held on Wednesday,

11 January 26, 2011, at 9:00 a.m., at 1300 South Evergreen Park

12 Drive Southwest, Olympia, Washington, before Administrative

13 Law Judge PATRICIA CLARK, Chairman JEFFREY GOLTZ,

14 Commissioner PATRICK OSHIE and Commissioner PHILIP JONES.

15 The parties were present as follows:

16 WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, by

Donald T. Trotter, Assistant Attorney General, P.O. Box

17 40128, Olympia, Washington 98504-0128; telephone

360-664-1189

18

PACIFICORP, by Katherine A. McDowell, Attorney at Law;

19 Amie Jamieson, Attorney at Law; Jordan White, Attorney at

Law; McDowell, Rackner & Gibson, PC, 419 Southwest 11th

20 Avenue, Suite 400, Portland, Oregon 97205; telephone

503-595-3924

21

INDUSTRIAL CUSTOMERS OF NORTHWEST UTILITIES (ICNU), by

22 Irion A. Sanger, Attorney at Law; Melinda Davison, Attorney

at Law; Davison Van Cleve, PC, 333 Southwest Taylor, Suite

23 400, Portland, Oregon 97204; telephone 503-241-7242

24 Tami Lynn Vondran, CCR No. 2157

Court Reporter

25

0379

1 The parties were present as follows: (continued)

2 THE ENERGY PROJECT, by Brad M. Purdy, Attorney at Law,

2019 North 17th Street, Boise, Idaho 83702; telephone

3 208-384-1299

4 WAL-MART STORES, INC.; SAM'S WEST, INC., by Arthur A.

Butler, Attorney at Law, Ater Wynne, 601 Union Street, Suite

5 1501, Seattle, Washington 98101; telephone 206-623-4711

6 PUBLIC COUNSEL, by Sarah Shifley, Assistant Attorney

General, 800 Fifth Avenue, Suite 2000, Seattle, Washington

7 98104; telephone 206-464-6595

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

0380

1 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2 INDEX OF WITNESSES

3 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4 WITNESS: PAGE:

5 ERICH D. WILSON

6 Direct Examination by Ms. Jamieson 385

7 Cross-Examination by Mr. Sanger 385

8 Cross-Examination by Ms. Shifley 392

9 Cross-Examination by Mr. Jones 407

10 Cross-Examination by Mr. Oshie 412

11 Cross-Examination by Mr. Goltz 420

12 Redirect Examination by Ms. Jamieson 425

13 DOUGLAS K. STUVER

14 Direct Examination by Ms. McDowell 427

15 Cross-Examination by Ms. Shifley 428

16 Redirect Examination by Ms. McDowell 435

17 MICHAEL P. GORMAN

18 Direct Examination by Ms. Davison 438

19 Cross-Examination by Ms. McDowell 439

20 Cross-Examination by Mr. Jones 463

21 Redirect Examination by Ms. Davison 479

22 GREG R. MEYER

23 Direct Examination by Mr. Sanger 483

24 Cross-Examination by Ms. Jameison 485

25 Cross-Examination by Mr. Oshie 502

0381

1 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2 INDEX OF WITNESSES (continued)

3 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4 WITNESS: PAGE:

5 Cross-Examination by Mr. Goltz 512

6 Redirect Examination by Mr. Sanger 518

7 REBECCA M. EBERLE

8 Direct Examination by Mr. White 519

9 Cross-Examination by Mr. Purdy 520

10 Cross-Examination by Mr. Jones 537

11 WILLIAM R. GRIFFITH

12 Direct Examination by Ms. McDowell 539

13 Cross-Examination by Ms. Shifley 539

14 Cross-Examination by Mr. Purdy 548

15 Cross-Examination by Mr. Goltz 568

16 Alan P. Buckley

17 Direct Examination by Mr. Trotter 572

18 Cross-Examination by Ms. McDowell 573

19 Cross-Examination by Mr. Jones 598

20 Cross-Examination by Mr. Oshie 600

21 Cross-Examination by Mr. Goltz 606

22 Redirect Examination by Mr. Trotter 611

23

24

25

0382

1 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2 INDEX OF EXHIBITS

3 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4 EXHIBIT: ID: OF: AD: W/D: DESCRIPTION:

5 EDW-22 398 398 399 Excerpt from PacifiCorp's 2009

6 10K entitled Summary

7 Compensation Table (1 p.)

8 (1/26/11)

9 MPG-19 439 Standard & Poor's Credit Metrics

10 (3 pp.) (10/5/10)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

0383

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

2 (Whereupon, the proceedings went on the

3 record at 9:08 a.m.)

4 JUDGE CLARK: All right. Good morning, it's

5 approximately 9:10 a.m. on January 26, 2011, in the

6 Commission's hearing room in Olympia, Washington. This is

7 the time and the place set for continuation of the hearing

8 in Docket UE-100749, Patricia Clark, Administrative Law

9 Judge, for the Commission presiding. The record should

10 reflect that all commissioners are present for this

11 morning's hearing.

12 Before we proceed with the witnesses I have a

13 couple of housekeeping matters I would like to address. The

14 first is that according to the order of witnesses the first

15 witness this morning would be Mr. Ryan Fuller. There are no

16 cross-examination questions from the parties for this

17 witness, and the commissioners have now concluded, based on

18 their review, that they do not have any inquiry.

19 Accordingly, Mr. Fuller can be excused and we will be taking

20 PacifiCorp's next witness in order.

21 Secondly, we do have another counsel joining us

22 this morning, and I would like to have her enter an

23 appearance before we go on record -- I mean before we start

24 taking testimony.

25 MS. DAVISON: Good morning, Judge Clark. My name

0384

1 is Melinda Davison, and I'm here on behalf of the Industrial

2 Customers of Northwest Utilities. Thank you.

3 JUDGE CLARK: Thank you. Are there any other

4 preliminary matters we should address? Commissioner Oshie.

5 MR. OSHIE: I can hardly see the lawyers, they're

6 way back there. You just shoot up a flare if you have an

7 objection and get the Judge's attention to be able to pick

8 you out.

9 JUDGE CLARK: All right. Ms. McDowell, would you

10 call your first witness, please.

11 Raise your right hand.

12 (Erich D. Wilson sworn on oath.)

13 MR. WILSON: I do.

14 JUDGE CLARK: Thank you. Please be seated. Would

15 you state your full name for the record please and spell

16 your last.

17 MR. WILSON: Erich D. Wilson, W-i-l-s-o-n.

18 JUDGE CLARK: Thank you. Ms. McDowell.

19 MS. MCDOWELL: Thank you, Judge Clark,

20 Ms. Jamieson will be presenting our witness.

21 JUDGE CLARK: Thank you. Ms. Jamieson.

22 MS. JAMIESON: Thank you, Your Honor.

23 ///

24 ///

25 ///

0385

1 ERICH D. WILSON,

2 having been first duly sworn

3 on oath was examined and testified as follows:

4

5 DIRECT EXAMINATION

6 BY MS. JAMIESON:

7 Q. Good morning, Mr. Wilson.

8 A. Good morning.

9 Q. Do you have any changes or corrections to the

10 testimony and exhibits that you filed in this proceeding?

11 A. I do not.

12 Q. If I were to ask you the same questions today

13 would your answers be the same?

14 A. They would be.

15 MS. JAMIESON: This witness is ready for

16 cross-examination.

17 JUDGE CLARK: Thank you. I'm going to call first

18 on Industrial Customers of Northwest Utilities.

19 MR. SANGER: Thank you, Judge Clark.

20

21 CROSS-EXAMINATION

22 BY MR. SANGER:

23 Q. Good morning, Mr. Wilson.

24 A. Good morning.

25 Q. Does your rebuttal testimony address the issues

0386

1 related to wages, salaries and labor adjustments?

2 A. It does.

3 Q. Do you address Mr. Meyer's proposal to recalculate

4 the 2009 wage increase for exempt employees?

5 A. I do.

6 Q. And is a quick summary of the Company in

7 Mr. Meyer's position that PacifiCorp proposes a three and a

8 half percent increase for these employees in 2009 while

9 Mr. Meyer recommends a 2.07 percent increase?

10 A. That is correct.

11 MR. SANGER: My next question is going to address

12 a confidential exhibit which is confidential Exhibit 5C.

13 I'm not certain if my questions are going to elicit answers

14 which will require confidential information, but I would

15 recommend that we do close the hearing transcript and

16 designate this as confidential at this time.

17 JUDGE CLARK: Okay. I am going to close the

18 hearing transcript only if the answer itself would elicit

19 confidential information. So, Mr. Wilson, if there is a way

20 that you can respond to Mr. Sanger's inquiry without

21 disclosing confidential information in your Exhibit 5C I

22 would like you to do that. But before you answer with any

23 information that is in that exhibit let me know. The

24 Commission is subject to the public records law and open

25 meetings law, and I'm reticent to close the hearing if it's

0387

1 unnecessary.

2 MR. SANGER: Thank you, Your Honor.

3 Q. (By Mr. Sanger) Do you have Exhibit 5C before you?

4 A. That's EDW-5C?

5 Q. Yes.

6 A. Yes, I do.

7 Q. Does this exhibit show the analysis completed by

8 the Company regarding the market and the practices being

9 undertaken by PacifiCorp's competitors in the area of

10 planned wage increases?

11 A. For 2009 it does.

12 Q. Yes. If you could refer to Exhibit EDW-5C?

13 A. Yes.

14 Q. And there is a column there titled utility peer

15 group, does that column titled utility peer group represent

16 the market from which PacifiCorp hires its employees?

17 A. I don't show that on my exhibit.

18 Q. Does the top of the exhibit say 2009 projected

19 merit increase analysis?

20 A. It does.

21 THE WITNESS: Do you have a copy of that?

22 (Document handed to the witness.) Okay, could you restate

23 the question about utilities, please?

24 Q. (By Mr. Sanger) Yeah. There's a column titled

25 utility peer group?

0388

1 A. I do see that now, thank you.

2 Q. Okay. Does that represent the relevant market

3 from which PacifiCorp hires its employees?

4 A. It does.

5 Q. How do you select which utilities are included in

6 the utility peer group?

7 A. Our analysis that we conduct is based on revenue

8 size and employee size and market share in relationship to

9 the types of business in which we operate.

10 Q. Did you include any unregulated utilities in that

11 utility peer group?

12 A. We did not.

13 Q. And did you include any public power utilities?

14 A. This is the compliment that we used for that

15 survey.

16 Q. Are any of those utilities public power utilities,

17 utilities owned by governments or cooperatives?

18 A. Not to my knowledge, no.

19 Q. Does PacifiCorp compete with public power

20 utilities in the state of Oregon for employees?

21 A. There are times that we do compete with a variety

22 of different other organizations that aren't reflected in

23 this group for the types of positions that we source for.

24 Q. And do you know what percentage of your employees

25 are hired from other regions of the country?

0389

1 A. I do not know the answer to that.

2 Q. Do you know which percentage of your employees are

3 hired from the Pacific Northwest?

4 A. I do not know the answer to that.

5 Q. Did you include any Northwest utilities in your

6 peer group?

7 A. When we look at Northwest utilities for

8 entry-level and support-level positions, but not for the

9 broad national survey data that we source.

10 Q. Just as a yes or no question did you include any

11 Northwest utilities in your peer group?

12 A. No, we did not.

13 Q. And are you aware whether or not all utilities in

14 the Northwest have increased their employee wages and

15 salaries in 2009 and 2010?

16 A. A number of them have, as well as a number of them

17 have not to the best of my knowledge.

18 Q. So you're aware that some utilities have not

19 increased their employee wages and salaries?

20 A. Correct.

21 Q. And did your peer group include any utilities that

22 did not include increases in their wages and salaries?

23 A. No, they did not.

24 Q. I have some questions on another subject. The

25 Bridger coal issue. I believe you addressed this issue on

0390

1 your rebuttal testimony which is marked as EDW-3T at page

2 16?

3 A. Okay, I'm there.

4 Q. Does your rebuttal testimony respond to

5 Mr. Falkenberg's proposed disallowance of bonuses, meals,

6 gifts and donations at the Bridger plant?

7 A. Mr. Duvall actually addresses this in more detail.

8 My focus is specifically on the linkage to incentive and,

9 yeah, incentives and gifts and donations.

10 Q. So Mr. Duvall's testimony addresses the underlying

11 Bridger coal issue; correct?

12 A. That is correct.

13 Q. You just addressed the disallowance related to

14 bonuses, meals, gifts and donations?

15 A. Incentives. Oftentimes people will see bonus and

16 incentive interchangeable, but we define them from a Company

17 perspective that incentives are actually an earned wage and

18 a bonus is deemed and it's a payment that's made outside of

19 an unexpected.

20 Q. So using your terminology you address incentives,

21 meals, gifts and donations?

22 A. Correct.

23 Q. Thank you. Now, is it your position that these

24 costs, the incentives, meals, gifts and donations, should be

25 recoverable because the Company views the fuel expense for

0391

1 the Jim Bridger plant as reasonable?

2 A. That is correct.

3 Q. Now, were you in the hearing yesterday when

4 Mr. Duvall was asked some questions by Commissioner Oshie

5 regarding the Jim Bridger fuel costs?

6 A. I was.

7 Q. And do you believe it's possible that the

8 Commission may disagree with the Company and conclude that

9 the Bridger fuel expense is not reasonable?

10 A. The Commission may make that determination, yes.

11 Q. Now, if the Commission concludes that the Bridger

12 fuel expense is not reasonable would you agree that the

13 Bridger management incentives should be excluded from rates?

14 A. No, I would not take that position. Our incentive

15 program is a component of overall compensation and is to be

16 earned by the participants at the Jim Bridger facility. And

17 there are a variety of metrics that go into the

18 determination of the overall incentive. And the reference

19 point you're speaking to is one of many objectives that

20 would have been set for each of those employees at the Jim

21 Bridger facility.

22 Q. Would your position be the same for the meals and

23 gifts at the Jim Bridger plant?

24 A. It would be.

25 Q. So if the Commission finds that utility management

0392

1 was imprudent then you would still disagree with

2 Mr. Falkenberg's adjustment?

3 A. I'm not sure I would necessarily say they would

4 make the judgment it was imprudent or the fuel quality was

5 less than adequate. That would be something for the

6 Commission to make a determination.

7 Q. Correct. If they made such a determination your

8 position would not change?

9 A. The level of incentive would be based upon the

10 performance, so I would not support disallowing all the

11 incentive for those individuals at the Jim Bridger facility.

12 MR. SANGER: Thank you. I have no further

13 questions, Your Honor.

14 JUDGE CLARK: Thank you, Mr. Sanger. Ms. Shifley.

15 MS. SHIFLEY: Thank you, Your Honor.

16

17 CROSS-EXAMINATION

18 BY MS. SHIFLEY:

19 Q. Good morning, Mr. Wilson.

20 A. Good morning.

21 Q. Were you in the hearing room yesterday?

22 A. I was.

23 Q. So you heard Mr. Reiten testify that the Company

24 is managing the expense side of operations very carefully

25 and conservatively and that they are looking for

0393

1 efficiencies aggressively including holding labor costs down

2 and that last year many executives did not get merit

3 increases?

4 A. That's correct.

5 Q. Okay. And he testified that this was in light of

6 the economic conditions and his acknowledgment of the plight

7 of customers in Eastern Washington?

8 A. Correct.

9 Q. Could you please now turn to PacifiCorp's 10-K

10 filing that was submitted as part of its initial filing of

11 this case?

12 A. I don't have a copy of that with me.

13 MS. SHIFLEY: Would it be possible for the witness

14 to be provided a copy of it?

15 MS. JAMIESON: Is this an exhibit? Your Honor,

16 could we get an exhibit number?

17 JUDGE CLARK: It's not an exhibit. Do you have a

18 copy of that, Ms. Shifley, to provide the witness?

19 MS. SHIFLEY: I do.

20 JUDGE CLARK: We might need to take a brief recess

21 to duplicate.

22 MS. SHIFLEY: Your Honor, I'm afraid my copy has

23 notations on it. So if the Company actually has a copy of

24 their initial filing we could provide a copy to the witness.

25 JUDGE CLARK: Why don't we take a moment off

0394

1 record while we do search and rescue.

2 (Break taken from 9:22 to 9:28 a.m.)

3 JUDGE CLARK: All right. We're going on the

4 record, and during the brief recess I conducted a review of

5 the documents that have been filed with PacifiCorp's initial

6 filing, and I was unable to locate the document that

7 Ms. Shifley is referring to. So we're going to proceed with

8 inquiry now, I believe. Ms. Shifley.

9 Q. (By Ms. Shifley) Thank you. Mr. Wilson, what is

10 your title at PacifiCorp?

11 A. Director of human resources.

12 Q. And you also oversee PacifiCorp's compensation; is

13 that correct?

14 A. That is correct.

15 Q. Are you familiar with the compensation information

16 that may have been presented in the Company's 2009 10-K

17 filing?

18 A. I am.

19 MS. JAMIESON: Objection, Your Honor. This

20 document isn't in evidence, and we haven't been provided it

21 as a cross-examination exhibit.

22 JUDGE CLARK: Ms. Shifley.

23 MS. SHIFLEY: The 10-K filing is publicly

24 available and the witness has just testified that he's

25 familiar with the information in the 10-K that relates to

0395

1 employee compensation which is the portion of the document

2 that I would like to ask him some questions about.

3 JUDGE CLARK: All right. I'm going to allow the

4 inquiry provided the witness is familiar with the document,

5 number one, this is PacifiCorp's document. And I'm going to

6 allow that as long as you also give the witness a copy. I'm

7 not going to have Mr. Wilson examined on a document that he

8 doesn't have.

9 MS. SHIFLEY: Certainly, Your Honor. If I could

10 approach the witness?

11 JUDGE CLARK: You may. You also need to give it

12 first to PacifiCorp's counsel.

13 MS. SHIFLEY: Thank you. (Document handed to

14 Ms. Jamieson and then Mr. Wilson.)

15 JUDGE CLARK: All right. The record should

16 reflect that Ms. Shifley gave counsel for PacifiCorp a copy

17 of the 10-K, and it's now been provided to Mr. Wilson.

18 MS. JAMIESON: Your Honor, just to clarify things,

19 the page that Public Counsel would like to inquire upon has

20 been admitted into the record as a PacifiCorp

21 cross-examination exhibit, just to clarify.

22 JUDGE CLARK: And that is?

23 MS. JAMIESON: That is Exhibit GRM-7.

24 JUDGE CLARK: Thank you. So that will be

25 associated with Mr. Meyer.

0396

1 MS. JAMIESON: That's right.

2 JUDGE CLARK: This is an excerpt of PacifiCorp's

3 form 10-K for fiscal year ended 12-31-09.

4 MS. JAMIESON: That's right, page 125.

5 JUDGE CLARK: Thank you, Ms. Jamieson.

6 Q. (By Ms. Shifley) Mr. Wilson, before the break to

7 locate this exhibit you testified that you were aware and

8 had heard Mr. Reiten testify that the Company had been

9 managing expenses of the operations side very, very

10 carefully and conservatively, including holding labor costs

11 down. And this was done in light of the economic conditions

12 and his acknowledgment of the plight of customers in Eastern

13 Washington; is that correct?

14 A. I was in the hearing room during Mr. Reiten's

15 testimony, yes.

16 Q. Could you please refer to the exhibit that is now

17 in front of you which is page 124, specifically page 124 of

18 PacifiCorp's 2009 10-K filing?

19 A. I'm sorry the page you gave me was 126.

20 JUDGE CLARK: Just for the clarity of the record,

21 the one page that has been admitted is page 125.

22 Q. (By Ms. Shifley) The page of the exhibit that I

23 handed to you is page 126, could you please refer to that?

24 A. Yes, 126 not 124; correct?

25 Q. This shows the summary of compensation for the

0397

1 named executive officers of PacifiCorp, does it not?

2 A. I'm sorry, just so I'm clear, page 126, not page

3 124; correct?

4 Q. I'm sorry, could I just -- I just want to make

5 sure it's the page that I handed to Ms. Jamieson.

6 A. Correct, I have page 126.

7 Q. Does the top of the page say summary compensation

8 table?

9 A. No, it does not.

10 JUDGE CLARK: And just for the clarity of the

11 record, Ms. Shifley, that's not what GRM-7 says either.

12 MS. SHIFLEY: Certainly, Your Honor. I would like

13 to ask the witness questions about the page that I thought I

14 handed him. I'm so sorry, I'm going to doublecheck that I

15 referred him to the correct page.

16 MR. TROTTER: Your Honor, if we could take a break

17 we could make a copy of the page and circulate it so

18 everyone can be looking at the same thing.

19 JUDGE CLARK: I think that would probably be the

20 most expeditious way to deal with this. We're off record.

21 (Break taken from 9:33 to 9:38 a.m.)

22 JUDGE CLARK: All right. We're back on the

23 record, and the record should reflect that during the recess

24 Mr. Trotter duplicated a portion of PacifiCorp's 2009 10-K,

25 and that document bears the title Summary Compensation

0398

1 Table. But, Ms. Shifley, although this has been duplicated

2 and distributed to the Bench and all parties I think we

3 should go ahead and mark this as an exhibit.

4 And you want to describe the document I'm marking

5 for identification purposes as Exhibit EDW-22.

6 (Whereupon, the documents referred to

7 were marked as Exhibit No. EDW-22.)

8 MS. SHIFLEY: Your Honor, this document is a page

9 from PacifiCorp's 10-K filing, specifically page 125. It

10 contains a summary compensation table for PacifiCorp's named

11 executive officers.

12 JUDGE CLARK: All right. I'm marking for

13 identification purposes a one-page document which is an

14 excerpt from PacifiCorp's 2009 10-K entitled Summary

15 Compensation Table. And I'm not going to include the page

16 number because that created mass confusion earlier. We now

17 have two page 125s from PacifiCorp's 10-K, which is a result

18 from downloading documents from the Internet. So I'm just

19 going to describe the table. And you want to go ahead and

20 move its admission?

21 MS. SHIFLEY: I would like to now move for

22 admission into the record what has been marked as

23 Exhibit EDW-22.

24 (Exhibit No. EDW-22 offered.)

25 JUDGE CLARK: Is there objection?

0399

1 MS. JAMIESON: No objection, Your Honor, but I

2 would like to point out that the footnotes used on

3 Exhibit EDW-22 relate to footnotes that are found on

4 Exhibit GRM-7. So I would like to make sure that we use

5 these two exhibits in conjunction because they haven't been

6 presented together.

7 JUDGE CLARK: Thank you for that clarification.

8 And with that clarification EDW-22 is admitted.

9 (Exhibit No. EDW-22 admitted.)

10 MS. SHIFLEY: Thank you, Your Honor.

11 Q. (By Ms. Shifley) Mr. Wilson, I think I will skip

12 reminding you what you had already testified to twice --

13 A. Thank you.

14 Q. -- regarding the Company's efforts to manage its

15 expenses including labor expenses conservatively and

16 carefully. Just turning to what has now been marked as

17 Exhibit EDW-22, could you please confirm that in 2009

18 Mr. Reiten received a bonus of $623,000?

19 A. Under the bonus column for 2009 Mr. Reiten did

20 receive a bonus of 623,417, the bonus column term is an SEC

21 term.

22 Q. Thank you.

23 A. Also, just for reference, that bonus if you look

24 on page what I have as 126 which is G?

25 JUDGE CLARK: RM-7.

0400

1 A. GRM-7 there's a footnote that describes what the

2 compliment of that 623,000 is comprised of.

3 Q. And the total is 623. And that is on top of

4 Mr. Reiten's base salary of $265,000; is that correct?

5 A. 265,740, yes.

6 Q. Subject to check would you agree that Mr. Reiten's

7 2009 bonus was $269,000 more than his 2008 bonus?

8 A. I think an important point to make regarding that

9 question is --

10 Q. Would you answer the question yes or no, please,

11 Mr. Wilson.

12 A. His bonus for SEC purposes, which is a combination

13 of our annual incentive plan and the long-term incentive

14 plan was in fact greater in 2009 than it was in 2008.

15 Q. Thank you. That's also in addition to a base

16 salary of $258,000; is that correct?

17 A. For 2008, that is correct.

18 Q. Since 2007 Mr. Reiten's bonus and base salary have

19 increased?

20 A. That is correct.

21 Q. Thank you. I just now would like to turn to

22 another subject of your rebuttal testimony.

23 A. Would you like this back? This is your copy.

24 Q. Certainly, thank you. Mr. Wilson, would you

25 please turn to your rebuttal testimony which has been marked

0401

1 as Exhibit EDW-3T, specifically page 7?

2 A. Okay, I'm there.

3 Q. Beginning on line 6 you state that since putting

4 the annual incentive plan in place PacifiCorp has seen

5 improvements in safety, customer service standards and

6 operational output; is that correct?

7 A. That's correct.

8 Q. But you didn't provide any numbers or data on

9 improvements in safety, customer service or operational

10 output; is that correct?

11 A. That is correct.

12 Q. Would you now please turn back to your direct

13 testimony, which has been marked as Exhibit EDW-1T,

14 specifically page 5.

15 A. Okay, I'm there.

16 Q. Would you please refer to lines 14 through 16?

17 A. Okay.

18 Q. And here you state that the incentive compensation

19 program is necessary to "enable PacifiCorp to attract

20 talented employees"; correct?

21 A. That is correct.

22 Q. Would you now please turn to what has been marked

23 as Exhibit No. EDW-11?

24 A. I'm there.

25 Q. This exhibit contains a response to a data request

0402

1 and provides descriptions of other recognition programs; is

2 that correct?

3 A. That is correct.

4 Q. Would you please turn to the second page of that

5 exhibit. About two-thirds of the way down the page there's

6 a description of a hire-in bonus program which states that

7 this program is used to "attract" employees with highly

8 specialized or sought skills; is that correct?

9 A. That is correct.

10 Q. And about two paragraphs above that a bonus

11 program called the relocation bonus is listed; is that

12 correct?

13 A. That is correct.

14 Q. And that would be used to cover expenses for new

15 hires I'd assume; is that correct?

16 A. That's correct, who move to their new work

17 location from another place in the country.

18 MS. JAMIESON: Objection, Your Honor. I believe

19 these questions are irrelevant. There's no adjustments at

20 issue in this case related to relocation bonuses or the

21 hire-in bonus that Ms. Shifley is referencing.

22 JUDGE CLARK: Ms. Shifley.

23 MS. SHIFLEY: Mr. Wilson testifies that the

24 various portions of compensation which are at issue in this

25 case are necessary to "attract" programs -- or attract

0403

1 workers, retain workers, and otherwise incent certain types

2 of employee behavior. And this lists a number of other

3 programs that the Company has that do exactly those things,

4 and, therefore, relate to the stated purpose and

5 Mr. Wilson's reasons for why the various incentive programs

6 are appropriate for recovery through rates.

7 JUDGE CLARK: All right. I am going to allow the

8 inquiry, although it can have probably limited value if

9 Public Counsel is not proposing an adjustment.

10 MS. SHIFLEY: Thank you, Your Honor.

11 Q. (By Ms. Shifley) Mr. Wilson, Public Counsel did

12 propose an adjustment for the annual incentive plan, did it

13 not?

14 A. That's correct.

15 Q. Which you previously stated is necessary to enable

16 PacifiCorp to attract employees; is that correct?

17 A. That is correct. It is one of many provisions

18 that we provide from a programmatic perspective that enable

19 us to attract the talent needed to support our customer's

20 requirements.

21 Q. But would you also testify that it is not the only

22 way that public -- that PacifiCorp -- the only means through

23 which PacifiCorp can attract and retain employees?

24 A. As I just mentioned, it's one of many programs

25 that we provide.

0404

1 Q. Did Public Counsel and ICNU witness, Mr. Meyer,

2 recommend disallowance of any of the bonuses listed in what

3 has been marked as EDW-11?

4 A. No, I believe the focus was purely on the annual

5 incentive plan.

6 Q. So Mr. Meyer did not contend with the Company's

7 relocation bonus, retention bonus, hire-in bonus, merit lump

8 sum payment, recognition bonus, safety bonus or the STARS

9 program?

10 A. Not to my knowledge, no.

11 Q. I'd like to now turn to another subject of your

12 testimony, could you please turn to what has been marked as

13 Exhibit No. EDW-16?

14 A. Okay, I'm there.

15 Q. This exhibit is a response to a Public Counsel

16 data request asking for information regarding executive

17 compensation for PacifiCorp over the past ten years; is that

18 correct?

19 A. That's correct.

20 Q. Turning to the second page in the text on the top

21 of the page this states that "PacifiCorp defines executives,

22 using the SEC definition of named executive officers"?

23 A. That is correct.

24 Q. How many named executive officers does PacifiCorp

25 have?

0405

1 A. PacifiCorp has three named executive officers,

2 each of the three business units presidents, one of which is

3 Mr. Patrick Reiten.

4 Q. So when Public Counsel sought information

5 regarding executive compensation we would have received only

6 information regarding these three individuals?

7 A. That is correct.

8 Q. Could you please turn to what has been marked as

9 EDW-15C?

10 JUDGE CLARK: This is a confidential document, so

11 hopefully inquiry and answers will not relate to that

12 information.

13 MS. SHIFLEY: I believe that the questions and

14 answers might implicate some of the information, so it might

15 be good to close the hearing room at this time.

16 JUDGE CLARK: Again, I'm not going to close the

17 hearing room unless your inquiry or the witness's answers

18 are going to do that. If you can ask a general question

19 that will elicit the information you need, and if Mr. Wilson

20 can answer in a general matter, I won't need to close the

21 hearing.

22 MS. SHIFLEY: Your Honor, I believe my questions

23 will implicate the information.

24 JUDGE CLARK: All right. Then the next portion of

25 this proceeding will be held as an in camera session. The

0406

1 Commission issued a protective order in this docket and all

2 individuals who are entitled to seek confidential

3 information had to sign a protective agreement. Individuals

4 who have not signed a protective agreement will be excluded

5 from the hearing room. I would like to ask Ms. Jamieson if

6 there are any individuals present in the hearing room not

7 entitled to hear this information?

8 MS. JAMIESON: No, Your Honor.

9 JUDGE CLARK: All right. Then this portion of the

10 proceeding will be held in camera and the transcript

11 separately sealed and entered into the record. Ms. Shifley.

12 MS. SHIFLEY: Thank you.

13 MR. GOLTZ: Mute send.

14 JUDGE CLARK: Thank you. Yes.

15 (A portion of this transcript was

16 removed and put in a confidential transcript

17 marked Volume VI.)

18 JUDGE CLARK: All right. The record should

19 reflect that we have concluded the in camera portion of this

20 hearing and that all individuals may be in the hearing room

21 at this time. The transcript from that portion of the

22 proceeding will be separately bound and sealed in the record

23 of this matter. And Ms. Shifley during the in camera

24 session concluded her examination of this witness.

25 No other parties have indicated examination for

0407

1 Mr. Wilson, so I'll turn to commissioners before I allow

2 Ms. Jamieson redirect. Commissioner Jones.

3 MR. JONES: Thank you, Judge, just a few

4 questions.

5

6 CROSS-EXAMINATION

7 BY MR. JONES:

8 Q. Good morning.

9 A. Good morning.

10 Q. After that cross-examination I'm a little

11 confused, so I'm just going to probably ask a few clarifying

12 questions. I think in your testimony, EDW-3T your rebuttal,

13 you describe both AIP and LTIP; AIP, annual incentive plan,

14 LTIP, long-term incentive partnership plan; correct?

15 A. That is correct.

16 Q. To clarify, are there any costs -- and how many

17 PacifiCorp employees qualify for LTIP?

18 A. It varies per year, and it's roughly between 20

19 and 25 participants per year.

20 Q. Twenty and 25. Is Mr. Reiten included in that?

21 A. Mr. Reiten is a participant.

22 Q. Mr. Stuver?

23 A. Mr. Stuver is a participant.

24 Q. Are any of these costs born by ratepayers?

25 A. No, they are not.

0408

1 Q. They are all what we call below the line?

2 A. Correct, the shareholders absorb this cost.

3 Q. Okay. Then let's move to the AIP, the annual

4 inventive plan?

5 A. Okay.

6 Q. How many employees currently or in the most recent

7 period are covered?

8 A. Roughly 2,500. The nonunion or nonrepresented

9 employees are those that participate in that program.

10 Q. Okay. And in your testimony, both direct and

11 indirect, you describe how that is calculated, and I do

12 understand that you assert that a bonus is a different

13 concept than an incentive?

14 A. That is correct.

15 Q. You define incentive as being a legitimate part of

16 overall compensation?

17 A. That is correct.

18 Q. So my question now is how -- and I get that. But

19 how is the at risk portion of the total compensation

20 determined and what consulting services or what sources of

21 information do you use to set the at risk versus the base

22 salary?

23 A. Sure. On an annual basis we evaluate each and

24 every one of those positions that are eligible for the

25 annual incentive plan. As part of that we look at a variety

0409

1 of third-party salary survey sources to include those such

2 as Towers Watson that used to be Towers Perrin & Watson

3 Wyatt, Aon Hewitt, Mercer, for example, these are

4 third-party sources that most organizations these days

5 participate in because of the confidential nature of the

6 data they provide.

7 What we in turn do is when we evaluate each

8 position we find the market midpoint for the 50th percentile

9 or average and determine the overall compensation we will

10 provide to employees within that job. And then also within

11 the survey there is a column that represents the market

12 average for target incentive percentage and we reflect that

13 then.

14 So, for instance, if we had an accountant position

15 and the total compensation was 100,000, there may be --

16 there would be a column that represented annual incentive

17 plan of 10 percent. We would then structure from that

18 100,000, 10 percent of that would be the target incentive

19 that the individual would earn based upon their performance

20 that year.

21 Q. So is it fair to characterize that allocation as

22 relying predominantly on third-party consulting services

23 like Towers Watson?

24 A. Very much so.

25 Q. Okay. PacifiCorp doesn't undertake any

0410

1 independent surveys of how much should be at risk or how

2 much base?

3 A. Will you restate that?

4 Q. Do you undertake any surveys, PacifiCorp itself

5 outside of the consulting services, on human resources that

6 you just referred to?

7 A. Very infrequently mainly because those survey

8 sources are a compliment of, again, most organizations that

9 we would be deemed competing for labor from.

10 Q. That's what you understand as standard practice in

11 the electric industry?

12 A. Very much so. It's the practice in most

13 industries that I've ever operated in.

14 Q. Could you get in front of you I think it's DKS-4.

15 MR. JONES: Counsel, could you, it's a Stuver

16 exhibit.

17 A. (Document handed to the witness.) Yes,

18 PacifiCorp's 2009 10-K.

19 Q. (By Mr. Jones) No, this is the MidAmerican Energy

20 Holdings 10-K, I think it is.

21 A. Okay, I'm with you.

22 Q. If you turn to page 143 of that, please. So this

23 is not PacifiCorp's but it is your parent company MEHC;

24 correct?

25 A. Correct.

0411

1 Q. And I think in the middle there's a paragraph

2 called How is Compensation Determined?

3 A. That is correct.

4 Q. And in the third paragraph it talks about MEHC

5 hiring the compensation practice of Towers Watson to do

6 similar things I think that you do at PacifiCorp; correct?

7 A. Correct.

8 Q. And it also states -- it states a number for how

9 much they're paid for this service and it also states that

10 MEHC employs Towers Watson for services and actuarial

11 "consulting services"; correct?

12 A. That's correct.

13 Q. And there's a large of amount of money, 466,000 in

14 2009, for that purpose; correct?

15 A. Correct.

16 Q. So does PacifiCorp also engage Towers Watson or

17 any of these other services for actuarial or consulting

18 services?

19 A. We do not. We use Hewitt and Associates which has

20 now become Aon Hewitt for actuarial services for our pension

21 and retirement plans.

22 Q. My question is do you believe that Towers Watson

23 or Hewitt and Associates can be objective about the analysis

24 that they provide you given the other consulting services

25 and a fairly large amount of money provided to these

0412

1 companies?

2 A. Very much so based upon the nature of the contract

3 that's agreed to between both parties.

4 Q. So you would assert that the contractual

5 relationship, the terms of the contract of this specific

6 compensation, surveys and compensation advice would mean

7 that they're objective?

8 A. I would.

9 MR. JONES: Okay. That's all I have.

10 JUDGE CLARK: Commissioner Oshie.

11

12 CROSS-EXAMINATION

13 BY MR. OSHIE:

14 Q. I just have a couple of questions, Mr. Wilson,

15 about your assertion, I suppose, that the incentive is part

16 of the overall, you know, compensation scheme for the

17 Company and that if the incentive expense would be removed

18 that it would result in below market compensation. So let's

19 start with Public Counsel's exhibit that they asked you to

20 turn to, I believe it is EDW-11?

21 A. Okay, I'm there.

22 Q. And let's start with, let's go right to the top of

23 the page of the annual incentive plan?

24 A. We're on page 2?

25 Q. You're on page 2.

0413

1 A. Thank you.

2 Q. And there I'll just read it, the second sentence

3 says all -- or second to the last, it states, "All regular,

4 full-time and part-time nonrepresented employees are

5 eligible to participate." I assume that means in the annual

6 incentive plan?

7 A. That is correct.

8 Q. All right. How many employees does that statement

9 actually cover?

10 A. For 2009 the following sentence represented 2,600

11 employees.

12 Q. So 2,600 employees are eligible to receive payment

13 under the annual incentive plan and 2,601 employees received

14 an award, that's in the next sentence?

15 A. Oh.

16 Q. Are you stating that every employee whether full

17 time, part time, regular, so long as they weren't

18 represented by union received payments under the annual

19 incentive plan?

20 A. No, I apologize, I was misunderstanding your

21 question. There were 2,601 employees who actually received

22 an award in that plan year. I don't have with me the number

23 of eligible participants during that plan year, but I would

24 imagine it was fairly close to that number.

25 Q. So almost every -- okay, let me see if we can get

0414

1 some precision on here. You're the director for human

2 resources; is that correct?

3 A. That's correct.

4 Q. So how many employees does PacifiCorp have?

5 A. Roughly 5,700 employees.

6 Q. 5,700. And how many union represented? How many

7 employees are represented by unions?

8 A. It would be the difference between the 2,601 and

9 the 5,700.

10 Q. Okay, it brings us right back. Okay. So 3,100

11 even if my lawyer math works, sounds like it. So let's

12 approach it this way, were there any employees that were

13 eligible to receive payment under the annual incentive plan

14 that did not receive a payment under the annual incentive

15 plan?

16 A. There may have been a couple during the--let's use

17 2009 as the period--that did not receive, but there were

18 also many of that compliment of 2,600 that received less

19 than was target or would have delivered market competitive

20 compensation for them based upon their performance.

21 Q. So for those that did not receive a bonus were

22 they subject to disciplinary action of some kind?

23 A. They would have been, yes.

24 Q. Was it a result of poor performance?

25 A. It would have been related to performance, yes.

0415

1 Q. If it was poor performance then based on your last

2 couple of answers that resulted in disciplinary action by

3 PacifiCorp?

4 A. That is correct.

5 Q. Okay. Do you consider that nonpayment of the

6 annual incentive plan to be disciplinary action of some

7 kind?

8 A. It would be deemed underperformance. It may not

9 be to the degree of discipline, it may not have met all

10 overall objectives.

11 Q. So if an employee performs to the expectations of

12 the Company then they get a bonus, is that what you're

13 saying, they're eligible and they receive payment under the

14 incentive plan?

15 A. They would be eligible for their target incentive

16 level, yes.

17 Q. When you say eligible, does that mean they receive

18 a payment under it?

19 A. They would.

20 Q. Okay. So let's say that an employee meets the

21 expectations that have been set forth for them in -- and I

22 imagine the Company has a performance plan for each

23 employee?

24 A. That's correct, that's established at the

25 beginning of each calendar year.

0416

1 Q. Okay. So the employee meets the expectations in

2 their performance plan, and so would they be eligible then

3 for 100 percent of the annual incentive plan?

4 A. They would be eligible for that, yes.

5 Q. Would they receive 100 percent of the annual

6 incentive plan?

7 A. Yes, they would.

8 Q. If they met expectations in their PDP?

9 A. That's correct.

10 Q. Okay. And the only -- and that is -- is there any

11 other payment that they would receive other than the annual

12 incentive plan payments that are on this sheet if they just

13 performed as was expected --

14 A. No.

15 Q. -- in their PDP?

16 A. No.

17 Q. Okay. So who makes the decision whether or not

18 the employee met their performance goals?

19 A. Their direct manager, supervisor.

20 Q. Is that reviewed by you?

21 A. No, it's not directly, it's reviewed by their

22 manager and their manager's manager.

23 Q. So let's go back, okay. How many employees that

24 were eligible did not receive payment under the annual

25 incentive plan?

0417

1 MS. JAMIESON: Excuse me, I could maybe help out

2 by interrupting, excuse me, Commissioner, but we have in

3 evidence EDW-14 that lays out this information.

4 MR. OSHIE: It's the witness's exhibit, correct?

5 JUDGE CLARK: It's a cross-examination exhibit

6 that's attached to Mr. Wilson's testimony.

7 MR. OSHIE: Okay, thank you, Counsel.

8 Q. (By Mr. Oshie) Do you have the exhibit in front of

9 you, Mr. Wilson?

10 A. I do.

11 Q. It says here for the record that number of

12 employees that did not receive AIP for, you know, calendar

13 year 2009 was 11, that they received AIP equal to the target

14 was 85?

15 A. That would be the 100 percent level you spoke of a

16 moment ago.

17 Q. Okay. So employees that received less than the

18 target were 1,108. Okay. So is that -- if they receive

19 less than the target does that mean -- I'm trying to get my

20 arms around, then does that mean that they underperformed?

21 A. It may have meant that they underperformed in one

22 or many of the areas. So, for instance, an employee may

23 have five specific individual goals. It could be that they

24 didn't meet the expectations for one of those five and,

25 therefore, wouldn't have supported the management's decision

0418

1 to award them the target level.

2 Q. And it doesn't mean then that the Company was

3 under-compensated or, excuse me, the employee was

4 under-compensated?

5 A. They wouldn't have received market level

6 compensation, but it was dependent upon their lack of

7 meeting each of those five objectives. So their performance

8 indicated or directed them receiving less than market

9 compensation that year.

10 Q. The 2,600 employees, how many are located in the

11 Portland area and how many are located in Salt Lake City?

12 A. I don't know the specific answer to that question.

13 Q. Okay. Let's just say half of them would be in

14 Salt Lake City just for hypothetically?

15 A. Sure.

16 Q. Okay. So how does the Company determine for those

17 employees what the market-based rate -- let's go back to

18 those questions that Commissioner Jones, that he asked,

19 because I thought it was based on this more, you know, we go

20 to the consultants, we talk to them, it's all based on a

21 national scale. And I can see that for, you know, a few of

22 the employees. But as far as the -- you have 2,600 out of

23 your total 5,700 employees and so if half of them were in

24 Salt Lake City then it would seem as if another driver is

25 what's the prevailing wage and salary in Salt Lake City; is

0419

1 that true?

2 A. Not for the majority of the positions that's a

3 part of our organization. We look nationally and we don't

4 specifically focus in on one geography. Because of the

5 nature of our positions we are looking to attract talent

6 from a variety of different parts of the country.

7 Q. So really would it matter to you as a company what

8 the compensation would be for a similarly paid person or

9 similar -- a person with similar responsibilities in a

10 company of let's say like-size in Salt Lake or Portland, you

11 would look nationally at what -- and if you overpaid or

12 underpaid based on regional expectations that doesn't factor

13 into your decisions?

14 A. We would look nationally, and that reference point

15 would be a part of those surveys, so it would be part of our

16 determination of setting the level of compensation for that

17 individual.

18 Q. So it does play a role?

19 A. It is a factor, yes. It's not an only or direct

20 factor, we wouldn't be just looking at that one entity

21 within that one market, but it does factor into the overall

22 survey results.

23 MR. OSHIE: That helps me, thank you. I don't

24 have anymore questions.

25 JUDGE CLARK: Chairman Goltz.

0420

1 MR. GOLTZ: Yes, thank you.

2

3 CROSS-EXAMINATION

4 BY MR. GOLTZ:

5 Q. Now, in Exhibit 5C you listed utility peer group

6 upon which you based, sir, the rationality of your salary

7 increases; correct?

8 A. That is correct.

9 Q. But you don't always get all your employees from

10 other utilities, do you?

11 A. No, that's correct.

12 Q. As a matter of fact, sometimes you even get

13 employees that used to work for the Utilities &

14 Transportation Commission?

15 A. On a very rare case.

16 Q. I really wish you hadn't said your accountants

17 make $100,000 too. No, seriously, you do get other

18 employees from other business enterprises besides utilities?

19 A. We do. Positions such as finance, information

20 technology, the nonoperational specific position is more --

21 Q. Human recourses --

22 A. -- in the general --

23 Q. For example, you yourself probably came from a

24 nonutility?

25 A. That is correct.

0421

1 Q. So wouldn't it be more accurate to include some

2 nonutilities in your comparables to sort of justify your

3 compensation package?

4 A. I would say that would be a true statement.

5 Q. To your knowledge -- you must be involved in some

6 human resources network in the Portland area?

7 A. Correct.

8 Q. And isn't it true, that a number of both private

9 sector and public sector enterprises are holding back on

10 salary increases in these economic times?

11 A. In 2008 and 2009 there were many that were holding

12 back, as well as there were just as many from my observation

13 and interaction that were continuing forward at a lesser

14 degree than they had historically provided, which is evident

15 from our actions as well that 2008 and 2009 are lower than

16 historical numbers from wage increases that we have

17 provided.

18 Q. Right. But in you comparables on Exhibit 5C you

19 only included those that are actually moving forward with

20 increases, I don't see many zeros on there?

21 A. Correct.

22 Q. Forgive me if I should have gleaned this from your

23 testimony, but I gather that Mr. Sanger said that his

24 witness was proposing a two point some percent increase and

25 yours was 3.5 percent?

0422

1 A. For 2009, that's correct.

2 Q. Is your 3.5 a merit increase or cost of living

3 increase or both?

4 A. It is a merit increase. We did not provide cost

5 of living adjustments.

6 Q. Is that because the cost of living hasn't gone up?

7 A. No, it's because we deem our adjustments based on

8 cost of labor, and that's how we establish. We don't

9 provide an assessment of the living adjustments that are

10 needed within each of the states in which we operate.

11 Q. So you pay the entry-level accountant the same in

12 Salt Lake City as you would in Portland?

13 A. That is correct.

14 Q. Despite differences in -- despite cost of living

15 differences in those areas?

16 A. Correct.

17 Q. And that's because you don't consider the local

18 area to be the market from which you recruit?

19 A. Not for those positions, that's correct.

20 Q. What about for other positions, someone that does

21 internal mail distribution, is that priced differentially

22 between Portland and Salt Lake City?

23 A. What we do is we look at those specific geographic

24 marketplaces for those types of positions, more clerical or

25 support, because those are not deemed sourced from a

0423

1 national perspective, so we do look locally for those few

2 positions.

3 Q. So I've gotten mixed messages from a couple of

4 witnesses that preceded you. Mr. Reiten said that there

5 is--Ms. Shifley points out--the Company is making all sorts

6 of efforts to control costs. And then when I asked the

7 witness yesterday about sort of the employee numbers if

8 maybe the general trend, slight trend downward could have

9 been part of a cost-cutting exercise, and he assured me it

10 was not. So I would ask you, what are the directives you

11 have received as far as holding back on personnel costs?

12 A. There's been no directive for workforce reductions

13 or reducing costs or head count, if you will, outside of

14 normal business management practices and watching process

15 and gaining efficiency.

16 I will take the opportunity, if I may, to expand a

17 little bit on the response from Mr. Dalley yesterday. There

18 is again no workforce reductions that have been -- or plans

19 that have been initiated. The actual number that is showing

20 less in 2010 versus 2009 are actually positions that we are

21 sourcing for. They're not positions that we have removed

22 from our business, they're deemed as needed in order to

23 operate and deliver to our customers.

24 The challenge that we're encountering is in the

25 labor market it has been very difficult to attract swiftly

0424

1 into our organization the types of technical positions, such

2 as engineers, in this marketplace. I know that's

3 counterintuitive to high unemployment results, but the types

4 of positions we're seeking to support our business tend to

5 be those that are gainfully employed and have been somewhat

6 resistent to leaving their organization based on the current

7 economic climate and going to another one that they don't

8 know. So our length of time for filling positions has grown

9 and thereby causing that fluctuation in head count numbers,

10 if you will, that was discussed yesterday.

11 Q. I forget the page reference, but you mentioned

12 some of the benefits of your incentive program. And I don't

13 remember the page reference where we talked in response to

14 questions from Mr. Shifley, but are some of the benefits

15 reduced operational expenses for the company?

16 A. That is an objective or goal that's established

17 for employees that participate in that plan.

18 Q. So in fact is among the goals for a number of the

19 people who receive the annual incentive payments that would

20 include -- some of the goals would involve cutting costs in

21 some other way, and if you do that you get a reward?

22 A. Cost maintenance awareness, trying to be more

23 efficient which in turn would lower costs I would say yes.

24 MR. GOLTZ: Thank you, I have no further

25 questions.

0425

1 JUDGE CLARK: Redirect, Ms. Jamieson.

2 MS. JAMIESON: Thank you, Your Honor.

3

4 REDIRECT EXAMINATION

5 BY MS. JAMIESON:

6 Q. Mr. Wilson, just a moment ago do you recall

7 Chairman Goltz asking you some questions about cost control

8 measures that the Company has implemented?

9 A. I do.

10 Q. And can you discuss a little bit about the cost

11 control measures that you're aware of in the human resources

12 field that the Company has implemented?

13 A. Sure. For example, I think I was talking about

14 the head count in the open positions we have. Under our new

15 ownership we have a much more rigorous process that we

16 undertake. When an individual leaves the organization we

17 actually sit down and evaluate with the manager the need for

18 truly replacing that position, or if there's an opportunity

19 to separate those duties amongst others within the

20 organization, or is there an opportunity to replace that

21 position at a different level in our organization, thereby

22 providing growth opportunities, as well as helping reduce

23 costs, if you will.

24 Q. And would you say those relate to compensation

25 reductions?

0426

1 A. They have the potential for having lower

2 compensation levels, yes.

3 Q. With respect to benefits has the Company

4 implemented any cost control measures?

5 A. The Company has made a variety of changes in the

6 benefits field over the last four years, yes. And those

7 changes I would note are reflective again of the market. We

8 are a market-based benefit provider, as well as pay.

9 MS. JAMIESON: Thank you. Nothing further, Your

10 Honor.

11 JUDGE CLARK: Thank you for your testimony,

12 Mr. Wilson. Is there any reason why this witness should not

13 be excused? You're excused, Mr. Wilson. And I think this

14 would be an appropriate time to take our morning recess.

15 We're at recess for approximately 15 minutes.

16 (Break taken from 10:23 to 10:41 a.m.)

17 JUDGE CLARK: All right. We're back on the

18 record. During the recess the Commission conferred with

19 Commission Staff who indicated that they do not have any

20 examination for Mr. Eberdt. And I also conferred with the

21 Bench, they do not have any inquiry for Mr. Eberdt. So,

22 Mr. Purdy, we're going to excuse Mr. Eberdt from appearing

23 at this hearing. His testimony was already admitted as an

24 exhibit.

25 And, Ms. McDowell, I ask you now for PacifiCorp to

0427

1 call their next witness, please.

2 MS. MCDOWELL: We call Mr. Douglas Stuver.

3 JUDGE CLARK: Thank you. Raise your right hand,

4 please.

5 (Douglas K. Stuver sworn on oath.)

6 MR. STUVER: I do.

7 JUDGE CLARK: Thank you, please be seated. Please

8 state your full name for the record and spell your last.

9 MR. STUVER: My full name is Douglas K. Stuver,

10 and last name is spelled S-t-u-v-e-r.

11 JUDGE CLARK: Thank you. Ms. McDowell.

12 MS. MCDOWELL: Thank you, Judge Clark.

13

14 DOUGLAS K. STUVER,

15 having been first duly sworn

16 on oath was examined and testified as follows:

17

18 DIRECT EXAMINATION

19 BY MS. MCDOWELL:

20 Q. Good morning, Mr. Stuver.

21 A. Good morning.

22 Q. Do you have any changes or corrections to your

23 prefiled rebuttal testimony in this proceeding?

24 A. I do not.

25 MS. MCDOWELL: Mr. Stuver is available for

0428

1 cross-examination.

2 JUDGE CLARK: Thank you. The only party who

3 indicated cross-examination for Mr. Stuver is Public

4 Counsel. Ms. Shifley.

5 MS. SHIFLEY: Thank you, Your Honor.

6

7 CROSS-EXAMINATION

8 BY MS. SHIFLEY:

9 Q. Good morning, Mr. Stuver.

10 A. Good morning.

11 Q. You provided rebuttal testimony regarding the MEHC

12 management fee that's been included in PacifiCorp's proposed

13 revenue requirement; is that correct?

14 A. Yes.

15 Q. What was the total amount that PacifiCorp

16 reflected for the MEHC management fee in its total company

17 per books data?

18 A. In the Washington case?

19 Q. No, on a company basis, please.

20 A. On a total company basis it was $7.1 million, I

21 could get you the exact figure if you like.

22 Q. And could you just confirm that the amount in the

23 per books data, the amount that was booked, was 8.3, subject

24 to check?

25 A. When you say -- can you clarify that question or

0429

1 repeat it, please?

2 Q. I believe yesterday Mr. Dalley testified to an

3 amount that was booked for the MEHC management fee that was

4 $8.3 million; is that correct?

5 A. I believe so. I was just trying to recall. I

6 think Mr. Dalley walked through kind of the process for that

7 fee, and I thought we were at a 9 million cap and then --

8 Q. Okay. I'll just move on, thank you. And in the

9 Company's original case it included 7.3 million; is that

10 correct?

11 A. In the original, yes.

12 Q. In its rebuttal testimony PacifiCorp agreed to

13 remove certain portions based on recommendations by

14 Mr. Meyer, including those for legislative contributions and

15 for SERP, is that correct?

16 A. Yes, and also long-term incentive as well.

17 Q. That was removed in the initial filing; is that

18 correct?

19 A. In the ultimate rebuttal amounts, yes, SERP is

20 removed.

21 Q. And the 7.1 million that's now included, that

22 includes MEHC and MEC bonuses that Mr. Meyer had recommended

23 disallowing; is that correct?

24 A. I'm sorry, can you repeat that?

25 Q. The 7.1 million the Company is now requesting to

0430

1 recover includes MEHC and MEC bonuses which was another

2 portion of the fees that Mr. Meyer had recommended be

3 disallowed; is that correct?

4 A. I think Mr. Wilson testified on kind of the

5 terminology and bonuses versus incentive, but in terms of

6 incentive dollars those dollars are included, but things

7 such as SERP or long-term incentive is not included.

8 Q. Did Mr. Meyer recommend disallowing any other

9 portion of the fee?

10 A. I don't recall, no.

11 Q. Could you please turn now to what has been marked

12 as Exhibit RBD-22, that's an exhibit that was marked

13 originally for Mr. Dalley, it's a response to Public Counsel

14 data request No. 145.

15 A. Okay.

16 JUDGE CLARK: All right. Can you give us that

17 cite again?

18 MS. SHIFLEY: Certainly. It's Exhibit RBD-22, and

19 it's a response to Public Counsel data request No. 145.

20 Have you got that?

21 JUDGE CLARK: Yes, thank you.

22 Q. (By Ms. Shifley) This exhibit is a PacifiCorp

23 response to a Public Counsel data request that asks for the

24 amounts charged to PacifiCorp through the management fee for

25 CEO labor costs; is that correct?

0431

1 A. Yes.

2 Q. Could you turn to page 2 of this exhibit?

3 A. Okay.

4 Q. This shows on a total company basis the management

5 fee includes for the CEO's bonus alone 1.1 million?

6 A. His incentive, right, 1.1.

7 Q. And this is in addition to the CEO's base salary

8 that is included also in the management fee; is that

9 correct?

10 A. Yes.

11 Q. Did Mr. Meyer recommend any disallowance for base

12 salaries in the fee?

13 A. I'm not certain what Mr. Meyer recommended there.

14 Q. Would you please turn to what has now been marked

15 as Exhibit DKS-3?

16 A. Okay.

17 Q. This is a printout from MEHC's website that

18 describes the various current positions held by the CEO,

19 Mr. Abel; is that correct?

20 A. Yes.

21 Q. In here it states that Mr. Abel is the CEO and

22 chairman of PacifiCorp; is that correct?

23 A. Yes, it is.

24 Q. It also appears that Mr. Abel serves as the CEO of

25 CE Electric UK, which provides electricity to 3.7 million

0432

1 customers in England; is that correct?

2 A. Yes.

3 Q. Mr. Abel is also the CEO of MidAmerican Funding,

4 which appears to be a holding company for an integrated

5 utility that provides natural gas and electricity to

6 1.4 million customers in the Midwest?

7 A. Yes.

8 Q. It also states that Mr. Abel is director of Kern

9 River Gas and Northern Natural Gas Company?

10 A. Yes.

11 Q. Mr. Stuver, it also shows that Mr. Abel serves on

12 quite a few board of directors, including those for

13 HomeServices of America, Nuclear Electric Insurance Limited

14 and the Kum & Go mini-marts; is that correct?

15 A. Yes.

16 Q. So serving as CEO of PacifiCorp is not Mr. Abel's

17 only function by any means, is it?

18 A. No, it's not.

19 Q. Just to clarify, you just testified previously

20 that PacifiCorp pays $1.1 million for Mr. Abel's incentive

21 alone?

22 A. Yes.

23 Q. Mr. Stuver, could you now please turn to what has

24 been marked as Exhibit DKS-4?

25 A. Okay.

0433

1 Q. Have you got that?

2 A. Yes.

3 Q. And this is an excerpt from MEHC's 2009 form 10-K;

4 is that correct?

5 A. Yes, it is.

6 Q. Could you please turn to page 144 of this document

7 and direct your attention to the first full paragraph?

8 A. Yes, I see it.

9 Q. This paragraph describes MEHC's management program

10 as -- or their management incentive program as an annual

11 discretionary award which is determined on a subjective

12 basis based on MEHC's overall performance; is that correct?

13 A. Yes.

14 Q. And the paragraph also states that the individual

15 executives' performance is measured against objectives that

16 commonly include financial as well as nonfinancial measures;

17 is that correct?

18 A. Right. It talks about customer service,

19 operational excellence, financial strength, employee

20 commitment and safety, environmental respect and regulatory

21 integrity, which are basically the six pillars of

22 MidAmerican's operating principles.

23 Q. It also describes who recommends these incentive

24 awards including that the Chairman alone recommends the

25 CEO's award; is that correct?

0434

1 A. Yes, then the compensation committee is involved

2 as well.

3 Q. While we have this document would you turn to page

4 146 of the 10-K?

5 A. Okay.

6 Q. This page shows that Mr. Abel received in 2009 on

7 a total company basis a $5 million bonus; is that correct?

8 A. Yes.

9 Q. And that's in addition to his $1 million base

10 salary?

11 A. Yes. And that bonus, just to clarify, has both --

12 in this case, that's the performance incentive plan.

13 Q. So, yes, just turning to page 147, which I believe

14 you were referring to, this shows that Mr. Abel's entire

15 bonus consists of this incentive plan and that it doesn't

16 consist at all of any long-term incentive plan or any amount

17 that might be a shareholder cost; is that correct?

18 A. That's correct.

19 Q. And then would you just please turn to page 148

20 since we have this?

21 A. I'm there.

22 Q. And the first section of this Option Exercises and

23 Stock Vested. Could you confirm for me that this shows that

24 Mr. Greg Abel, in addition to his $5 million bonus and his

25 $1 million base salary, realized value of $26 million on

0435

1 stock options in 2009?

2 A. Yes.

3 MS. SHIFLEY: No further questions, Your Honor.

4 JUDGE CLARK: Thank you. Let's see if there's any

5 inquiry from the Bench. Commissioner Jones.

6 MR. JONES: No.

7 MR. OSHIE: No.

8 MR. GOLTZ: No.

9 JUDGE CLARK: All right. Any redirect?

10

11 REDIRECT EXAMINATION

12 BY MS. MCDOWELL:

13 Q. Mr. Stuver, Ms. Shifley asked you a couple of

14 questions about RBD-22, do you have that?

15 A. Yes.

16 Q. And she followed up with a number of questions

17 about Mr. Abel's total compensation. Now, those

18 compensation figures are for all of the many companies in

19 the MEHC platform; is that correct?

20 A. Yes. On the exhibit that she referred me to from

21 MEHC's 10-K that compensation encompasses all the companies.

22 Q. And on PC -- well, let me see, RBD-22 does that

23 show the allocation to PacifiCorp?

24 A. Yes, it does.

25 Q. Now, within this allocation the amounts are

0436

1 further allocated through the management fee and then

2 through jurisdictional allocations; is that correct?

3 A. Yes, it is.

4 Q. Do you happen to know the amount of Mr. Abel's

5 salary in this particular rate case filing?

6 A. Yes.

7 Q. What is that amount?

8 A. It's approximately $102,000.

9 Q. Ms. Shifley also asked you a question about stock

10 options referring to the 10-K?

11 A. Yes.

12 Q. Are those below the line?

13 A. Yes.

14 MS. MCDOWELL: Thank you. That's all I have.

15 JUDGE CLARK: Thank you for your testimony,

16 Mr. Stuver. Is there any objection to this witness being

17 excused? Hearing none you're excused.

18 All right. At this juncture we're going to

19 deviate from the order that we had indicated for witnesses

20 in order to accommodate two witnesses who are from out of

21 town and need to make travel accommodations. And PacifiCorp

22 graciously has indicated they have no objection to taking

23 these witnesses in basically the middle of the presentation

24 of their case, which is something the Commission

25 appreciates.

0437

1 According to the agreement for the individuals who

2 need to appear today which are both witness, ICNU witness,

3 Mr. Gorman, and Public Counsel and ICNU witness, Mr. Meyer.

4 We're intending to take Mr. Gorman first. Is that going to

5 work? Ms. Davison is nodding her head affirmatively which

6 isn't picked up all that great on the mic. So I'm going to

7 assume ICNU is ready to call their witness?

8 MS. DAVISON: Yes, Your Honor. ICNU would like to

9 call Mike Gorman to the stand.

10 JUDGE CLARK: Thank you.

11 MS. DAVISON: And we appreciate everyone's

12 accommodation of Mr. Gorman and Mr. Meyer's travel schedule.

13 (Michael P. Gorman sworn on oath.)

14 MR. GORMAN: I do.

15 JUDGE CLARK: Thank you. Please be seated.

16 Please state your full name for the record please and spell

17 your last.

18 MR. GORMAN: Michael Gorman, G-o-r-m-a-n.

19 JUDGE CLARK: Thank you, Mr. Gorman. Ms. Davison.

20

21 MICHAEL P. GORMAN,

22 having been first duly sworn

23 on oath was examined and testified as follows:

24 ///

25 ///

0438

1 DIRECT EXAMINATION

2 BY MS. DAVISON:

3 Q. Mr. Gorman, do you have any additions or

4 corrections to your prefiled testimony in this case?

5 A. I do. On page 40 of my direct testimony on line

6 20 the number 51 percent --

7 JUDGE CLARK: Let me back up a minute here. We

8 have MPG-1T, page 40.

9 THE WITNESS: Line 20, the number 51 percent

10 should be struck and the number 52 percent should be

11 inserted. The schedule supporting that number which was

12 Exhibit No. MPG-19 had an error on page 2 of it, but the

13 error on that schedule was corrected in a response to

14 PacifiCorp data request No. 1.33, the error was the

15 development of the debt ratio for PacifiCorp recognizing

16 off-balance sheet debt equivalence on page 2 of Exhibit

17 MPG-19. I used a total company capital structure but used a

18 Washington-allocated portion of the off-balance sheet debt,

19 that was incorrect. The response to PacifiCorp data request

20 1.33 revises the calculation by including a total company

21 off-balance sheet debt amount included with the total

22 company outstanding capitalization mix.

23 MS. DAVISON: So, Your Honor, just to clarify for

24 the record, what ICNU would like to do is withdraw MPG-19

25 and just simply rely on MPG-23 which is a correction to

0439

1 MPG-19.

2 JUDGE CLARK: All right. MPG-19 previously

3 admitted in this record is withdrawn and the information

4 contained in MPG-23 will be relied on in lieu thereof.

5 (Exhibit No. MPG-19 withdrawn.)

6 MS. DAVISON: Thank you.

7 Q. (By Ms. Davison) Is there anything else,

8 Mr. Gorman?

9 A. That's all.

10 MS. DAVISON: Mr. Gorman is available for cross.

11 JUDGE CLARK: All right, thank you. I believe

12 that PacifiCorp is the only party that indicated

13 cross-examination for Mr. Gorman. So, Ms. McDowell.

14 MS. MCDOWELL: Thank you, Your Honor.

15

16 CROSS-EXAMINATION

17 BY MS. MCDOWELL:

18 Q. Good morning, Mr. Gorman.

19 A. Good morning.

20 Q. Mr. Gorman, do you have your direct or your

21 testimony in this case, it's MPG-1T with you?

22 A. Yes.

23 Q. Can you turn to page 3 of your testimony, please?

24 I wanted to direct your attention to the Q and A that begins

25 on line 12.

0440

1 A. I'm there.

2 Q. In there in the last sentence of that response you

3 indicate that, electric utilities' stocks have exhibited

4 strong return performance and are again characterized as a

5 safe investment," do you see that?

6 A. Yes.

7 Q. Do you agree that utility stock prices and returns

8 are an important consideration in determining cost of

9 capital for a utility?

10 A. Well, the price performance of a security derives

11 both the expected return on the investment and the

12 investor-required return, so they're interrelated to one

13 another, yes.

14 Q. So the answer is yes, I take it?

15 A. With the added explanations, yeah, generally yes.

16 Q. Now, you testified in PacifiCorp's 2005 general

17 rate case which was UE-050684, do you recall that?

18 A. Yes.

19 Q. That was the last case in which PacifiCorp's cost

20 of capital was fully litigated?

21 A. That's my understanding, yes.

22 Q. Do you recall that in the final Commission order

23 that was entered in April 2006 the Commission set a

24 10.2 percent return on equity?

25 A. Subject to check that does sound correct.

0441

1 Q. Can I direct your attention to page 7 of your

2 testimony, MPG-1T, page 7?

3 A. I'm there.

4 Q. In there there's a chart at the top of the page,

5 do you see that?

6 A. Yes.

7 Q. Now, we were just talking about the last time that

8 PacifiCorp's cost of capital was fully litigated, and that

9 resulted in a decision in 2006, can you take a look at what

10 your chart indicates in terms of 2006 stock performance for

11 EEI stocks, do you see that?

12 A. Yeah, the Edison Electrical Institute Index shows

13 stock prices that decline somewhat from '06 to '07 down to

14 '08 and begin to recover in '09 and have retreated somewhat

15 in the first two quarters of 2010.

16 Q. So is it fair to read this chart as indicating

17 that in 2006, the last time PacifiCorp's cost of capital was

18 litigated, that the utility stock price index reflected a

19 20 percent return approximately?

20 A. Well, that was the return year over year from '06

21 relative to '05, yes.

22 Q. In the most recent data on the chart through the

23 second quarter of 2010 the utility stock price index

24 reflects a negative return of approximately 8 percent, do

25 you see that?

0442

1 A. Approximately, yes.

2 Q. Now, can you turn to your testimony at page 6, the

3 testimony immediately preceding this chart. At lines 22

4 through 24 do you see that it reflects that EEI data shows

5 that it's Electric Utility Index has outperformed the market

6 for the last five years, 2004 to 2008, do you see that

7 sentence?

8 A. Yes.

9 Q. Now, back to your chart on page 7 and the text

10 that follows, you acknowledge that that relationship has

11 changed, hasn't it?

12 A. Well, it did not outperform the market in 2009 and

13 2010.

14 Q. And utility stocks are now underperforming against

15 the market; correct?

16 A. Well, as one would expect they would do in a

17 recovery market and for a very low risk investment like

18 utilities.

19 Q. Both in terms of the index's return and the

20 position relative to the general market it's fair to say

21 that the Electric Utility Index is in a significantly worse

22 position now than it was in 2006, the last time PacifiCorp's

23 cost of capital was fully litigated in front of this

24 Commission; correct?

25 A. No, I would suggest that's a very poor

0443

1 characterization of utility stock investment returns.

2 Q. Well, it's what your chart indicates; right, in

3 2006, 20 percent; in 2010, negative 10?

4 A. Well, when you consider what took place during

5 that time period that chart shows that utility stocks -- and

6 what took place essentially was a severely distressed

7 financial market. And during that severely distressed

8 financial market this chart shows that utility securities

9 held their value considerably better than nonregulated

10 investments, which is generally what I, and what most equity

11 financial analysts, would characterize as indicating that

12 these securities are relatively stable investments because

13 they don't move wildly with changes in the marketplace. And

14 that's particularly significant over the last few years

15 where we had a very distressed financial market where many

16 company's securities had very wild swings, utility companies

17 did not.

18 Q. So you agree it is important to consider the fact

19 that between the 2006 time that the Company's cost of

20 capital was less and the current case, it is important to

21 consider the fact that there wasn't a financial crisis that

22 intervened?

23 A. Well, it's important to consider the relative

24 performance of utility stocks in relationship to the market.

25 The market moved considerably more volatile during the last

0444

1 few years than it generally does because of the distressed

2 conditions in the marketplace.

3 Typically, because utilities are lower risk

4 investments than the overall market their return performance

5 will be less than that of the overall market. Less return,

6 less risk. But this indicates that during a period of

7 turbulence that the market held greater value for lower risk

8 investments, like utility companies, relative to

9 nonregulated corporate investments.

10 Q. So, Mr. Gorman, as an expert on cost of capital I

11 take it you follow the interest rate levels pretty

12 consistently? I mean you track those and understand

13 generally where interest rates are at any given time?

14 A. Yeah, they're a portion of the cost of capital,

15 yes.

16 Q. Can I direct your attention to KLE-3, it's an

17 exhibit that I've designated for Mr. Elgin but also put on

18 your cross-examination list, do you have that?

19 A. I have four documents.

20 Q. This one is entitled at the top CreditTrends.com,

21 ChartRoom, did you see that?

22 A. I did see that in the list of cross-exhibits but

23 they weren't included on the PDF -- as one of the documents

24 in the PDF attached to that list of cross-exhibits. So if

25 you have a copy of it I would be happy to look at it.

0445

1 Q. Yes, let me just make a note of it.

2 (Document handed to the witness.)

3 Q. (By Ms. McDowell) So, Mr. Gorman, we've just

4 handed you page 1 of KLE-3, do you have that?

5 A. I do.

6 Q. Now, can you go to the column that shows the most

7 recent monthly single A interest rate data, do you see that?

8 A. For average public utility?

9 Q. Yeah.

10 A. Monthly averages, the number circled is 5.56 for

11 December 2010.

12 Q. Is that consistent with your general understanding

13 of the most recent data on interest rates?

14 A. I would have to verify the exact number but

15 generally, yes.

16 Q. Now, can you turn to your testimony in

17 PacifiCorp's 2005 general rate case which we have marked as

18 an Exhibit MPG-24, do you have that?

19 A. I apologize, I don't have one marked with the

20 MPG-24. There's one that's marked MPG dash and an

21 underscore but with no indication. This appears to be my

22 testimony dated November 3, 2005.

23 Q. That's correct. I'm sorry, when we prefiled these

24 they were not numbered, the judge numbered them. That may

25 be why yours don't have the numbers. I will try to describe

0446

1 the exhibits as I go through. So this is your direct

2 testimony in the 2005 general rate case that we were just

3 discussing; is that correct?

4 A. Yes.

5 Q. Now, can you turn to page 15 of that exhibit,

6 please?

7 A. I am there.

8 Q. Now, was this an exhibit that you relied upon in

9 performing your risk premium analysis in the 2005 PacifiCorp

10 general rate case?

11 A. Yes.

12 Q. And there it shows that the single-A interest rate

13 you relied upon in calculating your risk premium analysis in

14 the 2005 general rate case was 5.57 percent, do you see

15 that?

16 A. Yes.

17 Q. So that's one percentage point off of the

18 5.56 percent most current interest rate number that we

19 identified in KLE Exhibit 3?

20 A. One 100th of a percentage point.

21 Q. One 100th, thank you. Now, I want to take you

22 back to another of Mr. Elgin's exhibits, this one is KLE-7.

23 And I can try to get that out for you.

24 A. Thank you, I don't believe I have that. (Document

25 handed to the witness.)

0447

1 Q. So, Mr. Gorman, we're handing you a copy of KLE-7?

2 A. I have it.

3 Q. Are you familiar with RRA reports generally?

4 A. Yes.

5 Q. I'd like to turn your attention to page 2 of that

6 exhibit, and can you go down to the bottom line of that

7 exhibit, the 2010 full year average ROE awards for electric

8 utility industry, do you see that?

9 A. For calendar year 2010?

10 Q. That's correct.

11 A. Yes.

12 Q. That's 10.34 percent, do you see that?

13 A. I do.

14 Q. Is that generally consistent with your

15 understanding of what the average award was in 2010?

16 A. As reported by RRA, yes.

17 Q. That's correct. Can you turn back to your

18 testimony, that's MPG-24?

19 A. That was my 2005 testimony?

20 Q. That's correct.

21 A. I'm sorry, you said this was 24?

22 Q. That is MPG-24, that's correct.

23 A. Thank you.

24 Q. I wanted to ask you a question about page 13 of

25 that exhibit.

0448

1 A. I'm there.

2 Q. There in performing your risk premium analysis you

3 also used RRA data and there you have average ROE awards for

4 the electric industry, do you see that column, it's the

5 fourth column over?

6 A. Yes. No, I'm sorry, third column.

7 Q. Third column, right, okay. So do you see that the

8 most recent average return you looked at in the 2005 rate

9 case was a 10.36 percent award, do you see that?

10 A. Yes.

11 Q. So the data shows that the last time the

12 Commission set PacifiCorp's cost of capital as compared to

13 now both interest rates and average awarded ROEs were at

14 approximately the same level?

15 A. Approximately. That line item was for six months

16 in 2005, not a full calendar year, but for what the

17 information is available in 2005, that's true.

18 Q. Now, I wanted to ask you another question about

19 your testimony in the 2005 case, MPG-24. And this time I

20 wanted to ask you a little bit about your DCF analysis, it

21 starts on page 18 of your testimony, which is page 4 of this

22 exhibit, just included an excerpt not to burden the record.

23 A. I'm there.

24 Q. Now, in the 2005 case you conducted a single DCF

25 analysis in that case, do you recall that?

0449

1 A. Yes, that's correct.

2 Q. That was based on the DCF constant growth model;

3 is that correct?

4 A. It is, yes.

5 Q. Now, can you turn to page 7 of that testimony?

6 A. I'm there.

7 Q. In there at the top of the page you indicate -- or

8 you describe what growth rates you used, and it's fair to

9 summarize, and your testimony there is indicating, that you

10 relied on security analysts' earnings growth estimates; is

11 that right?

12 A. It is.

13 Q. And you explain that at lines 15 through 19 on

14 that page 7, can you take a look at that testimony?

15 A. I mean I do discuss it there, but actually I

16 discuss it throughout page 7 and again the discussion on

17 page 6.

18 Q. Yeah, so let's look at page 6, and there on lines

19 15 through 19 you talk a little bit more about security

20 analysts' growth estimates, do you see that?

21 A. Yes.

22 Q. There you indicate security analysts' growth

23 estimates have shown to be more accurate predictors of

24 future returns than growth rates derived from historical

25 data because they are more reliable estimates. And assuming

0450

1 the market generally makes rational investment decisions,

2 analysts' growth projections are the most likely growth

3 estimates that are built into stock prices, do you see that?

4 A. Yes.

5 Q. So to summarize your ROE recommendation in the

6 2005 PacifiCorp general rate case relied solely on the

7 constant growth DCF method using analysts' growth rates

8 because these are the most likely growth estimates built

9 into stock prices, is that a fair summary?

10 A. To give a more complete summary it's that plus the

11 expectations that investor outlooks are based on rational

12 investment decisions which is a critical element in

13 reviewing whether or not three to five-year analysts' growth

14 projections are reasonable estimates of long-term

15 sustainable growth.

16 Q. Can I --

17 A. That was a problem I ran into in doing rate of

18 return studies in various phases over the last 20 years.

19 Q. Can I direct your attention now to your current

20 testimony, and so that's MPG-1T, and in that I would like to

21 turn your attention to page 19 of that testimony?

22 A. Okay, I'm there.

23 Q. And here again you're talking about your dividend

24 growth rates that you used in your constant growth DCF

25 model, do you see that?

0451

1 A. Yes.

2 Q. In there at page 20 beginning on lines, it really

3 looks like line 20, you have an almost identical statement

4 to that contained in your testimony from the 2005 general

5 rate case that we just went through, do you see that?

6 A. Yes.

7 Q. In there you again indicate that, "Security

8 analysts' growth estimates have been shown to be more

9 accurate predictors of future returns than growth rates

10 derived from historical data because they are more reliable

11 estimates," do you see that?

12 A. Yes.

13 Q. Again, "Assuming the market generally makes

14 rational investment decisions, analysts' growth projections

15 are more likely the growth estimates considered by the

16 market that influence observable stock prices than are

17 growth rates derived from only historical data," do you see

18 that?

19 A. Yes.

20 Q. So very similar to the observation you made in the

21 2005 case?

22 A. Yes, both of which are premised on the expectation

23 that investment decisions are based on rational outlooks.

24 Q. Correct. Now, in this case your constant growth

25 DCF results are 10.45 to 10.50; is that correct? And you

0452

1 can see that on page 20, lines 22 to 23?

2 A. 10.45 to 10.50, yes.

3 Q. Now, I wanted to ask you a question about your --

4 some questions about your cross-answering testimony, do you

5 have that with you, I believe it's MPG-22T?

6 A. I do.

7 Q. Just give me a moment here while I get my papers

8 organized, excuse me. So, Mr. Gorman, in this testimony you

9 make some observations about PacifiCorp's capital structure;

10 correct?

11 A. Yes.

12 Q. And just to frame this inquiry a little bit, your

13 capital structure recommendation is that PacifiCorp's

14 capital structure has a 49.1 percent equity ratio; is that

15 correct?

16 A. Common equity ratio, yes.

17 Q. And it's true, isn't it, that PacifiCorp's actual

18 common equity ratio is 52, or the equity ratio it's seeking

19 in this case is 52.1 percent; is that correct?

20 A. It's true the one they're requesting is 52.1

21 percent, yes.

22 Q. That's consistent with your understanding of

23 PacifiCorp's actual common equity?

24 A. I'm not -- I have not had the privilege of seeing

25 what their actual end of year 2010 capital structure is yet,

0453

1 but it's generally consistent with the capital structure at

2 the midpoint of the year.

3 Q. So on page 4 you criticize PacifiCorp's equity

4 buildup as more than necessary in order to timely fund its

5 plant, utility plant investment, do you see that?

6 A. Where at on page 4?

7 Q. The top line, lines 1 to 2, do you see that, "This

8 equity buildup is more than necessary in order to timely

9 fund its utility plant investments," do you see that?

10 A. I do. The point I was making there is the

11 Company's retaining 100 percent of its equity or earnings

12 and receiving equity infusions results in very large cash

13 positions for a utility that it sits on until that cash is

14 needed to fund investments in the utility plant. So that is

15 the basis of that statement. And I would note also that's

16 very unusual for a utility company to build up its common

17 equity, set it in cash and sit on it until it's needed to

18 fund capital improvements.

19 Q. So, Mr. Gorman, can we turn to Exhibit MPG-26,

20 please?

21 A. Sorry, which exhibit is that?

22 Q. It's MPG-26, please.

23 A. My cross-exhibits aren't numbered.

24 Q. I'm so sorry, it's a testimony excerpt from a

25 testimony you gave in the Wyoming rate case on --

0454

1 A. Okay, I have it.

2 Q. -- November 10, 2010. Do you have that?

3 A. I do.

4 Q. Now, Mr. Gorman, you testified in Wyoming on

5 November 10, 2010, in a PacifiCorp ECAM, energy clause

6 adjustment mechanism proceeding, do you recall that?

7 A. I do.

8 Q. And that testimony was given approximately five

9 days after you filed your cross-answering testimony in this

10 case?

11 A. It is, but are you referring to the transcript

12 from that hearing?

13 Q. I am. Do you have that transcript?

14 A. I'm sorry, I thought you meant my direct filed

15 testimony.

16 Q. The transcript is what is MPG-26, do you see that?

17 A. None of these are marked, so I wanted to make sure

18 I picked up the right cross-exhibit.

19 Q. I'm so sorry, I'll try to describe the exhibits as

20 we go through.

21 A. I now have that, I apologize.

22 Q. Okay. So, again, you provided live testimony at a

23 hearing on November 10, 2010, in Wyoming; correct?

24 A. Yes.

25 Q. And can I direct your attention to page 4 of this

0455

1 exhibit which would be page 437 of the transcript?

2 A. I'm there.

3 Q. Now, there you indicate beginning on lines 11

4 through 17 as you were looking at the capital structure of

5 Rocky Mountain PacifiCorp you indicated that they do have

6 some exposure to fully recovering their power costs, do you

7 see that?

8 A. Yes.

9 Q. One area where they have clearly managed their

10 capital structure is to reflect that risk in modifying the

11 capital structure, do you see that?

12 A. Yes.

13 Q. You with me there?

14 A. Yes.

15 Q. Then you go on to explain that capital

16 structures -- the capital structure has gone up from about

17 50 percent equity up to over 50 percent equity right now and

18 that further generally rates are set with about a 50-percent

19 common equity ratio of total capital, do you see that?

20 A. I do, but I don't know if I misspoke at this

21 hearing or it was transcribed incorrectly, but PacifiCorp's

22 common equity ratio has gone from about 45 percent up to

23 about 50 percent, and now they're trying to push it above

24 50 percent. That's what I intended to say here, that's what

25 my testimony said in that case, my prefiled direct

0456

1 testimony.

2 Q. But you go on to say that increasing over the

3 50 percent generally set level is significant because

4 increasing common equity ratio reduces financial risk to

5 help balance total investment risk for the operating risk

6 related to not being given full guaranteed cost recovery of

7 power cost, do you see that?

8 A. I do, but that's why it would have been better to

9 look at my prefiled testimony, because in that I observed

10 the common equity ratio go from about 45 percent up to over

11 50 percent. It was my position in that case, as it is here,

12 that moving it up to around 50 percent recognizes the

13 operating risk of the Company and is a pretty reasonable

14 balance. But when you get significantly above 50 percent

15 then the capital structure is getting overly expensive and

16 under-leveraged.

17 Q. Mr. Gorman, this was the testimony you delivered

18 to the Wyoming Commission on November 10, 2010; correct?

19 MS. DAVISON: Your Honor, I object. I believe

20 Mr. Gorman has indicated that if Ms. McDowell wants to be

21 absolutely accurate she should have introduced his prefiled

22 written testimony that explains in full context what his

23 position was in the case.

24 JUDGE CLARK: Ms. McDowell.

25 MS. MCDOWELL: Well, I think I'm entitled to

0457

1 explore what he said in this transcript. He's indicated

2 that this was in fact his testimony in this proceeding, and

3 he hasn't indicated that it was, you know, testified prior

4 to later-filed testimony. This is, I think, the latest, his

5 latest statement in that jurisdiction.

6 MS. DAVISON: Your Honor, just to be accurate for

7 the record, I believe Mr. Gorman just testified that this

8 transcript does not fully capture the position that he had

9 in the case.

10 JUDGE CLARK: All right. The objection is

11 overruled, I think Mr. Gorman's testimony speaks for itself.

12 Q. (By Ms. McDowell) So, Mr. Gorman, you haven't made

13 any attempt to correct or revise this transcript, have you?

14 A. I didn't know until right now that this transcript

15 had the error on it with respect to line 18 of page 437, but

16 that does not reflect my prefiled testimony in that case.

17 Q. So, Mr. Gorman, with respect to common equity in

18 the capital structure helping to balance total investment

19 risk for operating risk related to not being given full

20 guaranteed cost recovery of power cost, that part of your

21 testimony, do you stand by that part of your testimony?

22 A. I do.

23 Q. Now it's true PacifiCorp does not have any kind of

24 power cost adjustment mechanism in Washington; does it?

25 A. That's correct.

0458

1 Q. So that's sort of balancing of operating risk

2 would be important in this jurisdiction as well; correct?

3 A. It would. But all of these risks and the ability

4 to manage those risks were outlined in that prefiled

5 testimony I was referring to.

6 Q. Did you --

7 A. And there is a risk there, but the question is

8 what's the most effective way to manage that risk. And

9 PacifiCorp has the ability to manage that risk through

10 contracts with fuel suppliers and other means. And there is

11 credit reports that note that PacifiCorp has effectively

12 managed that commodity risk. You don't -- there is not one

13 way to management it with only a fuel adjustment costs.

14 There are alternative methods that the Company can manage

15 that risk. And all of that was in that testimony. But it

16 is a risk that needs to be managed, yes.

17 Q. Now, Mr. Gorman, you did not address that issue in

18 your testimony in this proceeding, did you?

19 A. Recovery of fuel cost risk?

20 Q. That's correct.

21 A. It is a consideration by Standard & Poor's in

22 assigning a business profile score for the utility company.

23 So the operating risk of PacifiCorp was a consideration in

24 identifying whether or not the proxy group I used to

25 estimate the returned on equity was reasonably comparable in

0459

1 total investment risk to PacifiCorp. So it wasn't a

2 specific wide review of it, but it's part of the total risk

3 of this Company that was considered in estimating a fair

4 return on equity.

5 Q. So it's implicit in your analysis but not explicit

6 in your testimony?

7 A. It's a real risk that is part of assigning bond

8 ratings and business risk profile scores and was a factor

9 that I relied on for market participants in determining how

10 PacifiCorp's operating the risk compares to other utilities.

11 Q. So, Mr. Gorman, I just asked you about a hearing

12 that you testified in shortly after you filed testimony in

13 this proceeding, and I wanted to ask you about a hearing

14 that you testified in shortly before you offered your

15 testimony in this proceeding, in September 2010, and that is

16 a transcript from the Iowa Public Utility Commissions, the

17 exhibit number for everyone else is MPG-25.

18 A. Okay, I have that.

19 Q. Can I direct your attention to pages 8 and 9 of

20 that exhibit?

21 A. I'm there.

22 Q. And you would agree that is an issue in this case

23 about whether a capital structure of 50 percent or above

24 would help ultimately to minimize cost of capital by

25 insuring an investment grade bond rating is maintained?

0460

1 A. Accomplishing the dual goal of maintaining a

2 strong investment grade bond rating, but at the same time

3 minimizing the cost of capital.

4 Q. I would like to direct your attention to your

5 testimony on page 9 of this transcript cite, and there

6 beginning on line 8 you indicate a 50 percent bond rating

7 will support the Utility's current investment grade bond

8 rating, do you see that?

9 A. Yes.

10 Q. Then skipping down to line 12 you say consequently

11 I think it will help minimize the Utility's overall cost of

12 capital while maintaining a strong credit standing which in

13 turn would help maintain the utility's access to external

14 capital markets, do you see that?

15 A. Yes.

16 Q. So it's your testimony that a credit rating, or

17 excuse me, an equity ratio of 50 percent or above would help

18 minimize the Utility's overall cost of capital while

19 maintaining a strong credit standing; correct?

20 A. Yeah, I think -- well, it depends on the utility

21 of course, but that is I believe a reasonable capital

22 structure target for setting rates and for utility

23 management to attempt to insure that their capital mix is

24 consistent with that regulatory target.

25 Q. That's above the recommendation that you made in

0461

1 this case with PacifiCorp; correct, you're at 49.1 percent

2 in this case; aren't you?

3 A. I'm at 49 percent common equity and .3 percent

4 preferred equity so about 49.4 percent. It is a little bit

5 under that general target, yes.

6 Q. Can you turn to page 40 of your MPG-1T, your

7 current testimony.

8 JUDGE CLARK: Would you give me that page

9 reference again, Ms. McDowell.

10 MS. MCDOWELL: Page 40.

11 A. I'm there.

12 Q. (By Ms. McDowell) So I wanted to ask you about the

13 testimony that you corrected at the beginning of your

14 testimony here this morning. Your previous testimony

15 indicated that the total debt ratio to total capital was

16 51 percent, and the corrected number is 52 percent, do you

17 see that?

18 A. Yes.

19 Q. Now, there you indicate that at the sentence

20 beginning at the bottom of the page, line 22, "PacifiCorp

21 has a 'significant' financial risk profile," and then

22 turning to the next page you indicate, "This debt ratio

23 might deteriorate its credit rating because it will move the

24 financial risk profile from 'significant' to 'aggressive,'"

25 do you see that?

0462

1 A. I do.

2 Q. So, Mr. Gorman, I take it that statement was true

3 when PacifiCorp's total debt ratio to total capital in your

4 original testimony was 51 percent and if remains even more

5 so the case now that you've moved that number to 52 percent?

6 A. Yeah, 52 percent implies more financial risk than

7 51.

8 Q. So the risk of deterioration would be

9 incrementally greater?

10 A. It would potentially.

11 Q. Now, in your credit metric analysis you were

12 trying to replicate the credit metric analysis conducted by

13 Standard & Poor's to determine PacifiCorp's credit rating;

14 is that correct?

15 A. Well, I'm trying to generally use their guidelines

16 in developing these credit metrics to show whether or not my

17 recommended rate of return would support investment grade

18 credit metrics. But the methodology I performed is

19 consistent with the regulatory makeup of this jurisdiction.

20 It's not what was not intended, nor does it duplicate

21 Standard & Poor's methodology.

22 Q. And in fact your analysis left off approximately

23 half of the off-balance sheet debt that S&P imputes to

24 PacifiCorp in their credit metric analysis?

25 A. It did, it focused predominantly on third-party

0463

1 debt that I was fairly confident was associated with cost

2 associated with regulated operations.

3 Q. Just to frame the magnitude, it's correct, isn't

4 it, that S&P imputes about a billion dollars of debt under

5 the PacifiCorp balance sheet from off-balance sheet items?

6 A. At the end of '09 just under a billion dollars,

7 yes.

8 Q. And you used approximately 425 million of that

9 amount in your credit metric analysis?

10 A. That's correct. The amount of off-balance sheet

11 debt that's related to third-party obligations that I

12 believe are related to provisions of utility service.

13 MS. MCDOWELL: That's all I have. Thank you,

14 Mr. Gorman.

15 JUDGE CLARK: All right. No other parties

16 indicated examination for Mr. Gorman, so I'll turn to

17 commissioners. Commissioner Jones.

18

19 CROSS-EXAMINATION

20 BY MR. JONES:

21 Q. Good morning, Mr. Gorman.

22 A. Good morning.

23 Q. Thank you for coming out here.

24 A. Thank you.

25 Q. Were you in the room yesterday?

0464

1 A. I was not, no.

2 Q. Did you hear any of my cross or my discussion with

3 Dr. Hadaway?

4 A. I did not, no.

5 Q. Okay. Well, I may refer to that a little bit at

6 times during my questions here. First of all, going back to

7 basics, and I'm going to focus mainly on Dr. Hadaway's

8 analysis versus your analysis.

9 A. Okay.

10 Q. As I read your testimony in MPG-1 and

11 Dr. Hadaway's both direct and rebuttal, there are some areas

12 of agreement both in the capital structure and the ROE, and

13 I would like to confirm where you agree with Dr. Hadaway.

14 First, on the capital structure you both agree that

15 short-term debt should not be included?

16 A. In this instance, that is correct. In this case,

17 that's correct, based on my review of PacifiCorp's capital

18 management.

19 Q. Briefly, just briefly describe why you think that

20 is.

21 A. Typically, I recommend short-term debt be included

22 in the capital structure if it's clear that short-term debt

23 is being used to finance assets that are included in rate

24 base. That wasn't the case here, so I didn't include --

25 didn't recommend short-term debt be included in the capital

0465

1 structure.

2 Q. Okay. Then in terms of the ROE analysis, you both

3 use three DCF analyses and two variations of risk premium

4 analyses; correct, roughly or am I --

5 A. I believe I also performed a capital asset pricing

6 model.

7 Q. I'm going to get that to in a minute.

8 A. That's correct, yes.

9 Q. Is your DCF analysis, your constant growth DCF

10 multistage growth, and you do a sustainable growth analysis,

11 and I think he does similar sorts of DCF analyses; correct?

12 A. Similar, yes.

13 Q. Okay. And risk premium, you both perform risk

14 premium analysis?

15 A. Correct.

16 Q. Okay. So that's where you agree?

17 A. Well, our models --

18 Q. At least --

19 A. -- are not necessarily identical, but we do

20 perform those models, we both do.

21 Q. I'm sorry, my question was on the analytics and

22 the methodologies that you use, generally you both perform

23 those?

24 A. We both rely on those models, yes.

25 Q. Okay. And before we get to CAPM could you turn to

0466

1 page 41 of your MPG-1T?

2 A. I'm there.

3 Q. In there do you still after reading -- have you

4 had a chance to read Dr. Hadaway's rebuttal of your

5 testimony and his recalculation of your estimates?

6 A. Yes.

7 Q. Okay. So on lines 18 through 20 where it says,

8 "an authorized return on equity of 9.5 percent will support

9 internal cash flows that will be adequate to maintain

10 PacifiCorp's current investment grade bond rating," do you

11 still stand by that statement?

12 A. I do.

13 Q. There was just a discussion with counsel on MPG-23

14 which you described your calculation of those metrics;

15 correct?

16 A. Correct.

17 Q. Okay. Let's get to CAPM analysis for a minute.

18 So you performed a CAPM analysis, I think it took four or

19 five pages of your testimony, did it not?

20 A. I did perform one, yes.

21 Q. Yes. And Dr. Hadaway did not. Do you generally

22 when you appear in cases in jurisdictions perform a CAPM

23 analysis?

24 A. I do.

25 Q. Is this a burdensome analysis? How long does it

0467

1 take for you to perform CAPM?

2 A. The data requirements are probably the easiest of

3 all the return on equity models. The betas are published by

4 Value Line for the proxy groups. The risk free rate is

5 generally used as a proxy for the risk free rate is

6 generally used. Treasury instruments are generally used

7 because they have limited to no default risk. And a market

8 risk premium is readily available through subscription

9 services such as Morning Star or can be easily derived

10 through various projected returns on the market relative to

11 the risk free rates you're using. So it is a very

12 straightforward analysis with very limited data inputs.

13 Q. And isn't it generally true -- well, and your

14 midpoint of the CAPM analysis came out at 8.80 percent;

15 correct?

16 A. Yes.

17 Q. Isn't it generally true, Mr. Gorman, in this

18 economic environment with quantitative easing and very low

19 interest rates that a CAPM analysis would produce a lower

20 analysis relative to DCF or risk premium?

21 A. Well, I use three models and the reliability of

22 the models can vary over time. A CAPM is producing

23 relatively low returns right now for principally two

24 reasons. First, the beta estimates are more in line with

25 longterm historical utility beta estimates, about .7

0468

1 roughly, which indicates they're about 70 percent as risky

2 as a market investment.

3 When I say long-term investments if you look at

4 Value Line published betas for utility industries over the

5 last 15 years the average is about .7, swings up real high

6 during periods of robust utility stock performance, it can

7 drop down quite low during periods where utility stock

8 performance isn't very good. They have been as low as .5,

9 they have been as high as .9, but on average they're about

10 .7, which is where they are at right now.

11 Treasury bond yields, because interest rate

12 outlooks, are relatively low right now, and that's an

13 important ingredient to the CAPM analysis. Market risk

14 premium estimates are pretty much where they have been

15 coming out over the last few years. So because treasury

16 yield forecast, which is what I use, reflect expectations of

17 continued low levels of inflation over time, and beta

18 estimates are more normal levels now, then CAPM return

19 estimates are at the low end of where I feel comfortable

20 recommending return on equity for utilities in this market.

21 Q. But isn't it true that in the higher interest rate

22 environment, generally true, if you keep the beta constant

23 and the RF, the market risk premium, some of those other

24 parameters relatively constant, if interest rates were

25 significantly higher wouldn't it be true that CAPMs might

0469

1 produce a higher result?

2 A. They most likely would produce a higher result,

3 and most likely so would the DCF and risk premium studies.

4 I think the real driver in this case right now is the beta

5 estimates being at more normal levels. You know, back a few

6 years ago right before the 2007 market turbulence started

7 saw utility betas increase as high as .9, suggesting utility

8 stocks were as risky as the overall market. During that

9 period of time CAPM return estimates were at the high end of

10 the range, but they've returned to more normal levels and

11 risk free rates are relatively low, so CAPM return estimates

12 are relatively low.

13 Q. And my final question on CAPM estimates relates to

14 interest rates. I think in your testimony you say that when

15 one looks at interest rate projections one should be

16 careful, that you should observe -- that you should use

17 observable interest rates today that are observable in the

18 marketplace and not relying, as I think Dr. Hadaway does, on

19 interest rate projections?

20 A. Generally, yes. I mean my testimony shows that

21 almost invariably when economists are projecting interest

22 rates they're always projecting increases in interest rates.

23 When you look at the accuracy of those forecasts they're

24 almost always overstating interest rates when you look at

25 the projection relative to the actual interest rate that was

0470

1 revealed at the time the forecast was designed to reflect.

2 All of that suggests to me that the best estimate of future

3 interest rates is current observable interest rates, or at

4 least should be given at least as much weight as projections

5 to future interest rates.

6 Q. And for the record, I think you include that in

7 MPG-21 in your exhibit?

8 A. Yes.

9 Q. It's labeled accuracy of interest rate forecast;

10 correct?

11 A. Correct.

12 Q. Moving to DCF for a minute in your -- the

13 differences between you and Dr. Hadaway. As I understand

14 it, the biggest difference between the two estimates relate

15 to the GDP forecast; is that correct?

16 A. That is the biggest factor in this, and whether or

17 not short-term analysts' growth rates is going to be

18 sustainable indefinitely.

19 Q. Okay. I just want to be clear, on your GDP

20 forecast it is 4.9 percent; right?

21 A. I think it's 4.7 percent.

22 Q. Would you check that, I have written down

23 4.9 percent, I could be wrong.

24 A. I'm sorry, you're correct. More recent

25 projections are for a lower GDP growth, but at the time I

0471

1 did this testimony it's shown on page 26 of MPG-1T, page 26,

2 line 10, it's 4.9 to 5.1, 5.1 is over the next five years,

3 4.9 is from year six thereafter. In my multigrowth stage

4 DCF I use analysts' growth rates in that first five year

5 period and use this for a growth rate thereafter. So I use

6 4.9 percent in this model.

7 Q. Your source is Blue Chip Financial Forecasts which

8 is a consensus estimate of economists; correct?

9 A. Yeah, that's a published document that is relied

10 upon by investment communities, by managers to get a general

11 sense of what the GDP growth rate will be over time, and

12 again, this is not my growth projection, it is what's

13 available to the marketplace and what market participants

14 are using to make investment decisions, which is the primary

15 difference between the growth rate I used and the growth

16 rate Dr. Hadaway used. His is based entirely on historical

17 data which is not published in the marketplace that I'm

18 aware of.

19 Q. It's not published in the marketplace?

20 A. Well, historical data it uses to derive it is, but

21 his growth projections, as far as I know, is not published.

22 Q. I thought his source was the St. Louis Federal

23 Reserve?

24 A. For historical data --

25 Q. Right.

0472

1 A. -- to derive a historical achieved GDP growth

2 rate. But his conclusion on what future GDP growth rate

3 outlook is is not based on a published document.

4 Q. And then I think elsewhere in the testimony, I

5 think in Mr. Elgin's perhaps, was a CBO estimate of GDP

6 growth. So my question was why do you consider Blue Chip

7 Financial Forecasts to be the most reliable source of data

8 here rather than CBO or any other sources?

9 A. Well, generally the cross that Ms. McDowell and I

10 went through is analysts' projections in general are a good

11 basis to assess what investors' outlooks are, but you don't

12 know which analyst is most influential in the marketplace.

13 So a consensus of all analysts' projections is a reliable

14 investment of what the market consensus outlook is.

15 These economists are in business to provide

16 information to market participants, and if market

17 participants didn't want their information they wouldn't buy

18 the subscription service. So the fact that they're still in

19 business making these publications means that each of the

20 economists' projections is information available to the

21 marketplace, and a consensus of all of those economists'

22 projections is the best approximation of what the consensus

23 of investors' outlooks are. And again that's because a

24 single -- if we could determine whether or not a single

25 economist had the most influence on the market then that

0473

1 would be the right number to use, but we don't. So we want

2 to use the breadth of information available to investors to

3 try to get a good sense of what investors as a group believe

4 future growth will be.

5 Q. Thank you, I understand now. PacifiCorp currently

6 has, from Standard & Poor's, an A-minus corporate credit

7 rating, does it not?

8 A. Yes.

9 Q. You are not advocating in this case that either in

10 the capital structure or in the ROE that would produce a

11 result that would lead to a downgrade, either one and two

12 notches, in the S&P rating, are you?

13 A. I am not.

14 Q. What would the impact be on debt cost of a credit

15 downgrade either to BBB-plus or BBB?

16 A. Well --

17 Q. Do you have any general estimates in terms of

18 interest rates on fixed income securities on debt, how many

19 basis points or how much that would go up?

20 A. Attached to my direct testimony on Exhibit MPG-15

21 I show the annual average utility bond yields of single-A

22 and B double-A yields. Shown on that schedule if you look

23 at the difference in yields, the average yield over the

24 period 1980 through 2009 for single-A bond was about 9.11

25 percent, the average yield for a B double-A bond was about

0474

1 9.51 percent. So the spread between B double-A and A on

2 average would be around 40 basis points. It's a little

3 wider right now because there is a premium pay for higher

4 quality securities. So that yield spread will fluctuate

5 over time. But on average over this period it would be

6 about 40 basis points difference in the cost of debt.

7 Q. Okay. And did you do an analysis on how much that

8 would mean on PacifiCorp's existing debt structure, I'm

9 not -- I don't know if you did that in any exhibit?

10 A. Well, the analysis would have to include the

11 increased cost of debt and potentially the increased cost of

12 equity but the lower cost of the different mix of debt and

13 equity in the capital structure. That's important because

14 common equity is subject to income tax expense, so while

15 there might be a bump increase in the cost of debt and the

16 cost of equity for a lower quality capital structure, the

17 determination of the lowest cost capital structure of debts

18 may offset that because you're using more debt and less

19 equity to finance your assets.

20 To highlight how significant that is, if the cost

21 of debt were six percent in this marketplace for B double-A

22 debt instead of 5.6 percent then that's a 40 basis point

23 spread. But a return on equity if you go from 10 to

24 10.2 percent then you gross it up for income taxes it's

25 going to be something like 16 to some high 16 percent. So

0475

1 the revenue requirement cost to common equity is

2 substantially more than the cost of the revenue requirement

3 cost of debt because it's subject to income tax. So while

4 the cost of securities could go up, the overall rate of

5 return might not go up as much if you use more debt than

6 equity to finance your assets.

7 Q. Okay. We're getting close to the lunch hour here

8 so I'm just going to have one final line of inquiry on the

9 capital structure and then I'll be done. Could you turn to

10 page 13 of you MPG-1T, please. This will follow up on some

11 of the exchanges you had with Counsel McDowell.

12 A. I'm there.

13 Q. Okay. First of all, is there any disagreement

14 between you and the Company on the amount of equity

15 infusions from MidAmerican Holding Company over the past

16 three years? I think you cite here that $990 million in

17 equity has been infused in PacifiCorp, do you agree with

18 that, with the accuracy of that number?

19 A. That is what I was able to put together by looking

20 at their FERC documents, cash flow statements, and I believe

21 I also reviewed comments by Standard & Poor's, but I think

22 it might be a little bit more than that with -- I'm not sure

23 if that includes the 2010 equity infusion or not.

24 Q. On line 16 through 21 you propose four adjustments

25 that result in removal of about 360 million from the equity

0476

1 portion of the capital structure; correct?

2 A. Yes.

3 Q. Could you just briefly go through those four,

4 acquisition -- the four are: Acquisition adjustment,

5 special deposits, short-term investments and the difference

6 between notes receivable from affiliated companies.

7 A. Well, I made four adjustments to the balance of

8 common equity, and the objective of these adjustments were

9 to try to measure how much common equity has actually been

10 invested in utility plant and equipment that is rate base

11 here in Washington. Acquisition adjustment is an accounting

12 asset that is included on PacifiCorp's balance sheet, and it

13 represents a writeup of a plant that it bought at book value

14 and paid a price higher than book value.

15 So the acquisition adjustment represents the

16 difference between what they paid for the asset and what the

17 book value of the asset was. The book value of the asset

18 was included in plant and service which had some debt

19 associated with it, some deferred taxes associated with it.

20 I didn't adjust any component of the underlying book value

21 of the assets that relates to this acquisition adjustment, I

22 only removed the acquisition adjustment itself because it

23 represents an investment above book value. And that

24 acquisition adjustment was not included in rate base here in

25 Washington, so to remove the cost, the entire cost of that

0477

1 acquisition adjustment, it's necessary to pull the common

2 equity out of the capital structure reflecting that

3 acquisition adjustment, otherwise some of that acquisition

4 adjustment cost will be included in the cost of service in

5 this jurisdiction.

6 Number two, special deposits. Again from my

7 review of the PacifiCorp's balance sheets over about a

8 two-year period because they retain all their earnings,

9 because they get large equity infusions from the parent

10 company they get big sums of cash that aren't immediately

11 needed to invest in utility plant, so they put it in

12 short-term investments in the interim. So on my average

13 capital structure balance I took those sums out because they

14 weren't yet invested in utility plant on average through

15 mid-2010 which left me with a component of common equity

16 that actually was invested in utility plant and actually did

17 reflect their cost of service through that point in time.

18 Short-term investments is another component of

19 special deposits, it's cash the Company has on its balance

20 sheet. They had an abnormal large balance of cash during

21 that time period.

22 Another area along the same lines is the

23 difference between affiliated notes receivable. They're

24 loaning moneys to affiliates or borrowing moneys from

25 affiliates, so I took the receivables less the payables.

0478

1 They never had any payables, it was all receivables. So

2 PacifiCorp had a large cash position and they were writing

3 loans to affiliates.

4 I assumed that all of these short-term assets were

5 the result of the cash management of PacifiCorp, and

6 eventually all of that cash would be invested in plant and

7 service, but it wasn't yet in the test year, so I removed it

8 from the capital structure.

9 Q. Have you had a chance to review Dr. Hadaway's

10 response to you, to your adjustments on this in his --

11 A. Mr. Williams I believe responded.

12 Q. Was it Mr. Williams? Have you had a chance to

13 review that?

14 A. Yes.

15 Q. And you still stand by these recommendations to

16 the Commission on these four adjustments in the capital

17 structure?

18 A. I do. I believe they all properly reflect the

19 amount of common equity in supporting plant and service

20 during the test year and produce capital structure which

21 reasonably reflects their carry costs for those assets.

22 Q. Which is, as you responded to Counsel McDowell,

23 49.4 percent with preferred slightly under this magical

24 50 percent number, but I guess your recommendation is it's

25 close enough?

0479

1 A. This 49.1 common, .3 preferred for a total equity

2 ratio of 49.4, that's correct.

3 MR. JONES: Thank you, that's all I have.

4 JUDGE CLARK: Commissioner Oshie.

5 MR. OSHIE: No questions.

6 MR. GOLTZ: I don't have questions.

7 JUDGE CLARK: All right. Commissioner Oshie and

8 Chairman Goltz have indicated they don't have any inquiry

9 for Mr. Gorman. Do you have extensive redirect?

10 MS. DAVISON: Limited.

11 JUDGE CLARK: Please proceed.

12 MS. DAVISON: Thank you, Your Honor.

13

14 REDIRECT EXAMINATION

15 BY MS. DAVISON:

16 Q. Mr. Gorman, you were asked by Ms. McDowell a

17 series of questions comparing and contrasting your testimony

18 before this Commission in 2005 compared to your testimony

19 today, did you use the same basic methodology in 2005 to

20 come up with your recommendations as you've used in this

21 case?

22 A. Well, I used the three same broad categories,

23 discounted cash flow analysis, risk premium and CAPM study.

24 In the DCF study in this case I expanded it because of what

25 has been taking place over the market in the last five

0480

1 years. But in that case, as well as this case, I completed

2 all of the studies. I reviewed the rational -- how rational

3 the inputs to those models were in this model, particularly

4 with respect to the DCF study, as I did in 2005.

5 The conclusions I reached in 2005 were based on my

6 findings at that time. My conclusions in this case are

7 based on the economic parameters that I found in this

8 testimony. And the reliability or the weight I give to a

9 DCF study in this case, as in the last case, I both found

10 that the constant growth model produced a result that I

11 didn't feel comfortable with including within my recommended

12 range. In the 2005 case the constant growth model was too

13 low and it was out below the bottom end of my recommended

14 return on equity range in that case. In this case the

15 constant growth DCF study is above the high end of my

16 recommended return on equity in this case. And in both

17 cases I explained how I reached the conclusion that I was

18 concerned about the reliability of those results.

19 So in both cases I present the same three basic

20 core methodologies. The facts and circumstances in that

21 case were different than the facts and circumstances in this

22 case, but the structure of the analysis was very similar.

23 In this case I did expand the DCF analysis to also

24 include the sustainable growth in a multigrowth model

25 because growth rates in this case were far too high to be

0481

1 rational estimates of long-term sustainable growth. In the

2 last case I found that the growth rate outlooks were

3 reasonable estimates of long-term sustainable growth.

4 Q. So is it fair to say it's overly simplistic to

5 rely on KLE-7 which shows average 10.34 percent ROE for 2010

6 and KLE-3 which Ms. McDowell pointed to the 5.56 percent

7 interest as a very overly simplistic comparison between the

8 two pieces of testimony?

9 A. Well, I think it is. I think there is very

10 important information that is highlighted in performing a

11 complete DCF risk premium and CAPM study. Those models

12 individually can provide meaningful information in trying to

13 estimate what the current market investor required return

14 is. In any given case the models can produce results which

15 may be unreasonable because they're too high or too low.

16 But they are worth reviewing, considering in order to

17 estimate this market cost of equity number which is very

18 difficult to accurately measure.

19 So all of the information that is included on

20 these schedules was included in my DCF risk premium or CAPM

21 study, along with a lot of other very relevant information

22 necessary to accurately estimate the current market cost of

23 equity.

24 MS. DAVISON: I have no further questions, Your

25 Honor.

0482

1 JUDGE CLARK: Thank you. Thank you for your

2 testimony, Mr. Gorman. Is there any objection to this

3 witness being excused? Hearing none you are excused.

4 Before we take the lunch recess I just want to

5 remind you our witness immediately after the recess will be

6 Mr. Meyer. And as you know, cross-examination exhibits are

7 distributed in advance and the exhibit list is distributed

8 in advance.

9 MS. DAVISON: We will mark them.

10 JUDGE CLARK: So if you can insure that Mr. Meyer

11 has all of the cross-examination exhibits appropriately

12 marked I think that will aid in the hearing.

13 MS. DAVISON: Good point, Your Honor, we will do

14 that.

15 JUDGE CLARK: Thank you. We are at recess until

16 approximately 1:15.

17 (Lunch recess taken from 12:06 p.m. to

18 1:18 p.m.)

19 JUDGE CLARK: All right. We're on record.

20 Immediately preceding the lunch recess I announced that we

21 are going to take another witness out of order. The next

22 witness we are taking is actually a joint witness sponsored

23 by both Public Counsel and ICNU. So I want to know which

24 attorney will be presenting the witness.

25 MR. SANGER: I will be, Your Honor.

0483

1 JUDGE CLARK: Thank you, Mr. Sanger. Would you

2 call your witness, please.

3 MR. SANGER: Mr. Meyer.

4 JUDGE CLARK: Would you stand and raise your hand.

5 (Greg R. Meyer sworn on oath.)

6 JUDGE CLARK: Thank you, please be seated. Could

7 you state your full name for the record please and spell

8 your last.

9 MR. MEYER: Greg R. Meyer, M-e-y-e-r.

10 JUDGE CLARK: Thank you. Mr. Sanger.

11 MR. SANGER: Thank you, Your Honor.

12

13 GREG R. MEYER,

14 having been first duly sworn

15 on oath was examined and testified as follows:

16

17 DIRECT EXAMINATION

18 BY MR. SANGER:

19 Q. Mr. Meyer, do you have some changes or corrections

20 to your revised responsive testimony?

21 A. Yes, I do.

22 Q. Can you please identify those for us?

23 A. Sure. On page 2 in Table 1 under the Company's

24 position there should be brackets around 2,280,000 --

25 JUDGE CLARK: Excuse me. First, I need to know if

0484

1 we're talking about GRM-1CT?

2 MR. SANGER: Your Honor, we are talking about --

3 JUDGE CLARK: Number two, I think this is

4 confidential.

5 MR. SANGER: The corrections Mr. Meyer is

6 addressing do not have any confidential material in them.

7 JUDGE CLARK: All right. You all have me paranoid

8 now.

9 MR. SANGER: Sorry, Your Honor. He is referring

10 to -- on that table there is a column issue, if you go down

11 to issue residential revenues, if you go over to the column

12 Company's position, WA Situs, there should be brackets

13 around that number of 2,280,000. And those numbers are not

14 confidential.

15 JUDGE CLARK: Just for clarity, only the numbers

16 that are shaded are confidential; is that correct?

17 MR. SANGER: That is correct.

18 JUDGE CLARK: Thank you.

19 Q. (By Mr. Sanger) Do you have additional revisions,

20 Mr. Meyer?

21 A. Yes, I'm getting to them. Page 17, Table 3,

22 across from the year 2007 there's a figure there that says

23 15,767. That should be 15,797. Page 31, line 15 --

24 Q. Why don't you wait for people to get there.

25 A. Sure. The statement says receiving only

0485

1 .6 percent. You need to add "and .7 percent increases."

2 That's all the corrections I have to my testimony on the --

3 I have clarifying corrections on the exhibits, Exhibits

4 No. 3, you need to scratch out the UE.

5 Q. So to clarify, this is just to the --

6 A. The title page.

7 Q. -- the title page of that exhibit?

8 A. Right. Scratch out the letters UE and delete the

9 number below it, Case No. ER 2008-0318.

10 JUDGE CLARK: We're on page 1?

11 THE WITNESS: Yes, just the title page. You would

12 delete the line that says Case No. ER 2008-0318.

13 Q. (By Mr. Sanger) Then you would make the similar

14 correction on page 1 of 4 of that same exhibit?

15 A. No, those are -- that's an accurate --

16 Q. So that one is accurate?

17 A. Yes.

18 Q. Okay. Thank you, Mr. Meyer.

19 MR. SANGER: I now tender Mr. Meyer for

20 cross-examination.

21

22 CROSS-EXAMINATION

23 BY MS. JAMIESON:

24 Q. Good afternoon, Mr. Meyer.

25 A. Good afternoon.

0486

1 Q. I would like to refer you first to page 17 of your

2 revised responsive testimony, Exhibit GRM-1CT.

3 A. I'm there.

4 Q. In your testimony you recommend that residential

5 revenues be calculated using a higher level of residential

6 usage than was proposed by the Company; is that correct?

7 A. That's correct.

8 Q. And in calculating your adjustment you do not take

9 into account temperature normalized usage; is that right?

10 A. No, that's incorrect.

11 Q. Okay. Please elaborate where in your analysis you

12 took into account temperature normalized usage?

13 A. By looking at a five year average you incorporate

14 the variations in temperatures during those five years. So

15 the methodology that I proposed would actually incorporate

16 the weather patterns that this company experienced during

17 the last five years in an indirect way.

18 Q. Allow me to clarify my question. You used actual

19 levels of usage, you did not normalize for normal

20 temperatures; is that correct?

21 A. If your question is did I make a weather

22 normalization adjustment to those five-year averages I did

23 not.

24 Q. Okay.

25 A. But the analysis does reflect the effect of

0487

1 weather.

2 Q. Are you familiar with the stipulation in the

3 Company's 2009 Washington rate case?

4 A. No, I'm not.

5 Q. It's provided as Exhibit RPR-10, and I believe you

6 have a copy of that exhibit?

7 MR. SANGER: Was this exhibit provided to

8 Mr. Meyer previously, previously identified as a

9 cross-examination exhibit for him?

10 MS. JAMIESON: No, it was not. It was identified

11 as a cross-examination exhibit by Public Counsel, I believe,

12 for PacifiCorp witness Pat Reiten.

13 Q. (By Ms. Jamieson) Are you familiar with the

14 stipulation?

15 A. I haven't reviewed the stipulation.

16 Q. I'd like to refer you to page 7 of this exhibit.

17 JUDGE CLARK: Ms. Jamieson, if you're going to

18 examine the witness on the document that he just indicated

19 he's not familiar with I'm going to take a recess and allow

20 him to review the information you would like to examine.

21 MS. JAMIESON: Okay. I think that will be fine,

22 and all I will be inquiring about are the first two

23 sentences in paragraph H on that page.

24 JUDGE CLARK: All right. And, Mr. Meyer, I'm

25 going to give you a few minutes, if you will just let me

0488

1 know when you're done.

2 THE WITNESS: I've read section H.

3 JUDGE CLARK: You may proceed.

4 MS. JAMIESON: Thank you, Your Honor.

5 Q. (By Ms. Jamieson) Do you see in that paragraph

6 where it states that the parties accepted in that docket the

7 temperature normalization methodology proposed by the

8 Company?

9 A. That's what the first sentence says.

10 MR. SANGER: Objection. I object on the basis of

11 foundation. Mr. Meyer has just reviewed this for the first

12 time today. He's not familiar with this provision, what

13 this covers, what the parties agreed to. This was not

14 provided to him at an earlier date for him to be able to

15 become familiar with this document or the parties'

16 understanding.

17 JUDGE CLARK: All right. Response, Ms. Jamieson.

18 MS. JAMIESON: I won't be examining Mr. Meyer on

19 his understanding of what happened in the docket. I would

20 point out that both ICNU and Public Counsel were parties to

21 this stipulation, they are both sponsoring Mr. Meyer as a

22 witness. And if you would like me to rephrase in a way that

23 would only get at the substance at what the parties agreed

24 to, and whether that's reflected in Mr. Meyer's testimony, I

25 can do that.

0489

1 JUDGE CLARK: All right. It would be necessary,

2 first of all, for you to rephrase if you want to inquire on

3 this. I am going to allow it, but I am going to be paying

4 close attention to the nature of your inquiry.

5 MS. JAMIESON: Yes, Your Honor.

6 Q. (By Ms. Jamieson) Mr. Meyer, when you proposed

7 your adjustment to residential usage did you explain that

8 the underlying data regarding the Company's temperature

9 normalization methodology was insufficient?

10 A. I think inherent in my adjustment is a challenge

11 to the usage per customer that the Company is proposing in

12 the case so, yes.

13 Q. You did not discuss the Company's temperature

14 normalization methodology and the data behind that

15 methodology; is that right?

16 A. There is not a discussion in my testimony directed

17 towards a specific argument against the Company's

18 methodology for weather normalization.

19 Q. And you did not present new information that has

20 come to light since the 2009 docket that would indicate that

21 a change in temperature normalization was needed?

22 MR. SANGER: Objection, Your Honor. Mr. Meyer was

23 not a witness in that proceeding. He doesn't know what

24 information was available in that proceeding, no foundation

25 to establish that he would understand what new information

0490

1 has come to light.

2 JUDGE CLARK: Ms. Jamieson.

3 MS. JAMIESON: I can move on, but I would point

4 out that ICNU and Public Counsel agreed to that provision

5 and was inquiring whether he took that into account in his

6 testimony.

7 JUDGE CLARK: All right. I will allow the witness

8 to answer the latter question you just posed.

9 MS. JAMIESON: That will be my final question.

10 JUDGE CLARK: Do you remember the question?

11 THE WITNESS: Could you repeat it?

12 MS. JAMIESON: Yes.

13 JUDGE CLARK: And be careful how you phrase it.

14 MS. JAMIESON: Yes, Your Honor.

15 Q. (By Ms. Jamieson) Mr. Meyer, does your testimony

16 discuss new information that has come to light with respect

17 to the Company's temperature normalization methodology?

18 A. New information from what?

19 Q. From 2009.

20 A. I did not discuss a difference in the weather

21 normalization methodology, differences between this case and

22 the 2009 case. But I mean I would note that when I briefly

23 flipped through this settlement that there are other issues

24 that were resolved in this settlement besides just weather

25 normalization. So parties could have weighed differently

0491

1 what the value of the total package was versus just the

2 specific paragraph H that you referenced, so that there's a

3 give and take in a settlement. And I wasn't involved in

4 this, but I can tell you that because that portion was there

5 there might have been other considerations in the settlement

6 that allowed parties to accept your methodology.

7 Q. Now, Mr. Meyer, I would like to next refer you to

8 page 11 of you revised responsive testimony Exhibit GRM-1CT.

9 A. I'm on page 11.

10 Q. Thank you. And on that page you refer to the

11 fourth supplement order in Docket UG-920840; is that right,

12 in footnote 6?

13 A. Yes.

14 Q. And do you have a copy of that order?

15 A. Yes, I do.

16 MS. JAMIESON: Your Honor, I request that the

17 Commission take official notice of that order.

18 JUDGE CLARK: The Commission has been provided

19 with a copy of Washington Utilities & Transportation

20 Commission versus Washington Natural Gas Company, Docket

21 UG-920840, Fourth Supplemental Order dated September 27,

22 1993, and I will take official notice of that document.

23 MS. JAMIESON: Thank you.

24 Q. (By Ms. Jamieson) Mr. Meyer, you cite this order

25 in response to the question beginning on line 5, are you

0492

1 aware of a WUTC order which supports your ideas about a

2 properly constructed incentive program; is that right?

3 A. Yes.

4 Q. And you include a block quote from that order, I

5 note that on line 12 of that blocked quote you have inserted

6 an ellipses to indicate that you did not cite the full

7 passage of the order; is that right?

8 A. That's correct.

9 Q. I would like you to refer to page 19 of that

10 order.

11 A. I am there.

12 Q. In the second to last paragraph about halfway

13 through is a sentence starting with "The Commission, it

14 states, "the Commission believes however that the company

15 can do a far better job in the future of creating incentives

16 and setting goals that advantage ratepayers as well as

17 shareholders," do you see that?

18 A. Yes.

19 Q. You did not include that last phrase "as well as

20 shareholders" in your testimony; is that right?

21 A. It's not in my testimony.

22 Q. You deleted that phrase because otherwise the

23 cited passage would not support your position on the

24 Company's incentive program; isn't that right?

25 A. Could you repeat the question?

0493

1 Q. You deleted that part of the phrase because

2 otherwise if you had included it the phrase would -- the

3 quote would no longer support your position on the Company's

4 incentive program; is that correct?

5 A. No, I don't agree with that.

6 Q. Turning to page 9 of your testimony, that's

7 GRM-1CT, beginning on line 21 you provide an explanation of

8 some of your criticisms of the Company's incentive program,

9 specifically that the goals are related to normal job duties

10 and not all the goals are quantifiable, would you agree

11 that's a fair summary of some of your criticisms?

12 A. I state that there -- that some of the goals are

13 related to what I believe are job requirements and that many

14 of the goals are not quantitative; that's correct.

15 Q. And the Fourth Supplemental Order you cited as

16 supporting your ideas about a properly constructed incentive

17 program does not address either of those issues, does it?

18 A. Is this back to the order we just discussed?

19 Q. Yes.

20 A. Well, I disagree with that. And the reason I say

21 that is in order to meet the last sentence in the order that

22 you reference which says, "Plans which do not tie payments

23 directly to goals that clearly and directly benefit

24 ratepayers will face disallowance in future proceedings." I

25 believe in order to achieve that the goals must be

0494

1 quantitative so you can step forward and say to either this

2 Commission or to your ratepayers or even internally to the

3 management that, yes, these goals have done and have

4 provided direct benefits to the ratepayers and this is how

5 we've quantified those. So I would disagree.

6 As far as the normal job requirements, I just

7 don't believe that a properly constructed incentive

8 compensation plan should include components that are

9 required of employees every day activities. So, for

10 instance, being nice, I think that's an unacceptable

11 incentive compensation goal because at first it's hard to

12 measure and it is subjective.

13 Q. I --

14 A. And -- go ahead, I'm sorry.

15 Q. Were you done? I don't want to cut you off.

16 A. Yes.

17 Q. So turning to Exhibit GRM-1CT, page 14.

18 A. I'm there.

19 Q. And beginning on line 18 there's a question as to

20 whether in your review of the Company's group goals you

21 found any goals that could be attributable to shareholder

22 value, do you see that?

23 A. Yes, I do.

24 Q. And the first goal you cite is titled customer

25 focus; is that correct?

0495

1 A. Yes, it is.

2 Q. Wouldn't you agree that motivating employees to

3 focus on customers provides customer benefits?

4 A. What do you define as customers? I've been

5 involved in many instances where the customers, especially

6 talking to customer service people, the customers are

7 considered not only the ratepayers of the company but the

8 shareholders, that they're a customer to that group also.

9 So this title can be misleading to people to just look at

10 it.

11 Q. So is it your testimony that generally when

12 utilities discuss customers they're referring to

13 shareholders?

14 A. I think it's in the context of the group you're

15 talking to, it could be interpreted differently, yes.

16 Q. Are you aware that PacifiCorp has no shareholders?

17 A. It has an owner. I don't know how you write your

18 incentive plans, so I can't tell you how this was developed

19 in relation to your ownership structure.

20 Q. On the next page of your testimony the second goal

21 you cite, this is page 15 of Exhibit GRM-1CT the second goal

22 you cite as one that can be attributable to shareholder

23 value is productivity, do you see that?

24 A. Yes.

25 Q. And wouldn't you agree that increasing

0496

1 productivity of the Company's employees provides benefits to

2 customers?

3 A. It may or may not. For instance, if you have a

4 measurement that says you are going to be rewarded given the

5 equivalent availability of one of your units, and the

6 manager of the power plant runs that unit only to meet the

7 objective of the goal of the equivalent availability and

8 could cause further damage to that unit because he was

9 running it, you know, when it needed to be taken down for

10 repairs, he would have subjected the unit to potential

11 failure in order to meet his goal.

12 Q. And, Mr. Meyer, your testimony deals only with the

13 Company's group goals and does not address individual goals;

14 is that correct?

15 A. Well, it indirectly does as I thought I stated in

16 my testimony that the individual goals were developed in

17 order to support the group goals of the Company so that they

18 would move in sync. To me it wouldn't make a logic that you

19 would have individual goals that has an employees achieve

20 those, they wouldn't move up towards the overall group goals

21 of the Company.

22 Q. But you did not discuss individual goals in your

23 testimony; is that right?

24 A. I did not.

25 Q. Turning to a related issue, you have recommended

0497

1 disallowing 100 percent of the portion of the management

2 fees related to MEC and MEHC incentive compensation; is that

3 right?

4 A. To the bonuses, yes.

5 Q. Referring to page 36 of Exhibit GRM-1CT.

6 A. I'm there.

7 Q. And beginning on line 5, you discuss the basis for

8 your adjustment, and I see that the first basis that you

9 have discussed is page 125 of PacifiCorp's 10-K, do you see

10 that?

11 A. Yes.

12 Q. And were you here this morning during Mr. Wilson's

13 testimony when we discussed the two different page 125s of

14 the PacifiCorp 10-K?

15 A. Unfortunately.

16 Q. I'd like to refer you to Exhibit GRM-7.

17 A. I have it.

18 Q. Now would this be the page 125 of PacifiCorp's

19 10-K that you're referring to in your testimony?

20 A. Yes.

21 Q. And is the basis for your testimony the table

22 where it states MEHC net income and award?

23 A. Yes.

24 Q. And if you look above where that chart is there's

25 a small "a" where it states represents vested awards plus

0498

1 vested earnings which refers to a footnote above. If you

2 look at the table above do you see that footnoted letter "a"

3 next to change in value in the far right column?

4 A. I see that.

5 Q. And are you aware that that footnote relates to

6 the long-term incentive program?

7 A. I'm not aware of that.

8 Q. Do you see where it says LTIP above the change in

9 value column?

10 A. Yes, it does, I'm sorry.

11 Q. Are you aware the Company has not included LTIP

12 expenses in rates in this case?

13 A. That's my understanding.

14 Q. And you're also aware that PacifiCorp's 10-K only

15 relates to PacifiCorp employees, not MEHC employees; is that

16 correct?

17 A. I agree with that.

18 Q. So these expenses would not be included in MEHC

19 management fees; isn't that right?

20 A. The long-term?

21 Q. Long-term or any of these expenses would not be

22 included in the MEHC management fees, do you agree with

23 that?

24 A. No.

25 Q. Now on lines 14 to 16 of that page in your

0499

1 testimony we were just referring to, page 36 of GRM-1CT, you

2 state that the annual bonuses are given on a subjective

3 basis but are defined on the objectives that "commonly

4 include financial and nonfinancial goals," do you see that?

5 A. I sure do.

6 Q. And you cite to page 143 of the MEHC 10-K; is that

7 right?

8 A. Yes.

9 Q. Turning to Exhibit GRM-8, page 2 of that exhibit.

10 A. I have it.

11 Q. You have it?

12 A. Yes.

13 Q. Under the paragraph regarding the performance

14 incentive plan do you see the reference that states that

15 individual NEOs performances measured against defined

16 objectives that commonly include financial and nonfinancial

17 measures in the middle of the paragraph?

18 A. I see that statement.

19 Q. And they provide six examples of these financial

20 and nonfinancial measures, namely customer service,

21 operational excellence, financial strength, employee

22 commitment and safety, environmental respect and regulatory

23 integrity, do you see that?

24 A. That's what's listed there.

25 Q. Wouldn't you agree that these measures are related

0500

1 to providing customer benefits?

2 A. I think you would have to look at the specific

3 goals that are under these types of performances. I think

4 as Mr. Wilson testified this morning, these are aligned or

5 it's attempted to align these with the group goals. As

6 you're aware we have considerable problems with a lot of the

7 group goals. So I think the same thing would apply here.

8 Q. And, Mr. Meyer, in addition to your proposed

9 adjustment related to MEHC and MEC incentive compensation

10 you also proposed adjustments to legislative and SERP costs

11 included in the management fee in the Company's direct case;

12 is that correct?

13 A. That's correct.

14 Q. And are you aware based on Mr. Dalley's rebuttal

15 testimony that those costs have been excluded from the

16 Company's filing?

17 A. I understand he's willing to make those

18 adjustments. I think the difference is now how we quantify

19 what that's worth.

20 Q. Do you have Mr. Dalley's rebuttal testimony with

21 you? If you don't I could provide a copy.

22 A. Yeah, I probably need a copy. (Witness is handed

23 a copy of the document.)

24 Q. Mr. Dalley's rebuttal testimony is Exhibit RBD-4T,

25 this is the revised version as of December 10, 2010, and I'm

0501

1 referring to page 6 of his testimony. In line 16 through 17

2 he states, "The Company's rebuttal filing excludes SERP and

3 legislative expenses billed to the Company," do you see

4 that?

5 A. Yes.

6 Q. And turning to page 8 of that same Exhibit RBD-4T

7 in lines 3 through 4 it states that, "The table below

8 reflects the total amount billed to the Company and itemizes

9 the cost categories that are excluded from the test period

10 in this proceeding," do you see that?

11 A. I see that statement, yes.

12 Q. And do you see in the table below where both SERP

13 and legislative costs have been removed from the filing?

14 A. Yes. And this is what I was talking about earlier

15 about I think the problems that we have with the totals.

16 Q. Wouldn't you agree that if these items have been

17 excluded from the filing that including an adjustment in

18 excess of that amount would be a double-count of the amounts

19 that the Company has already removed?

20 A. Well, I guess just logically if you've taken

21 something out of the cost of service and someone else would

22 propose to further take it out again that would be a

23 double-count, but I don't believe we have done that.

24 MS. JAMIESON: Thank you. I have no further

25 questions.

0502

1 JUDGE CLARK: All right. And I don't believe any

2 party other than PacifiCorp indicated examination for

3 Mr. Meyer, so I'm going to turn to commissioner inquiry.

4 Commissioner Jones.

5 MR. JONES: No questions.

6 JUDGE CLARK: Commissioner Oshie.

7 MR. OSHIE: I'll have a few questions here.

8 JUDGE CLARK: All right.

9

10 CROSS-EXAMINATION

11 BY MR. OSHIE:

12 Q. Just a couple of questions, Mr. Meyer, about

13 your -- it seems to me to be perhaps a different, I don't

14 want to call it philosophical view because I think it's more

15 factually based here. But your view of what incentive

16 payments are and how they should be compensated and the

17 Company's view of incentive payments which is -- I think I

18 need to have that clarified. Because Mr. Wilson testified

19 that the incentive payments really weren't incentive

20 payments, they're part of the overall compensation -- part

21 of I would say the fundamental payment structure for

22 employees of the utility that are eligible for what they

23 refer to as their incentive payments. And as a result of

24 that--and I don't remember the exhibit--almost everyone in

25 the Company who were eligible received it. I think there

0503

1 were 11 that didn't. And yet when I read, you know, your

2 testimony -- well, maybe let's start with that.

3 So draw the distinction perhaps between how you

4 view the incentive payment structure for PacifiCorp

5 employees and how you believe that the Company really

6 defines incentive payments. I assume there's a difference?

7 A. Yeah, I would say there is. I'll start with me

8 and then you can tell me if I adequately addressed your

9 questions.

10 I'm not opposed to the concept of incentive

11 compensation. I want to make sure that's totally clear. I

12 think you're right that it's labeled--and PacifiCorp is not

13 the only one out there--it's labeled as an at-risk level of

14 payment wherein what you saw today and heard today is only

15 11 people were really at risk. Some people were at risk for

16 less, but generally speaking everybody gets a payment. And

17 that's just not unique to PacifiCorp, I'm aware of other

18 utilities where the same phenomenon happens. So the quote

19 around that "at risk" is to be taken with a grain of salt.

20 I believe that a properly structured incentive

21 plan should be able to demonstrate benefits for the payments

22 that they make benefits to the ratepayers.

23 (Music comes on over the bridge line.)

24 Q. (By Mr. Oshie) Must have hit the right note on

25 that, Mr. Meyer. One of your partners in Brubaker.

0504

1 A. We'll find out when I get home.

2 But they should be developed so that you can go to

3 your ratepayers, you can go to your management, you can come

4 here and say for the benefits of this incentive compensation

5 program these are the things that ratepayers achieve, these

6 are the things that ratepayers got.

7 You remember that the Company testifies that the

8 incentive compensation is to -- is designed to encourage

9 superior performance, and that's at target. If you don't

10 make superior performance then you get less. But if you do

11 it's become -- it's in their words I think it's labeled as

12 exceptional performance and that's when you can get above

13 target. But everybody's getting it.

14 And so my belief is a plan that's well-developed

15 should be one, first of all, that can be discussed with you

16 and shown that ratepayers benefit from it, and can be

17 taken -- I'm not familiar with the proceedings out here, but

18 if you have public meetings where the Company has to go to

19 during a rate case and testify in front of the public or let

20 the public have their input, that's a very powerful tool to

21 be able to say our incentive plans -- because they believe

22 they're bonuses. We can sit here and say they're incentive

23 plans, but when we leave this room ratepayers think these

24 are bonuses. To say that these plans and this plan is

25 generating and creating more benefits to you than the cost

0505

1 it is for you to pay in rates.

2 I think that it also, from the employees'

3 perspective, I think the employees should be able to go any

4 time during the year and assess where they are in this

5 employee -- in their incentive plans.

6 One of the things that I noticed that Mr. Wilson

7 attached to his testimony is he attached a performance, an

8 individual performance plan for I believe it was an

9 engineer. And at each one of the objectives there was a

10 note, and I don't have it in front of me, but I'm doing it

11 from the top of my head. But it was saying if you met

12 target you got the payment. But once you were above or

13 below the target which meant you didn't "perform" to the

14 average level which they call superior, if you were above or

15 below it then it was up to the discretion of the manager.

16 That creates bias in my mind. I want to be able to know am

17 I above. You know, my performance plans should be designed

18 so that I can tell you right away when I'm working, and I'm

19 not going to be subjected to the manager's discretion if I'm

20 above my plan or I'm below it and I need to -- there is

21 nothing there to do that.

22 Obviously, PacifiCorp's response in my mind is

23 we've taken this, we've done it through salary surveys,

24 everybody's doing incentive compensation plans, which I

25 agree, and we want to target at the 50th percentile. I've

0506

1 heard that in several other utilities too. I'm still

2 looking for the person that comes up and says I want to --

3 or I want to have a salary package at the 90th percent

4 because I can't find that. But somebody is out there I

5 know.

6 But the concern I have with that is I believe you

7 should be taking and looking at -- if you truly are

8 competing as they -- as utilities claim against these other

9 utilities, then I would suggest that you look at these

10 exit-interviews, take the exit-interviews and look and see

11 where your employees are leaving to. I doubt you find that

12 very many of them leave though. Because if you look at the

13 tenure of utility employees it's a pretty long period. They

14 stay around.

15 But the way to truly examine your salary

16 compensation, which includes your incentive, against your

17 competitors is to find out who you're losing them to and

18 then compare, or get the ones that you came from. Those are

19 your other competitors, and that's where your salary plans

20 should be driven by.

21 (A cellphone rings.)

22 Q. (By Mr. Oshie) Someone who was on the line is now

23 calling in.

24 So, let's take this a little -- let's approach it

25 a bit differently. If I think about it for ratemaking terms

0507

1 what's easier to deal with? To judge whether or not the

2 salaries paid by the utility are higher than they should be

3 or whether or not their incentive plan is properly

4 structured and makes in a sense the right behavior for

5 either the shareholder and the ratepayer -- or the

6 ratepayer, let's use that term. Shareholder or ratepayer.

7 And it's that decision perhaps that to me seems a little

8 more not just subjective but more difficult to determine on

9 a factual basis.

10 A. I'm not saying it's easy, but I think you can make

11 plans that you can say those -- because you met those goals

12 I can see benefits to the ratepayers. And some of them will

13 give indirect benefits to the shareholders also. I'll give

14 you an example if you want.

15 Q. Before you go, I think what -- maybe I can perhaps

16 clarify a bit. It's not that there are benefits to the

17 ratepayer, it's what was paid and what benefit was received;

18 is that commensurate?

19 A. Absolutely. Because if I'm not going to get

20 superior performance why should I pay for it, you know. And

21 it's not just the 11 that didn't get it this time, it should

22 be a lot more.

23 Q. Well, so let's go back. If that is -- if we don't

24 have -- well, let me start over, excuse me, just strike what

25 I just said, not all of it.

0508

1 If we had -- if I look at what the -- if I

2 interpret what the Company does based on Mr. Wilson's

3 testimony and others, is that because what they call a bonus

4 or incentive program is really part of their basic salary

5 package, is it easier for a Commission then to look at the

6 total and say are those salaries too high based on not just,

7 you know, national averages but regional averages and based

8 upon what other utilities pay that are being regulated in

9 Washington?

10 A. You can do that, absolutely. And I think

11 that's -- I think that's where we sort of touched on before

12 is let's make your comparisons to the region and to the

13 people you actually compete with for employees. Let's not

14 go -- let's make sure that our salary surveys are accurate.

15 Q. Okay. So let's start there. Now, is that an

16 easier way to determine how much of the salary of employee

17 compensation should be included in rates or do you think

18 it's easier to, using the structure that I thought you

19 certainly developed in your testimony, that you have a base

20 salary and then you have incentives that are paid based

21 upon, as you commented, and I think Mr. Wilson -- I don't

22 know if you would agree or not, but the PDB is developed by

23 the supervisor, and there's a judgment that has to be made

24 by the supervisor whether those payments can be made. How

25 do we dig into that to determine what was actually done and

0509

1 whether or not what was done benefited ratepayers,

2 shareholders or both, and if so how do you disaggregate the

3 benefit to determine, one, where did it go, and, two, what

4 did it cost?

5 A. Well, those aren't necessarily easy tests but they

6 can be done. But you're absolutely right, and the way you

7 have to do it is to look at the "score cards." I call them

8 score cards of what the individuals are measured against and

9 then say should those measurements be things that we can

10 agree to or increase the ratepayer benefits.

11 Q. Would we then have to look at all 26 -- well, it's

12 not quite 2,600 employees that received a bonus out of the

13 2,601, I think, or some number like that, but would we have

14 to look at each one then? I know you can do random audits

15 and you can select out.

16 A. Right. I think you don't have to look at every

17 one of them, no, I think that would be a daunting task. So

18 I think that they are generally -- they would generally, I

19 believe, generally follow--they did at least at the utility

20 I looked at--they generally follow certain guidelines.

21 Q. I'm not sure I have really anymore. Oh, briefly I

22 want to go back to I think the first line of questioning

23 that Ms. Jamieson was focused on which is, you know, your

24 analysis of the residential use per customer. Now, why -- I

25 guess in general terms, maybe you can elaborate a bit more,

0510

1 why should we move from a weather normalized amount to this

2 five-year average that you propose? I mean isn't this -- I

3 would assume this is an issue in every case. Is your

4 testimony perhaps that we have just been ignoring it and we

5 should get focused on this? Or is it because of the economy

6 or temperature variations that the average, you know, when

7 you look at the long-term average it's not really effective

8 at determining the real load that the utility will be put

9 under for the rate year?

10 A. Well, I think it's twofold. I looked at the

11 five-year in comparison to the average that PacifiCorp

12 wanted to include in their rates, and I found that the

13 amount, the average usage per residential customer that they

14 were proposing was lower than any year in the previous five

15 years. And that to me raised a concern about, you know,

16 what do we really have here. I think some of the factors

17 that you mentioned are things that should be looked at is

18 that, you know, are we -- do we have a new -- a reduced base

19 usage because of the fact of the recession? I can probably

20 tell you that it's our, at least our opinion, that actual

21 base usage of electricity has probably increased because of

22 the computers in every home, flat screen TVs, all these

23 things that we're in an electronic world that is increasing

24 our use per customer. So we believe the use per customer,

25 despite the conservation efforts, is probably still on an

0511

1 increase.

2 The Company's proposal just didn't mesh with what

3 we have seen over the last five years. So I think it can be

4 either -- I'm not necessarily suggesting you have to abandon

5 your, I call it your process that you've done before, but I

6 think you need to look at it and say, is what we're -- is

7 the process that we have, is it producing reasonable

8 results? And maybe that's -- that was the check I wanted to

9 put out and suggest that at least in the first five years

10 we're not getting a reasonable result.

11 Q. This is if we change the methodology for

12 determining load for PacifiCorp. I mean what we -- I think

13 you would agree that what we want to avoid is really what I

14 would say here from the standpoint of Public Counsel and

15 even perhaps ICNU a more convenient result than weather

16 normalizing would give us. And we've seen many times in

17 testimony by a number of different witnesses that want to

18 change the way this kind of forecasted and estimated

19 analysis is done by averaging instead of ten years, five or

20 instead of five, three. And generally it's pretty easy to

21 determine why that's done because it gets them to a result

22 that favors their client if they're an expert witness here

23 before us. So I'm just trying to -- if this is -- if we're

24 really going to change, are your clients willing to live

25 with this type of determination of average residential use

0512

1 going forward, whatever the results may be?

2 A. Well, I think before I would just give you a carte

3 blanche, yes, I think you always have to look at the

4 situation that presents itself. So I can't tell you, yes,

5 we would buy off on a five-year average going forward no

6 matter what the consequences, because I think you have to

7 look at the reasons why the usage is where it is in

8 comparison to the weather. And in the five years that we

9 looked at, you know, there was warmer and colder years in

10 there. But there was still a proposal to have it less than

11 it's ever been. And that just raised a concern on our part.

12 MR. OSHIE: All right. Thank you.

13 JUDGE CLARK: Chairman Goltz.

14 MR. GOLTZ: Thank you.

15

16 CROSS-EXAMINATION

17 BY MR. GOLTZ:

18 Q. I just have a couple questions about incentives,

19 again, and then a couple questions about the management fee.

20 Incentives. Just let me pose a hypothetical, and

21 I'm just going to use one employee to keep it simple. Say

22 you had two utilities in your area that we regulate, one

23 utility pays its accountant $100,000 base, that's it, base

24 fee. The other utility pays $80,000 base fee but that

25 accountant will get $10,000 if he or she meets individual

0513

1 goals and another $10,000 if their group meets certain

2 goals. And the goals can be simple. You have to show up,

3 you have to do your work, whatever. Why would we care which

4 of those two salary compensation mechanisms the utility

5 uses? And do you care?

6 A. Yes.

7 Q. Why?

8 A. I've been involved, and actually I talked to an HR

9 lady in another state in another utility, and given the

10 option of what you just said of just having a base salary,

11 and let's just below it through, versus having what they

12 quantify still as at-risk, she wants the at-risk money. She

13 wants that proposal. She wants the incentive plan.

14 Q. Okay. So you would say that you would agree that

15 that incentive plan is better than the flat rate plan?

16 A. Yes, because I think it does encourage -- it

17 doesn't just put into a homogeneous pot everybody and you

18 all get paid $100,000. I think you almost have to expand

19 your analysis sometimes. Let's say there's two accountants,

20 okay, and they both get $100,000. And one accountant works

21 overtime, of which they don't get paid for, and the other

22 one doesn't, but they both get $100,000. Well, obviously,

23 the guy that's working the overtime is going to feel

24 slighted versus the guy that's not. So, you know, I'm in

25 favor of the incentive plans. But what I'm saying is that

0514

1 when you put together an incentive plan the quote is to

2 encourage superior performance that we want to be able to

3 say that that performance is truly superior and that it's

4 measurable and that it --

5 Q. I understand your situation where the incentives

6 work for superior --

7 A. Well, then --

8 Q. -- but it's just basic stuff --

9 A. Right.

10 Q. -- you have to show up, you have to do your basic

11 job and you get this performance. And I heard your

12 testimony as saying that's no good. But I was posing the

13 comparison between $100,000 flat base fee or salary and an

14 $80,000 plus $20,000 in easily achievable bonuses that

15 aren't superior performance, it's just the basic job. And I

16 mean, I thought that was kind of your criticism of the

17 Company's plan is that they're too easy to get?

18 A. Right.

19 Q. Now I'm hearing you saying maybe that's okay?

20 A. No, no. If I said that I want to make it

21 perfectly clear. I don't like -- I agree and I think the

22 industry agrees that you should continue to have incentive

23 compensation. When you have incentive compensation let's

24 make the goals -- if your plan is to pay for superior

25 performance, let's make the goals align with superior

0515

1 performance, and let's make them so they can be observed and

2 quantified by the employee, and let's make them so they can

3 be presented to the people that are paying for them and

4 saying you're getting a benefit for them.

5 Q. Okay. Let me ask you a question about the

6 management fee, and forgive me if I am confused. I was

7 confused yesterday and it was clarified on the record by

8 Mr. Dalley. I'm sure it's clarified in the record, it's

9 just not clarified in my head. Were you here yesterday when

10 Mr. Dalley was on the stand?

11 A. No, sir.

12 Q. In his originally filed testimony at RBD-3, tab 4

13 at -- maybe you recall these numbers you may not have to

14 look at it. He indicated that there's 8.53 million per

15 books amount for charges to Washington from MEHC for its

16 management fees, do you recall that number?

17 A. I think my numbers have 8.353.

18 Q. Maybe that's what it was.

19 A. Because they make $1,053,000 adjustment to get

20 down to 7.3 in the direct case --

21 Q. Okay. Then on the rebuttal the Company, again

22 through Mr. Dalley, said there was approximately

23 11.568 million of management fees. So it was kind of a

24 changing or a differing amount. He explained all that. I

25 couldn't possibly explain it to you off the top of my head.

0516

1 But I guess my question was, is when the per books amount

2 was eight point something, and when you first reviewed his

3 testimony is that the number you reviewed?

4 A. I relied on the 8.353.

5 Q. Okay. But then he said in his revised testimony

6 that there was approximately 11.568 million, and were you

7 aware of that additional amount between the eight point

8 something and 11.568?

9 A. Yes. I mean the difference is the recognition of

10 the long-term incentive plan that they are not including,

11 not requesting to be included in rates. So you take -- this

12 is where I was talking to Ms. Jamieson before about the

13 confusion about where the number actually is. The 11.568 is

14 the total amount which includes, I think, some accrual

15 accounting in it also.

16 Q. As I recall it also includes --

17 A. Aircraft.

18 Q. I don't know, but it has to do something with

19 another state that had a cap, so there's an amount invoice

20 that was higher than what was actually paid?

21 A. Right. The amount was invoiced at $9 million.

22 When they went back and looked at it it became $8.7 million

23 of which $400,000 was booked -- was slated to be booked

24 below the line. That's how you get to your 8.3. But your

25 8.3 has expenses in it, in my opinion, that they claim that

0517

1 they want to take out. I just don't believe they've made

2 those adjustments. For instance, aircraft. They also claim

3 there's some capitalized portion of it that's worth about

4 234,000. And then there's the legislative.

5 Q. Right.

6 A. The SERP and then we come down to the 1.7 million

7 or 1.8 million associated with the MEHC bonuses.

8 Q. So the 11.6, we started off with a per books value

9 of eight point something?

10 A. 8.3, that's expense.

11 Q. And then was the 11.6 with that additional amount.

12 Was that a surprise to you or did you kind of know that was

13 there?

14 A. No, I wasn't surprised because I knew that -- in

15 my exhibit I also have these costs, I have them in two

16 sheets. So the 11.6 -- it's hard to trace where the

17 expenses are coming from, but the 11.6 is the total which

18 includes the amount for the other states, the accrual, the

19 aircraft, the legislative, the long-term incentive plan, the

20 two bonuses, and that's all of it.

21 MR. GOLTZ: Okay. Thank you, I have nothing

22 further.

23 JUDGE CLARK: Redirect, Mr. Sanger.

24 ///

25 ///

0518

1 REDIRECT EXAMINATION

2 BY MR. SANGER:

3 Q. Mr. Meyer, I just have a couple quick follow-up

4 questions on lines that Chairman Goltz just asked you. For

5 your adjustments on the MEHC management fee did rely upon

6 data provided to you by PacifiCorp in discovery?

7 A. Yes.

8 Q. And the numbers that you relied upon, did

9 PacifiCorp ever update those and provide different

10 information that is used in your testimony?

11 A. No, the numbers I relied on are contained in

12 GRM-6.

13 MR. SANGER: Thank you, no further questions.

14 JUDGE CLARK: All right. Thank you for your

15 testimony, Mr. Meyer. Is there any objection to this

16 witness being excused? Hearing none you're excused.

17 And we're going to just take a moment off record

18 to allow the next witness to take the stand. We're off

19 record.

20 (Brief break taken off the record.)

21 JUDGE CLARK: We're back on record. And we are

22 now reverting to our previously scheduled programming. Will

23 PacifiCorp call its next witness, please.

24 MR. WHITE: PacifiCorp calls Ms. Rebecca Eberle.

25 JUDGE CLARK: Thank you. Raise your right hand.

0519

1 (Rebecca M. Eberle sworn on oath.)

2 MS. EBERLE: I do.

3 JUDGE CLARK: Thank you, please be seated. Please

4 state your full name for the record and spell your last.

5 MS. EBERLE: Rebecca M. Eberle, E-b-e-r-l-e.

6 JUDGE CLARK: Thank you. Mr. White.

7

8 REBECCA M. EBERLE,

9 having been first duly sworn

10 on oath was examined and testified as follows:

11

12 DIRECT EXAMINATION

13

14 BY MR. WHITE:

15 Q. Good afternoon, Ms. Eberle. Do you have any

16 additions or corrections to your prefiled rebuttal testimony

17 in this case?

18 A. No, I don't.

19 MR. WHITE: Thank you. Ms. Eberle is available

20 for cross-examination.

21 JUDGE CLARK: Thank you. We have one party who

22 has indicated cross-examination for Ms. Eberle. Mr. Purdy.

23 MR. PURDY: Thank you.

24 ///

25 ///

0520

1 CROSS-EXAMINATION

2 BY MR. PURDY:

3 Q. Good afternoon.

4 A. Good afternoon.

5 Q. The first question I would like to start off with

6 is to gain a sense for no other reason than my own

7 edification. When Pacific Power comes into this Commission

8 in a proceeding such as this and makes proposals that affect

9 its low-income customers, is there a specific individual or

10 select group of individuals who bear the responsibility and

11 have the final authority to make those recommendations the

12 Company makes to the Commission?

13 A. Are you specifically asking about low-income type

14 programs?

15 Q. Yes, I didn't finish that thought, thank you.

16 A. Yes. Since the low-income bill assistance program

17 has been in place, it started in 2001, when the regulation

18 department is developing a rate case I discuss the LIBA

19 program with them and funding.

20 Q. So is your answer that the buck stops with you

21 with respect to all low-income related matters and the

22 position that the Company takes before this Commission?

23 A. No, I just provide input. I would say the buck

24 stops with the regulation department.

25 Q. Can you name names in that department, please?

0521

1 A. Well, Andrea Kelly is the vice president, and of

2 course, anything that would raise the cost to our customers

3 may have to go through Pat Reiten.

4 Q. Okay. And as president I assume he has final say?

5 A. That makes sense.

6 Q. Yes, it does. Now, the Company originally

7 proposed, if I understand correctly, increasing low-income

8 bill assistance funding through Schedule 91 by 21 percent;

9 is that correct?

10 A. Yes, that's at the same rate as the proposed

11 increase to residential prices.

12 Q. That was the original proposed increase and that

13 has now changed somewhat, has it not?

14 A. Yes. Mr. Schooley recommended that the

15 Schedule 91 be increased by 21 percent regardless of what

16 the final order was. And PacifiCorp has agreed with that.

17 Q. All right. And although I'm not enough of an

18 engineer or mathematician to fully understand this myself,

19 is it possible that given the modified rate spread that's

20 been introduced in this case that the rate increase to the

21 residential class could actually exceed the overall average

22 rate increase systemly?

23 A. I think that's a question that needs to be

24 addressed to Mr. Griffith.

25 Q. Thank you. Now, it is your proposal that with

0522

1 respect to the increase in funding to bill assistance that

2 you propose in this case additional low-income customers who

3 are eligible under that program be served; is that right?

4 A. Yes.

5 Q. And your allocation is that 30 percent of the

6 increased amount of the funding be dedicated to additional

7 customers; true?

8 A. That's true, and 70 percent would go to increasing

9 the credit. And we made that recommendation based on

10 feedback from the agencies that provide services to our

11 customers.

12 Q. And in that regard you refer to a meeting

13 conducted in Toppenish, Washington on March 24th of last

14 year; is that correct?

15 A. That's right.

16 Q. I believe it's fair to say throughout your

17 rebuttal testimony you refer to ideas, matters that were

18 discussed during that meeting as resulting in a consensus,

19 is that your word you used?

20 A. Consensus with the agencies, the staff members

21 from the agencies.

22 Q. Of course you were at the Toppenish meeting;

23 correct?

24 A. Yes.

25 Q. Did Staff participate in that meeting?

0523

1 A. No.

2 Q. I believe you mentioned that there were -- you

3 just mentioned a minute ago that there were representatives

4 of the community action agencies present?

5 A. Yes. There are three agencies that provide

6 services in our service territory, and they include Blue

7 Mountain Action Council in Walla Walla, Northwest Community

8 Action Center in Toppenish and the Opportunities

9 Industrialization Center of Washington that's located in

10 Yakima.

11 Q. The Energy Project was represented there by

12 Mr. Charles Eberdt and Michael Karp; correct?

13 A. Yes.

14 Q. How many people would you estimate were at that

15 meeting?

16 A. I would estimate between 12 and 15 people.

17 Q. Is it a fair characterization of that meeting to

18 say that there were a number of ideas thrown out on the

19 table and bandied about among the participants?

20 A. Yes.

21 Q. Is it your testimony in this case that there was

22 consent or unanimous agreement on all of those ideas that

23 were thrown out?

24 A. No. But specifically on the 70/30 split, before

25 the end of the meeting I actually went around the room and I

0524

1 asked a representative from each agency if that was their

2 agreement, if that was their proposal, and they all said

3 yes.

4 Q. Well, was a formal vote or tally taken?

5 A. Well, I don't know if you would consider it

6 formal, but everyone was in the room, and I asked each

7 person representing an agency.

8 Q. You did this on your own, is that what you just

9 said?

10 A. Yes.

11 Q. All right. And was the meeting recorded in any

12 way, were minutes taken or an audio recording made?

13 A. No formal minutes.

14 Q. Again, were there other ideas that affect

15 low-income customers thrown out such as implementing a

16 seniors-only program such as that I believe currently

17 implemented by Avista company?

18 A. I think one idea was for a program to help

19 seniors, yes.

20 Q. Did that ever come to fruition for Pacific?

21 A. No. But there was a lot of discussion about that,

22 and it didn't seem that all agencies were in agreement with

23 that.

24 Q. When you say it didn't seem, again, did you go

25 around and take a one-on-one tally --

0525

1 A. No, I didn't.

2 Q. -- of every participant on that issue?

3 A. No.

4 Q. Did you do that on any other issue besides the

5 serving additional customers?

6 A. I don't recall other than just the one issue

7 because I realized that would be an issue in the rate case.

8 Q. All right. And I'm sorry to beat this to death,

9 but I just have to finish. Was a formal written document,

10 stipulation, agreement of any type ever reduced to writing

11 and signed as a result of the Toppenish meeting?

12 A. No.

13 Q. Thank you. Now, I wanted to talk about your

14 proposal to certify low-income bill assistance customers

15 every other year and your discussion of the administrative

16 fee that the community action agencies are compensated for

17 their cost. And I believe that you testify that converting

18 to an every other year certification will result in more

19 low-income households being served under the bill

20 assistance; is that right?

21 A. It would allow for more funding to provide direct

22 benefits. So either a higher credit or more customers would

23 be able to participate.

24 Q. Well, I assume, of course, that you are somewhat

25 familiar with the bill assistance certification process here

0526

1 in Washington state?

2 A. For our LIBA program?

3 Q. Yes.

4 A. Yes.

5 Q. All right. And in terms of your familiarity are

6 you aware of the time of year that LIBA certification is

7 normally undertaken?

8 A. I think that some of the agencies start before

9 their LIHEAP season, the low-income home energy assistance

10 program, energy assistance program. Some start in about

11 September.

12 Q. So they differ?

13 A. They do, but we actually had a verbal agreement in

14 about 2004 where to save cost they would start to certify

15 people at the same time as they certified them as eligible

16 for LIHEAP.

17 Q. And do all the agencies intake the same number of

18 participants or do they vary?

19 A. They vary. And it's based on the size of their

20 area. Two of the agencies each have 41 percent and the

21 third agency, the Walla Walla agency, certifies 18 percent.

22 Q. Are you aware with respect to each agency how many

23 employees it needs to administer LIBA?

24 A. No, I'm not aware.

25 Q. Are you aware of how many employees it takes to

0527

1 complete the certification intake process?

2 A. No.

3 Q. Are you aware of how much of their time for the

4 year it takes up to perform the LIBA intake process?

5 A. No.

6 Q. Are you aware what their responsibilities are for

7 the remainder of the year when they're not engaged in LIBA

8 intake?

9 A. I don't sound like I'm aware of anything, but, no,

10 I'm not.

11 Q. I'm not suggesting that. You're quite

12 knowledgeable. Now, I will assume, and correct me if I'm

13 wrong, that in your review and rebuttal of Mr. Eberdt's

14 testimony that you took into consideration the problems that

15 he outlined and that he perceives with converting to an

16 every other year LIBA certification process; is that right?

17 A. That's true. If you look on page 7 of my rebuttal

18 I actually proposed a collaborative group in the future to

19 look at the issue. I would really like agency staff people

20 to be involved in this.

21 Q. All right. But that's in the future. Right now

22 you're proposing immediately, or in the relatively near

23 future, that the Commission order that LIBA certification go

24 to every other year, are you not?

25 A. Yes.

0528

1 Q. All right. And again getting back to the concerns

2 Mr. Eberdt enumerated in his testimony, do you have an

3 opinion as to whether they are with merit to some degree?

4 A. Yes, I think there's merit.

5 Q. All right.

6 A. Our proposal, I feel, was based on agency

7 recommendation, but there are other ways to look at the

8 issue.

9 Q. And in your analysis and conclusion that

10 converting to an every other year certification would result

11 in program cost savings, did you perform any calculations

12 that would take into account the problems and adverse

13 consequences that Mr. Eberdt outlined in his testimony? Did

14 you do an offset in other words?

15 A. No.

16 Q. All right. Is there a reason you did not do that?

17 A. Well, we have experience in other jurisdictions

18 where we have a certification process that is every other

19 year, and it works well.

20 Q. And I don't want to jump ahead of myself, but

21 you're referring to California and Utah, are you not?

22 A. Yes.

23 Q. All right. I'll get to that in just a second.

24 Now, might there be a problem in going to an every other

25 year certification that the longer you draw out the amount

0529

1 of time between certifications the more that circumstances

2 and people's lives change? I'll give you two examples.

3 Somebody that when the first year of certification took

4 place was eligible for LIBA, but then their life

5 circumstances changed, they make more money, they no longer

6 are, well before the end of the two-year period, but they

7 still receive LIBA benefits or discounts. And conversely

8 somebody who is not initially eligible becomes so because

9 they might lose their job or be demoted.

10 A. Well, the way we handle that in California, where

11 it's every other year, is that on the form that they sign

12 that they're income-eligible there is a footnote that

13 requires them to contact the utility if they become

14 over-income. And we actually have people contact us and let

15 us know and we take them off the program.

16 Q. So that's a voluntary -- it might be a requirement

17 but it's voluntary on the part of the --

18 A. Definitely.

19 Q. -- LIBA recipient; correct?

20 A. Uh-huh.

21 Q. I'm sorry, was that a yes?

22 A. Yes.

23 Q. Is it fair to say it's somewhat of an honor

24 system?

25 A. Yes.

0530

1 Q. Have you calculated how many people might fail to

2 followthrough with that footnote obligation?

3 A. No.

4 Q. Okay. Now, getting to the point you raised about

5 your programs in California and Utah, I believe that -- and

6 please do correct me if I do not paraphrase your testimony

7 correctly. But that in California as you said customers

8 self-certify biannually, and they do that through a one-page

9 form; is that right?

10 A. That's true.

11 Q. All right. I think in Utah you say that -- you

12 testify that they combine the LIBA and the LIHEAP intake

13 process to save costs?

14 A. Yes.

15 Q. All right. First, isn't it true that in

16 Washington, according to Department of Commerce rules, data

17 taken for the purpose of LIHEAP eligibility is only good for

18 six months and then it must be renewed after that?

19 A. I have heard that, but I haven't read the statute.

20 Q. If that's true doesn't that pose a problem in

21 terms of timing? Say, for instance, you take in the LIHEAP

22 data, you take in the LIBA data, but the LIHEAP data's only

23 good for so long, LIBA might be good for a year?

24 A. That's why I feel there's an opportunity for them

25 to certify for both programs at one time. So a lot of the

0531

1 agencies opened up their LIHEAP season in December. So they

2 could have allocated a LIHEAP payment to an income-eligible

3 household and at the same time qualified them for our LIBA

4 program.

5 Q. All right. And I'll touch on that in a moment.

6 How familiar are you with respect to the specifics, the

7 program design characteristics of California and Utah LIBA

8 programs?

9 A. I'm fairly confident. I've been working on those

10 programs for a while.

11 Q. Are you as familiar as you are with the Washington

12 program?

13 A. Almost as familiar.

14 Q. And are the benefit levels in California and

15 Washington identical -- I'm sorry, California and Utah

16 identical to Washington?

17 A. No, they're not.

18 Q. Are they greater?

19 A. The Washington program is a legislative required

20 program and it offers a 20 percent discount on all bills.

21 So 12 months out of the year a qualified household will

22 receive a 20 percent discount on their bill. And in Utah it

23 is a flat amount, it is $11 per month discount.

24 Q. You left out California, what are the benefits?

25 A. No, California is the 20 percent. I'm sorry if I

0532

1 misstated that. California's program, which is called CARE,

2 is a legislative required program and all utilities offer a

3 20 percent discount every month to qualified households.

4 Q. All right. I thought I heard you say Washington,

5 so that's California.

6 A. Oh, I'm sorry.

7 Q. And is there a cap on the number of participants

8 allowed in California under their program?

9 A. No.

10 Q. All right. So potentially if the state of

11 Washington were to adopt that program LIBA funding might be

12 even greater than it currently is?

13 A. That's true.

14 Q. All right. And, finally, isn't it true that the

15 Washington LIBA program offers a multiple discount level?

16 There are three discount levels in Washington; is that

17 right?

18 A. There are three tiers based on a household's

19 income. So the greatest discount is applied to customers

20 with the lowest income.

21 Q. And is that the case in California or Utah?

22 A. No.

23 Q. Isn't it -- doesn't it involve more time and

24 personnel -- personnel time and resources to engage in the

25 three tier LIBA certification intake process than a

0533

1 non-multitier process?

2 A. That's true. And so one alternative might be to

3 revise the LIBA program. When it was developed it was

4 developed with a group of interested parties. And at that

5 time they really were looking for a program that would help

6 people during the winter months and that would provide a

7 bigger benefit to the lowest income households.

8 Q. Okay. When you said revise the LIBA program do

9 you mean in Washington or the other states?

10 A. In Washington. LIBA, we only refer to LIBA in

11 Washington. In California the program is called CARE, and

12 in Utah it's called HELP.

13 Q. Thank you for that clarification. But for the

14 time being what we have in Washington, and what the

15 community action agencies are obligated to adhere to, is a

16 multitiered discount level process; correct?

17 A. That's true. And that was one of the issues we

18 talked about with agency staff members in that March

19 meeting. And they, for some reason, were very positive

20 about the current design, they wanted to keep it in place.

21 Q. So it sounds like while you like the

22 self-certification perhaps, or the every other year

23 certification aspect of California and Utah, there are a

24 number of program-designed differences --

25 A. Yes.

0534

1 Q. -- between those two states and Washington? So

2 are you suggesting that we just--I'm sorry, to use this

3 phrase--cherry pick that one characteristic and apply it in

4 Washington? Or shouldn't we align all three states'

5 programs up side by side so we have a full comparison?

6 A. Well, the proposal was made to change the

7 certification process just because we were looking at the

8 program costs, and we felt it was prudent because admin was

9 quite a bit higher on the LIBA program. In 2010 admin was

10 about 21 percent of the total cost of the program. And we

11 felt it was important to look at ways to reduce the admin

12 costs so there's more funds available to our income-eligible

13 customers.

14 Q. Regarding admin costs, I believe you testified

15 that in roughly 2003, 2004 the admin fee paid to the

16 community action agencies was reduced from 65 to $48 per

17 household; is that correct?

18 A. That's true, it was $64.52, and it went down to

19 48. That was based on an evaluation that was completed on

20 the program. And one of the issues that was suggested that

21 we look at was admin costs, because at that time admin was

22 30 percent of the cost of the program.

23 Q. And isn't a very substantial reason that that

24 admin cost was, as you believe, 30 percent, the fact that

25 under the Washington program design the community action

0535

1 agencies, in some instances, would have to certify the same

2 customer twice in one year? And the Company reacted by

3 revising the program to allow for that data for that

4 customer to be good for an entire year, and that resolved

5 the problem. So that wasn't necessarily, you know, a

6 wasteful act on the part of the agencies in driving admin

7 costs up, but it was a program-designed requirement?

8 A. You know, I don't want you to think that we don't

9 value the services that the agencies provide, because we

10 really do, and we want them to be compensated for their

11 services. We're just looking for ways that they can reduce

12 their costs.

13 Q. All right. And I trust that that's quite true,

14 thank you. Now, finally, and I'll wrap up, are you familiar

15 with Mr. Schooley's testimonies he filed in this case?

16 A. Yes.

17 Q. All right. And I believe that he testified that

18 if the agencies wish to avoid a reduction in the amount of

19 compensation for their costs they incur in administering

20 LIBA they must significantly increase the number of LIBA

21 participants and that this would necessitate, and I believe

22 his words were, a substantial increase in LIBA funding; is

23 that your understanding of his testimony?

24 A. I'm not sure that he actually meant it in that

25 manner, but, yes, he did state that they could increase

0536

1 their total admin they receive by serving more people

2 because they're paid on a per certification basis.

3 Q. Right. But the second part of that is this would

4 require a substantial increase in LIBA funding; do you agree

5 with that?

6 A. Yes, and I think that's why he recommended the

7 21 percent increase in the surcharge even if the overall

8 increase in prices is lower than that.

9 Q. And, finally, in this case you are currently

10 proposing for the residential rate class-A 20.2 percent rate

11 increase; is that right?

12 A. I need you to direct those type of questions to

13 Mr. Griffith.

14 Q. All right. If that is in fact true would that be

15 basically a wash for LIBA participants, in other words,

16 their rates are going to go up as much as program benefits

17 go up assuming that that's true?

18 MR. WHITE: Objection, Your Honor. The question

19 is ambiguous.

20 JUDGE CLARK: Mr. Purdy.

21 MR. PURDY: I'll withdraw that. And I'm finished

22 with this witness. Thank you very much.

23 THE WITNESS: Thank you.

24 JUDGE CLARK: All right. Let's see if the

25 commissioners have any inquiry for Ms. Eberle. Commissioner

0537

1 Jones.

2

3 CROSS-EXAMINATION

4 BY MR. JONES:

5 Q. Just one short question. When you pose a

6 collaborative as you do in your testimony, how would that be

7 structured as opposed to as what you did in Toppenish last

8 year?

9 A. I think there was just one important party

10 missing, and that was probably someone from your Staff. So

11 I would assume that we would have representatives from

12 Pacific Power, The Energy Project, the three agencies and a

13 Staff member.

14 Q. So we were missing?

15 A. Yes.

16 Q. I didn't know that. Thank you.

17 JUDGE CLARK: Commissioner Oshie.

18 MR. OSHIE: No questions.

19 JUDGE CLARK: Chairman Goltz.

20 MR. GOLTZ: No questions.

21 JUDGE CLARK: Any redirect, Mr. White?

22 MR. WHITE: None, thank you.

23 JUDGE CLARK: Thank you for your testimony,

24 Ms. Eberle. Is there any objection to this witness being

25 excused? Hearing none you're excused. And this might be a

0538

1 good time for the afternoon break of about 15 minutes. And

2 the next witness can be prepared hopefully after that

3 recess. We're at recess.

4 (Break taken from 2:47 to 3:05 p.m.)

5 JUDGE CLARK: All right. We're back on record.

6 Ms. McDowell, would you call -- I guess I should clarify for

7 the record. During the break there was an off-record

8 discussion regarding the examination of Paice. And Public

9 Counsel has waived cross-examination of that witness. The

10 commissioners do not have any inquires, so that witness is

11 excused. So I believe, Ms. McDowell, that brings us to

12 PacifiCorp's last witness?

13 MS. MCDOWELL: That's correct. We would call

14 Mr. William Griffith.

15 JUDGE CLARK: Thank you. Raise your right hand,

16 please.

17 (William R. Griffith sworn on oath.)

18 MR. GRIFFITH: I do.

19 JUDGE CLARK: Thank you. Please be seated and

20 state your full name for the record and spell your last.

21 MR. GRIFFITH: My name is William R. Griffith,

22 G-r-i-f-f-i-t-h.

23 JUDGE CLARK: Thank you. Ms. McDowell.

24 MS. MCDOWELL: Thank you, Judge Clark.

25 ///

0539

1 WILLIAM R. GRIFFITH,

2 having been first duly sworn

3 on oath was examined and testified as follows:

4

5 DIRECT EXAMINATION

6 BY MS. MCDOWELL:

7 Q. Mr. Griffith, do you have any changes or

8 corrections to your prefiled direct and rebuttal testimony

9 and accompanying exhibits?

10 A. No, I do not.

11 MS. MCDOWELL: This witness is available for

12 cross-examination.

13 JUDGE CLARK: All right. Thank you. I'm going to

14 turn first to Public Counsel.

15 MS. SHIFLEY: Thank you, Your Honor.

16

17 CROSS-EXAMINATION

18 BY MS. SHIFLEY:

19 Q. Good afternoon, Mr. Griffith.

20 A. Good afternoon.

21 Q. I would just like to start by asking you a couple

22 questions about your rate spread proposal. In your direct

23 testimony you proposed an equal percentage increase to all

24 customers except for the street lighting class; is that

25 correct?

0540

1 A. Yes.

2 Q. And you base this recommendation on the Company's

3 most recent cost of service study; is that correct?

4 A. Yes, it is.

5 Q. In rebuttal filing you changed your recommendation

6 to accept Staff's proposal; is that correct?

7 A. Yes, that's correct.

8 Q. Did the Company perform a new cost of service

9 study before filing its rebuttal testimony?

10 A. Yes, we did.

11 Q. Can you explain what was changed in the new cost

12 of service study from the original one?

13 A. The new cost of service study which was filed by

14 Mr. Paice reflected the rebuttal revenue requirement in the

15 targeted rate of return.

16 Q. So it only changed the overall dollar amount and

17 no other inputs?

18 A. Yes, but the inputs from the jurisdictional

19 allocation model, the revenue requirement changes were

20 reflected in the study.

21 Q. Okay. And in your rebuttal you do accept the

22 proposal of Staff witness Tom Schooley?

23 A. Yes.

24 Q. Would you please now turn to the cross-answering

25 testimony of Mr. Schooley which has been marked as Exhibit

0541

1 TES-4T?

2 A. I have some of that, but I don't have all of it.

3 Q. I just wanted to ask you a couple questions about

4 the table that appears on page 11, so if you have page 11

5 with you?

6 JUDGE CLARK: Do you have that?

7 THE WITNESS: No.

8 JUDGE CLARK: Ms. Shifley, can you provide him a

9 copy of that cross-examination document?

10 (Document handed to the witness.)

11 Q. (By Ms. Shifley) So you now have in front of you

12 the cross-answering testimony of Mr. Schooley, page 11; is

13 that correct?

14 A. Yes.

15 Q. And specifically I wanted to direct your attention

16 to Table 2, this table shows the parity ratios from

17 PacifiCorp's last five general rate filings in Washington

18 state; is that correct?

19 A. That's what it says.

20 Q. And could you just confirm for me that in 2005 the

21 residential class -- since 2005 the residential class has,

22 according to this table, vacillated between 97 and 102

23 percent of parity?

24 A. I see 97 to 101.

25 Q. Thank you. Yes, 97 to 101, thanks. And in each

0542

1 of these years are you aware that the residential class was

2 assigned roughly in equal percentage of the rate increase?

3 A. I'm aware that the residential class was assigned

4 percentages that were the same as other classes; however,

5 they were not -- it was not an equal percentage for all

6 classes in those other cases.

7 Q. And, Mr. Griffith, I don't think you need to refer

8 to it, because you're probably familiar enough. But in your

9 rebuttal testimony you proposed to assign an equal

10 percentage increase to Schedules 24 and 36; is that correct?

11 A. Well, let's -- it's partially correct. I proposed

12 to assign the same percentage increases to Schedules 24, 33,

13 36 and 40.

14 Q. So the same percentage increase would be assigned

15 to both 24 and 36?

16 A. Right.

17 Q. And you proposed to apply an equal percentage

18 increase for both of these classes even though Schedule 24

19 is five percent further from parity than Schedule 36?

20 A. Yes.

21 Q. And you also proposed that residential and

22 industrial customers, those that your cost of service study

23 determined were underpaying, should both get an increased

24 13 percent above average; is that correct?

25 A. Could you repeat that again, please?

0543

1 Q. You proposed that residential and industrial

2 customers, two separate classes that your study had

3 determined were underpaying, should both get a 13 percent

4 increase or a 13 percent larger increase than above average?

5 A. No.

6 Q. What was the percentage of increase that you

7 proposed to give to the industrial and residential

8 customers?

9 A. Well, first, the average increase is 17.8 percent

10 in our rebuttal filing. And we propose an increase of

11 20.2 percent for residential and large general service,

12 Schedule 48. So that would be approximately 3.4 percentage

13 points above average, not 13 percent.

14 MS. SHIFLEY: Just a moment, Your Honor.

15 Q. (By Ms. Shifley) Mr. Griffith, will you please

16 refer to the testimony of Tom Schooley, the direct testimony

17 of Tom Schooley, which has been marked as Exhibit No.

18 TES-1T, specifically page 34.

19 A. I do have that.

20 Q. Have you got 34 in front of you, page 34?

21 A. Yes, and I have one that was revised on

22 October 8th.

23 Q. I'm looking specifically at the question that

24 states, what is your specific revenue allocation

25 recommendation. Do you have a question that begins with

0544

1 that?

2 JUDGE CLARK: I'm sorry, could you give us the

3 page reference again, Ms. Shifley?

4 MS. SHIFLEY: It's page 34, but I'm not sure if

5 the copy I'm looking at is the most recently revised

6 version, I know there are a number of revisions.

7 JUDGE CLARK: The page 34 that I have was revised

8 on 10-08 and then again on 1-14-11, is that what you have,

9 Mr. Griffith?

10 THE WITNESS: I have the 10-08.

11 JUDGE CLARK: There are also revisions on 1-14

12 that I'm assuming would be material --

13 MR. TROTTER: Yes, Your Honor.

14 JUDGE CLARK: -- to Ms. Shifley's examination.

15 MS. SHIFLEY: So on the revised version it's page

16 34.

17 JUDGE CLARK: Right. So we need to make sure,

18 first of all, the witness gets a copy of the document that

19 was revised on 1-14.

20 (Document handed to the witness.)

21 JUDGE CLARK: Thank you.

22 Q. (By Ms. Shifley) You got that?

23 A. Yes.

24 Q. And the first paragraph of the answer underneath

25 the question, what is your specific revenue allocation

0545

1 recommendation, states that the increase for Schedule 48T

2 and for residential Schedule 16 is 114 percent above

3 average -- of the average, excuse me?

4 A. Okay.

5 Q. And then below in the last paragraph on the page

6 it states that the increase for one of the class schedules,

7 large general service, which is Schedule 36, I believe, is

8 83 percent of the average; is that correct?

9 A. Yes, that's what it says. I think what it means

10 is it's an increase of approximately five-sixth of the

11 average, and the other one is an increase of 14 percent

12 above the average, that's correct.

13 Q. Now could you just turn back to the table we were

14 talking about earlier, Table 2 on page 11 of Exhibit

15 No. TES-4T?

16 A. I have that.

17 Q. And this shows that Schedule 36 is 2 percent from

18 parity, and Schedule 16 is 3 percent from parity; is that

19 correct?

20 A. That's what that says. Again, I don't know if

21 this table is at the earned rate of return or at the target

22 rate of return, so those parity ratios could be at the

23 earned rate of return, which I assume they are, they are

24 before the application of any rate increase.

25 Q. And in your rebuttal testimony you accepted the

0546

1 recommendation of Staff?

2 A. I accepted the rate spread proposal methodology of

3 Staff which was to give equal percentage increases to

4 residential and Schedule 48T along with smaller equal

5 percentage increases to Schedules 24 and 36 and 40, which

6 more closely track the cost of service results than did our

7 original filing.

8 Q. Thank you. I just want to move to another subject

9 of your testimony. Rate design. Specifically would you

10 please turn to page 4 of your rebuttal testimony which has

11 been marked as Exhibit No. WRG-7T, have you got that?

12 A. Yes, I do.

13 Q. Could you please direct your attention to line 4.

14 In this passage you disagree with the concept that a higher

15 basic charge --

16 JUDGE CLARK: Ms. Shifley, what page of WRG-7T?

17 MS. SHIFLEY: Page 4.

18 JUDGE CLARK: Page 4, line 4?

19 MS. SHIFLEY: That's correct.

20 JUDGE CLARK: Thank you.

21 Q. (By Ms. Shifley) Here you disagree with the

22 concept that higher basic charges send an anticonservation

23 message; is that correct?

24 A. Yes, that's correct.

25 Q. Then you go on to say on lines 5 through 7 that

0547

1 the Company's proposed increase to energy charges sends a

2 proper conservation signal to customers; is that correct?

3 A. Yes, I state that energy charges would be

4 increased by approximately 18 percent.

5 Q. And that that would send a proper conservation

6 signal?

7 A. Yes.

8 Q. If PacifiCorp raises its basic charge in this case

9 would that mean that its energy charges would be lower than

10 they would be otherwise without an increase to the basic

11 charge?

12 A. Yes, mathematically that's always true. If you

13 raise the fixed charge you would, in order to solve for the

14 total revenue requirement, you would be lowering the other

15 charges. We think it's important though to balance the fair

16 design of both fixed and variable charges. We thought that

17 with the 18 percent increase to the energy charges proposed

18 in our rebuttal case that a $2.50 increase to the customer

19 charge also properly designs both fixed and variable charges

20 for residential customers.

21 Q. But if there was no increase to the basic charge

22 the energy charges would be higher; is that correct?

23 A. That's always correct, yes.

24 Q. Mr. Griffith, you testified in PacifiCorp's most

25 recent Idaho general rate case, did you not?

0548

1 A. Yes.

2 Q. In that case did you request a fixed charge of $12

3 for residential customers?

4 A. Yes, I believe that's so.

5 Q. And did the Commission ultimately determine that a

6 basic charge for nontime of use residential customers of $5

7 was appropriate?

8 A. Yes. The Commission in Idaho we had no basic

9 charge. Here in Washington we have a $6 basic charge, we

10 have for years. The Idaho Commission ordered an increase to

11 the basic charge from no basic charge to $5.

12 Q. Did you have a minimum bill requirement in Idaho

13 for those customers?

14 A. Yes, we did.

15 MS. SHIFLEY: No further questions, Your Honor.

16 JUDGE CLARK: Thank you. Mr. Purdy.

17 MR. PURDY: Yes. I will try to avoid being

18 redundant with Mr. Shifley's cross.

19

20 CROSS-EXAMINATION

21 BY MR. PURDY:

22 Q. Long time no see, Mr. Griffith, seems like it's

23 been weeks. And it has. Now, if I understand correctly,

24 the Company currently has an inverted two block residential

25 rate design; is that right?

0549

1 A. Yes, here in Washington that's correct, we have

2 for years.

3 Q. Thank you. And just to remind me, if you would,

4 what are the consumption levels for the first block?

5 A. The first block is, I believe, yes, zero to

6 600-kilowatt hours, and then the second block is all usage

7 above 600.

8 Q. And the price jump from when you go from first to

9 the second block is what percentage, if you know?

10 A. I don't have the percentage, the rate for the

11 first block is 5.193 cents, the current rate for the second

12 block is 8.193 cents, so a difference of 3 cents.

13 Q. Okay. Thank you. You testified that Pacific's

14 proposed basic charge is ninth lowest of 17 other utilities

15 that were surveyed; is that right?

16 A. Yes.

17 Q. And in your testimony I could not find reference

18 to any such survey or exhibits that would contain where you

19 derived this conclusion from, could you elaborate, please?

20 A. Yes, we -- and I don't recall if anyone asked for

21 that in discovery, but we did prepare a study in my group,

22 and it was done in January of 2010 and it is comparison of a

23 number of utilities including the investor-owned utilities

24 and public utilities in Washington.

25 Q. Is this the same proxy group, if you will, that

0550

1 was presented to the Idaho Commission in your recent rate

2 case there?

3 A. No.

4 Q. All right. Does this list of 17 other utilities

5 include municipals and cooperatives?

6 A. It includes municipals and PUDs, I don't believe

7 there are any co-ops here and investor-owned utilities.

8 Q. Wrong verbiage on my part in the latter case. How

9 many of the 17 are IOUs?

10 A. There's Avista and Puget is in the list, I don't

11 think any of the others are IOUs.

12 Q. All right. How many of the 17 are Northwest

13 utilities, be they IOUs or something else?

14 A. They're all Washington utilities.

15 Q. Okay. Now, I understand that the -- I understand

16 the conservation incentive price signal that can result from

17 a properly crafted tier grade or inverted rate design, but

18 doesn't an increasingly higher basic charge, monthly basic

19 charge offset to some extent the signal that that inverted

20 rate design would send?

21 A. Well, it might, but we think it's important that

22 the rates be designed to balance fairness to all customers,

23 both small and large and to reflect costs both fixed and

24 variable in our rates. We don't believe that the only goal

25 of rate design is to continue raising the inverted rate

0551

1 without any regard to fixed cost which need to be recovered

2 through the fixed charge. Inverted rate creates more

3 volatility in revenues, and it really doesn't fairly reflect

4 this cost of surveying small customers who regardless of

5 usage still place costs on the system that must be

6 recovered.

7 Q. And in your testimony you do speak to that, I

8 believe, page 4, line 8, where you speak -- or I'm sorry,

9 where you testify that you're proposing that all customers

10 pay more of their fair share of fixed costs; is that right?

11 A. Yes.

12 Q. Are you familiar with Mr. Schooley's testimonies

13 in this case?

14 A. Yes.

15 Q. Are you aware that Mr. Schooley testifies the

16 basic charge as recovering costs of things such as meter

17 reading, service drops, meters and billing that vary with

18 the addition or subtraction of customers?

19 A. Yes, I state a similar list on page 3, line 17 of

20 my testimony.

21 Q. Thank you. Are these the fixed costs that you're

22 referring to in my prior question?

23 A. Yes, they're fixed costs that regardless of energy

24 usage are still placed on the system by customers.

25 Q. All right. But they vary to the extent that the

0552

1 total amount for the company goes up or down depending on

2 the number of customers that come or leave the system?

3 A. Yes, they're customer costs, they're fixed costs.

4 Q. All right. A fair amount has been said about

5 whether low-income customers are necessarily low users, I

6 think it's -- correct me if I'm wrong, it's fair to say that

7 it is both Staff and the Company's contention that

8 low-income customers are relatively higher users; am I

9 right?

10 MR. TROTTER: Objection, Your Honor. I object to

11 Mr. Griffith characterizing Staff testimony. Mr. Schooley

12 can answer that question for himself.

13 MR. PURDY: All right. I'll rephrase if that's

14 all right.

15 JUDGE CLARK: Okay.

16 Q. (By Mr. Purdy) Mr. Griffith, is it the Company's

17 position that low-income customers are typically higher-use,

18 relatively speaking higher-use customers?

19 A. Yes. And we provided that in my Exhibit WRG-11, a

20 graph showing that the customers on our low-income bill

21 payment assistance rate have higher usage than do customers

22 who are on standard residential Schedule 16.

23 Q. All right. Do you have before you The Energy

24 Project's cross-examinations exhibits that have been marked

25 RME-2, three, four, five and six? I'm not asking you about

0553

1 every single one of them at once.

2 JUDGE CLARK: All right. Those were

3 cross-examination exhibits that were attached to the

4 testimony of Ms. Eberle.

5 A. You said, two, three --

6 Q. (By Mr. Purdy) Four, five and six.

7 A. I have two and three. I think I have them all

8 here if you can reference the title.

9 Q. You have two and three; is that right?

10 A. Yes.

11 Q. Let's start with those and see where we go. Now,

12 would you just read the actual data request on RME-2,

13 please?

14 A. Yes, that's Energy Project data request 4, "Please

15 provide, on a monthly basis, the average electric

16 consumption and total electric bill for the Company's

17 residential (not limited to low-income) customers during the

18 test period.

19 Q. And similarly on Exhibit RME-3, same part of

20 the -- read the data request, if you would?

21 A. It's to, "Please provide the information sought in

22 the preceding data request for those residential customers

23 who are low-income, as defined above," so it's a subset of

24 the other.

25 Q. Okay. So that I make it clear where I'm going

0554

1 with this, my question to you is whether the responses

2 provided to The Energy Project's data requests set forth in

3 RME-2 and three are consistent with your Exhibit No. 11?

4 A. Yes.

5 Q. All right. Have you reviewed The Energy Project's

6 data requests and stacked them up against Exhibit 11 to

7 insure that that's true?

8 A. I reviewed RME-3 versus RME-2, and in eight times

9 out of 12 the low-income customers have higher usage average

10 consumption per KWH per month, that's the months of January,

11 February, March, April, May, October, November and December.

12 Q. And subject to check, would you agree with me or

13 accept that Exhibit RME-2 and RME-3 show that non --

14 residential customers not limited to low-income consume an

15 average throughout the year of 1,565.75 kilowatt hours a

16 month?

17 A. What's that based on?

18 Q. It's based on if I start with Exhibit RME-2, the

19 all residential customer usage and I simply take the

20 kilowatt hours for each month, add them and divide them by

21 12 I come to 1,565.75 kilowatt hours?

22 A. Subject to check I guess. But RME-2 includes the

23 low-income customers within it. So we don't really have a

24 table here, and it wasn't requested one, which is

25 nonlow-income customers.

0555

1 Q. All right. And Exhibit RME-3 which is just

2 low-income, would you accept subject to check that that

3 averages 1,417.50 kilowatt hours per month?

4 A. What was the number, please?

5 Q. 1,417.50 kilowatt hours.

6 A. Subject to check that might be the average. My

7 same contention would hold though that the other exhibit

8 includes those within it, and they haven't been taken out.

9 Also I think Exhibit RME-3 shows that the low-income bill

10 payment assistance program is targeted at the right months

11 of usage, the program gives a discount to low-income

12 customers during the winter months. And the winter months

13 are the months of larger than average usage for the

14 low-income customers. And again those are also months where

15 they exceed the usage of the overall class average of all

16 residential customers.

17 Q. Thank you, and I do intend to address that.

18 Referring to your Exhibit WRG-11 you, correct me if I'm

19 wrong, but you calculated that by comparing Schedule 17

20 low-income bill assistance program rates with straight

21 residential class rates; is that right?

22 A. It's two classes, Schedule 16 is the nonlow-income

23 residential customers, and then Schedule 17 is the

24 low-income residential customers, and we computed the

25 average annual monthly usage for each of those two groups.

0556

1 Q. Yes, but it strikes me that embedded in your

2 answer is an assumption, and that assumption is all

3 low-income customers, as that term is defined by the Company

4 for purposes of its LIBA program, are taking advantage of

5 LIBA and are included in Schedule 17, isn't that an

6 assumption you're making?

7 A. No, I'm comparing the customers who are served on

8 the two rate schedules. I think again what it shows is that

9 these customers do use more, and they're taking advantage of

10 the program, and they're low-income.

11 Q. Might there be low-income customers who are not on

12 Schedule 17 because they do not apply for LIBA benefits?

13 A. Certainly.

14 Q. Might those customers be rolled into the

15 nonlow-income consumption part of your Exhibit 11 here?

16 A. If they're not on Schedule 17 they would be on

17 Schedule 16, yes.

18 Q. Isn't it possible that there's a reason that your

19 Exhibit 11 shows that low-income customers are relatively

20 higher users? And that reason includes perhaps many things,

21 but that those low-income customers who take advantage of

22 LIBA, and are reflected in Exhibit 11, are perhaps the most

23 financially desperate customers, they have the highest

24 relative usage, perhaps they have a larger family, perhaps

25 they have poor housing --

0557

1 MS. MCDOWELL: Can I just break in? So sorry to

2 object. This is more of a speech and less of a question

3 than I think is appropriate for this setting. So I object

4 to that on the basis it's argumentative and it's compound

5 and ask Mr. Purdy to rephrase.

6 JUDGE CLARK: Mr. Purdy.

7 MR. PURDY: It was certainly compound, I'll grant

8 you that.

9 JUDGE CLARK: Don't you want so say anything about

10 the length?

11 MR. PURDY: I will rephrase. I'm not sure about

12 argumentative but nonetheless.

13 Q. (By Mr. Purdy) Might there be any number of

14 reasons or factors that could cause one to distinguish the

15 low-income customers that you have shown in your Exhibit 11

16 from other low-income customers who nonetheless don't take

17 advantage of the LIBA program?

18 A. Certainly there might be. The Company doesn't

19 collect income data on its customers. We don't know about

20 the incomes of Schedule 16 customers. We do know that the

21 customers who sign up for the low-income bill payment

22 assistance program are qualifying low-income customers and

23 who tend to use more kilowatt hours than the customers who

24 are not on the low-income rate.

25 Q. All right. So is it fair to say that this is all

0558

1 low-income customers and all nonlow-income customers stacked

2 up side by side?

3 A. I never said it was.

4 Q. All right. Just wanted to clarify that, thank

5 you. Speaking strictly to price signals, Mr. Griffith.

6 Regardless of a customer's income level, and putting aside

7 the principle of cost, causation and assigning rates

8 accordingly for the sake of discussion, isn't it

9 fundamentally true that the more you recover a customer's

10 share of his or her respective revenue requirement through a

11 fixed rather than a commodity charge the less of a

12 conservation price signal that you send to that customer?

13 A. Not necessarily. I mean you need to look at what

14 costs are when you design rates. And if your proposal is to

15 design the energy charges to be well in excess of total

16 costs, actual costs for a customer because you have no --

17 you're not recovering your fixed cost through any fixed

18 charge then you're really sending an unfair price signal

19 that is in excess of costs of service for energy usage

20 because you're putting more of the fixed costs into the

21 volumetric energy charge.

22 Q. Perhaps you might be beyond the scope of my

23 question, which is simply that the less that a customer is

24 made aware that when they flip on and leave on a light

25 switch their bill is going to be higher, no matter what your

0559

1 rationale for doing that, the less of a conservation

2 incentive you send them?

3 A. When a customer leaves the light on they pay the

4 costs for the hours that the light has been left on and they

5 do pay more for more hours of usage regardless of that rate.

6 So I think again it's trying to allocate fairly fixed and

7 variable costs and to design rates that are fair to all

8 customers. If your one single goal is sending high price

9 signals to customers I don't think that's a fair balance of

10 what rate design is intended to do.

11 Q. Okay. Good enough, thank you. Turning to LIBA

12 funding levels. Now I must ask you if you do have The

13 Energy Project's cross-examination Exhibit RME-5? That was

14 one for Eberle.

15 A. I don't think I have that. (Document is handed to

16 the witness.) You said five?

17 Q. Yes.

18 A. Because it doesn't relate to LIBA funding, it

19 relates to low-income weatherization.

20 Q. I'm sorry, I stand corrected, and I'm going to

21 withdraw that question, I apologize.

22 Now, you testified that the Company proposes to

23 increase LIBA funding by the same percentage amount as the

24 price change realized by residential customers in this case;

25 is that right?

0560

1 A. Yes.

2 Q. All right. Since then --

3 A. That was our initial proposal.

4 Q. Yeah. Since then we've come to the position, if

5 I'm correct, that the Company is committed to a firm

6 21 percent increase regardless of the amount of rate

7 increase imposed on the residential rate class; is that

8 right?

9 A. Yes, that was a proposal made by the Staff, we

10 reviewed that and agreed with that proposal in our rebuttal

11 testimony.

12 Q. Thank you. What is the Company's current proposed

13 overall rate increase?

14 A. Overall is 17.8 percent.

15 Q. What are you proposing for the residential class?

16 A. 20.2.

17 Q. Twenty-one percent for LIBA increase. So assuming

18 that the Commission were to grant your requested rate

19 increase for the residential class it would essentially be

20 an offset against the amount of increased LIBA funding;

21 right?

22 A. We think it would pretty well temper the rate

23 increase to the residential customers, their increase in

24 their sur-credits, would be about 18 percent.

25 Q. Sorry, what do you mean by increasing their

0561

1 sur-credits.

2 A. The increase in the credit to a qualifying

3 low-income customer, it's in my Exhibit WRG-6, in my direct

4 testimony, would be $39.81 a year or 17.92 percent.

5 Q. You said it would temper the rate increase. Along

6 those lines in the Company's last general rate case in this

7 state was LIBA increased at the same percentage that the

8 Company's residential rate class rates were increased, does

9 that make sense?

10 A. Yes, I believe it was. In this case we're

11 proposing more.

12 Q. Well, again, I'm sorry, I'm missing something

13 because it seems to me that you are proposing a 20.2 percent

14 rate increase for the residential class and offering a

15 21 percent, which is awfully close, increase in LIBA?

16 A. In total LIBA in the increase to the surcharge

17 amount, some of that gets applied to credits and other parts

18 of it get applied to the administrative costs --

19 Q. And all the while you're asking --

20 A. -- and number of customers.

21 Q. Are you finished?

22 A. Yes.

23 Q. And all the while you're asking the community

24 action agencies to serve even more customers through LIBA;

25 correct?

0562

1 A. We are requesting an increase to the number of

2 customers who can be served under the program of about 245

3 additional customers and there would be administrative costs

4 that the agencies would incur and receive from us for those

5 additional customers.

6 Q. Were you here yesterday for Mr. Reiten's

7 testimony?

8 A. Yes, I was here yesterday.

9 Q. And do you recall my questioning about where

10 Pacific stood with respect to relative LIBA funding compared

11 to PSE and Avista?

12 A. Yes, I recall that.

13 Q. Do you agree that Pacific is in third place, if

14 you will?

15 A. That was one part of his answer. He also

16 indicated we had the third lowest rates among investor-owned

17 utilities according to the latest Edison Electric Institute

18 survey, lower than the other two utilities.

19 Q. I understand that. Do you have any knowledge as

20 to the relative level of poverty in Pacific's service

21 territory in Washington compared to the service territories

22 of Avista and PSE?

23 A. I do not have any statistics on that, no.

24 Q. Okay. So I'll finish this line of questioning by

25 simply asking or depositing to you, if the Company comes in

0563

1 every rate case and simply offers to match an increase in

2 LIBA funding to whatever increase it makes or wants to

3 receive from the residential rate class are you ever gaining

4 ground with respect to Avista or PSE or just in general?

5 A. I don't think our goal is to gain ground with the

6 other utilities or to compete with them. Our goal is really

7 to balance out the impacts of the rate increase on

8 low-income customers and the other customers who fund the

9 surcharge so that we have a fair balance for all the

10 different classes of customers.

11 Q. Clearly one of your other goals is to serve

12 additional low-income customers through the LIBA program;

13 right?

14 A. Yes.

15 Q. All right. And you mentioned the Toppenish

16 meeting which forms the basis for part of your discussion

17 and testimony on LIBA. Maybe to expedite this I could ask

18 you with respect to the Toppenish meeting and the

19 conclusions that you drew from that and the way it

20 formulated your testimony, were you relying really on the

21 input of Ms. Eberle or do you have an independent -- were

22 you at the meeting and have an independent conclusion?

23 MS. MCDOWELL: Objection, the beginning of this

24 question referenced his comments about the Toppenish

25 meeting, or his reference or comments about that meeting,

0564

1 and I don't recall any such comments. If you have a

2 citation in the testimony that you're referring to that

3 would be helpful.

4 Q. (By Mr. Purdy) I believe it is on page 7, line 1

5 of his direct testimony.

6 A. Yes, I didn't mention it today, but it's discussed

7 in there; that's correct.

8 Q. All right.

9 A. But I was not at the meeting, Ms. Eberle was.

10 Q. All right. Really all I'm trying to do is see if

11 I can expedite this next part of my cross-examination. Are

12 the conclusions you drew from the Toppenish meeting derived

13 solely from the information Ms. Eberle provided you?

14 A. The 70 percent and 30 percent proposal is what

15 Ms. Eberle indicated was the result of the discussion and

16 her discussion with all of the agencies at the meeting as

17 she -- as this proposal was presented.

18 Q. Is that a yes to my question?

19 A. I think so.

20 Q. And in your direct testimony you also discuss the

21 administrative fee paid to the community action agencies to

22 administer LIBA, do you not?

23 A. Yes, I do.

24 Q. All right. Well, do you know the history of how

25 that fee was set as it is today compared to what it was

0565

1 years ago?

2 A. Just vaguely. I was here earlier today when it

3 was discussed.

4 Q. All right. So your knowledge is more indirect

5 perhaps obtained from Ms. Eberle?

6 A. Yeah, my memory was refreshed today.

7 Q. Okay. All right. So I'll move on to the

8 Company's proposal to certify LIBA participants every other

9 year.

10 In your direct testimony you opine that biannual

11 recertification will result in an increase of funding

12 available for the program that can be applied to eligible

13 customers; is that right?

14 A. Yes.

15 Q. And you state that currently annual certification

16 costs around $214,800 per year; am I right?

17 A. Yes.

18 Q. Have you calculated what the annual savings would

19 be if the agencies convert to every other year

20 certification?

21 A. Yes, I think it would just be reduced by

22 approximately one-half. But if there are more customers who

23 are signed up it's kind of a dynamic situation because if

24 the Company's proposal and the Staff's proposal is approved

25 and the funding is increased and 30 percent of that goes to

0566

1 more customers it wouldn't be just one half. So it's

2 somewhere in that range.

3 Q. And were you here just a little while ago when I

4 asked Ms. Eberle some questions about her familiarity with

5 the LIBA process in Washington?

6 A. Yes, I was here.

7 Q. And in terms of your conclusions about cost

8 savings by converting to every other year certification, let

9 me ask you essentially the same question, perhaps more

10 expeditiously, but did you take into account the possible

11 negative consequences of doing that?

12 A. I think we -- there's always an issue, I'm not

13 sure if -- that there could be customers who are not

14 eligible who remain on the program for an extra year. Again

15 we have -- I am familiar with the California program which

16 has self-certification, and I think it's been successful.

17 It's used by the other utilities also, so that I think it's

18 a fair tradeoff that there may be a few customers who might

19 be served for an additional year who are not eligible, but

20 at the same time a number of additional customers can be

21 served because of the cost savings of the certification

22 every two years.

23 Q. Well, when you testify that it's a fair tradeoff

24 what is that based on, a specific calculation?

25 A. I think it's based on what we've seen in

0567

1 California, I think that at most you would see an extra year

2 that the customer might be served on the low-income rate

3 even though they were eligible in the first year. I think

4 it's something that the Commission should consider if it

5 believes it is a tradeoff that's reasonable.

6 Q. I understand that, but I'm trying to hone in on

7 what specific concrete analysis you might have performed

8 other than what you've seen in California?

9 A. It's based on our experience in other states,

10 that's the information we've used.

11 Q. When you say "we" are you talking about somebody

12 other than yourself?

13 A. The Company.

14 Q. All right. And you say it's based on information,

15 where is that information contained, in this proceeding on

16 the record or is it --

17 MS. MCDOWELL: Objection, I think he just answered

18 that question about what he relied upon.

19 JUDGE CLARK: Mr. Purdy.

20 MR. PURDY: I think that he continues to say that

21 it is based on what they have seen in California but not

22 answer my question as to whether there's anything on the

23 record that constitutes some type of an empirical or

24 definitive calculation or analysis.

25 JUDGE CLARK: The objection is sustained. I

0568

1 believe it has been asked and answered.

2 MR. PURDY: Thank you. That's all I have. Thank

3 you very much.

4 THE WITNESS: Thank you.

5 JUDGE CLARK: All right. No other parties

6 indicated cross-examination for this witness, so I will turn

7 to the commissioners. Commissioner Jones.

8 MR. JONES: None.

9 JUDGE CLARK: Commissioner Oshie.

10 MR. OSHIE: No questions.

11 JUDGE CLARK: Thank you. Chairman Goltz.

12

13 CROSS-EXAMINATION

14 BY MR. GOLTZ:

15 Q. Just quickly, you stated in your testimony that it

16 would be justified in a basic charge of $10.38?

17 A. Yes.

18 Q. What does that mean, that $10.38 per customer

19 would cover all of the Company's fixed costs?

20 A. Yes, we utilize the cost of service study and

21 computed that number and that that would recover those types

22 of fixed costs that I listed in my testimony.

23 Q. Right. But it would also include things like the

24 MEHC management fee and central office overhead, your costs,

25 Ms. Kelly's costs, etc., all legal costs would go into that?

0569

1 A. No, I don't believe those kind of costs. These

2 are more customer costs, so these would be meter reading,

3 transformer, service drop pole, meter, things along those

4 lines.

5 Q. But --

6 A. There are --

7 Q. Go ahead.

8 A. I'm sorry. There are customer service costs but I

9 don't believe those other costs are reflected in that.

10 Q. So --

11 A. I could make sure.

12 Q. You mentioned that the recommendation for a basic

13 charge in Idaho was higher than ten -- or it wasn't your

14 recommendation but you said your basic -- you would be

15 justified in charging a basic charge in Idaho of higher than

16 10.38, what was that number?

17 A. We had recommended $12. There are different cost

18 of service models used in different states, and for

19 Washington we relied on the Washington model. In Wyoming we

20 have a customer charge of $20 a month, and cost of service

21 is in excess of that in Wyoming, but that's a different mix

22 of fixed costs that are used.

23 Q. Is it a different mix of fixed costs or is it just

24 that the fixed costs are higher in Wyoming for various

25 reasons than they are in the state of Washington?

0570

1 A. It's probably a little bit of both, but there's a

2 different model we utilize in Wyoming.

3 MR. GOLTZ: Thank you. That's all.

4 THE WITNESS: Thank you.

5 JUDGE CLARK: All right. Any redirect?

6 MS. MCDOWELL: No, Your Honor. Thank you.

7 JUDGE CLARK: Thank you for your testimony,

8 Mr. Griffith. Any objection to this witness being excused?

9 Hearing none you're excused. All right, we do have some

10 proposed revisions, I believe, in the order of witnesses

11 that we'll take next. Mr. Butler.

12 MR. BUTLER: Yes, Your Honor, I've discussed with

13 Mr. Trotter taking Mr. Chriss tomorrow morning and

14 proceeding with the Staff witnesses now, and he's agreeable

15 to that with my understanding.

16 JUDGE CLARK: Mr. Trotter.

17 MR. TROTTER: That's fine, Your Honor.

18 JUDGE CLARK: All right. And we do have to take

19 Mr. Falkenberg tomorrow, we're committed to doing that.

20 We'll take Mr. Chriss tomorrow. And that would leave us

21 with the only witnesses remaining, other than Mr. Falkenberg

22 and Mr. Chriss, to be Staff witnesses. We appreciate your

23 generosity, Mr. Trotter. Do you want to modify the order in

24 which you call Staff witnesses?

25 MR. TROTTER: Mr. Buckley is walking up there so

0571

1 let's go with him.

2 JUDGE CLARK: Let's go with Buckley. Let's just

3 take a couple of moments off record.

4 (Brief break taken off record.)

5 JUDGE CLARK: All right. Is everyone ready to go

6 back on record? Mr. Trotter, would you call your first

7 witness, please?

8 MR. TROTTER: Yes, Your Honor, Staff calls

9 Mr. Alan Buckley.

10 JUDGE CLARK: Thank you. Mr. Buckley, raise your

11 right hand.

12 (Alan P. Buckley sworn on oath.)

13 MR. BUCKLEY: Yes, I do.

14 JUDGE CLARK: Please be seated. Would you state

15 your full name for the record please and spell your last.

16 MR. BUCKLEY: My full name is Alan P. Buckley,

17 last name spelled B-u-c-k-l-e-y.

18 JUDGE CLARK: Thank you. Mr. Trotter.

19 MR. TROTTER: Thank you, Your Honor.

20

21 ALAN P. BUCKLEY,

22 having been first duly sworn

23 on oath was examined and testified as follows:

24 ///

25 ///

0572

1 DIRECT EXAMINATION

2 BY MR. TROTTER:

3 Q. Mr. Buckley, could you refer to your APB-1T, your

4 direct testimony, page 3?

5 A. Yes.

6 Q. And I believe you have some corrections to make?

7 A. Yes.

8 Q. Go ahead.

9 A. Just one minor correction starting with the

10 sentence that begins on line 17, I want to remove the part,

11 the words that say, coma, "the transmission expenses

12 associated with Colstrip," remove that. And then later in

13 the sentence it says, semicolon, "certain Jim Bridger

14 fuel-related costs," remove that phrase. That's it.

15 JUDGE CLARK: All right. Just to make sure, I

16 have on line 18 you want to remove after the semicolon, "the

17 transmission expenses associated with," and continuing onto

18 line 19 --

19 THE WITNESS: With Colstrip.

20 JUDGE CLARK: -- "with Colstrip." We're in

21 APB-1CT, page 3, line 18, with one word carrying over to

22 line 19. And the removal again would be, "the transmission

23 expenses associated with Colstrip." And then the second

24 thing I have is starting on line 20 after the semicolon, the

25 second semicolon, we would delete, "certain Jim Bridger,"

0573

1 and carrying onto line 21, "fuel-related costs"; is that

2 correct?

3 THE WITNESS: Yes, it is.

4 JUDGE CLARK: Thank you, I appreciate that

5 clarification.

6 MR. TROTTER: The witness is available for cross.

7 JUDGE CLARK: All right. Ms. McDowell.

8 MS. MCDOWELL: Thank you, Judge Clark.

9

10 CROSS-EXAMINATION

11 BY MS. MCDOWELL:

12 Q. Good afternoon, Mr. Buckley.

13 A. Good afternoon.

14 Q. Can you turn to APB-11 and 12 cross-exhibits, the

15 data request responses on the subject of updates to net

16 power costs, do you see those?

17 A. Yes, I do.

18 Q. You've been in the hearing room the last couple of

19 days, haven't you?

20 A. Yes, I have.

21 Q. You've heard some questions and discussion about

22 the issue of updating PacifiCorp's net power cost?

23 A. Yes.

24 Q. I just wanted to ask you Staff's position on

25 updates which I think is set forth in these two data

0574

1 requests. As I read the data requests I read that Staff

2 supports PacifiCorp's net power cost update for electricity,

3 gas transportation and fuel contracts both long and

4 short-term as long as they are known, measurable and

5 prudent; is that a fair summary of your position?

6 A. It's partially true in that I don't know if I

7 necessarily agree with the methodology of deriving your

8 forward gas prices, but the concept of updating gas prices I

9 agree with. The other issue along with this is the parties

10 need a reasonable time to review the information presented

11 in the updates. So with those two caveats I would say yes.

12 Q. Mr. Buckley, do you support a further uptake to

13 PacifiCorp's forward price curve as a part of the Company's

14 compliance filing in this case?

15 A. That would be a further update other than the

16 Company's rebuttal case?

17 Q. That's correct.

18 A. Yes, I am.

19 Q. So, Mr. Buckley, you have filed an exhibit, I

20 believe it's APB-2, that lists your net power cost

21 adjustments, do you have that?

22 A. Yes.

23 Q. Now, I noticed as a part of the revised and

24 supplemental testimony that was filed in December you did

25 revise this exhibit but I just -- I didn't see changes from

0575

1 the original exhibit, so I just wanted to verify whether the

2 revised exhibit changed anything in the original page, this

3 page of your Exhibit APB-2?

4 A. I don't think it did since my presentation here is

5 fairly simple, just showing the Washington dollars as well

6 as the western control area dollars at the expense level. I

7 don't think anything else changed.

8 Q. There were other schedules attached to the revised

9 testimony, so I was thinking that was what had changed --

10 A. Yes.

11 Q. -- but I just wanted to verify?

12 A. This information was then used by the other Staff

13 members, Mr. Foisy, I think, Mr. Schooley, too, to then make

14 further changes in theirs which was to use this information

15 for their regular requirements.

16 Q. Thanks for clarifying that. I wanted to just ask

17 you about a few of your adjustments that are listed here on

18 APB-2. I guess I will begin with your SCL Stateline

19 contract adjustment, and the bulk of that adjustment refers

20 to, and I can refer you to a page number of your testimony

21 if that would be helpful, you describe your adjustment there

22 at APB-1T, page 11?

23 A. Yes, I have that.

24 Q. Just to summarize, your position was that the

25 contract here should be modeled or should match energy

0576

1 deliveries and energy returns in the test period, and

2 because it did not you objected to the contract in the

3 Company's case; is that correct?

4 A. Yes.

5 Q. Now, did you review Mr. Duvall's rebuttal on this

6 issue?

7 A. Yes, I did.

8 Q. Do you understand that the Company did agree that

9 the contract should be modeled to match energy deliveries

10 and energy returns in the test period?

11 A. Yes, I have. And at the present time, although

12 all decisions haven't been made yet, I'm inclined to accept

13 the way the Company modeled that portion of the contract,

14 but again that's just my inclination at this point, it may

15 change between now and briefs.

16 Q. The next issue I wanted to ask you about was your

17 Colstrip outage adjustment, you discuss that at page 16 of

18 your testimony, APB-1T at 16, do you have that?

19 A. Yes.

20 Q. As I understand it your proposal is to reduce the

21 Company's forced outage rate to eight percent in this case;

22 is this correct?

23 A. Yes, for this case only what I did was kind of

24 come up with a more quantitative number that I thought at

25 the time was reasonably conservative and recommended that in

0577

1 a fairly simplistic calculation of the effect on cost based

2 on not running it through GRID.

3 Q. And your adjustment is approximately 1.5 million

4 on a WCA basis; is that correct?

5 A. Yes.

6 Q. And Mr. Falkenberg has a similar adjustment,

7 doesn't he?

8 A. He has an adjustment, I don't believe they're

9 similar. I --

10 Q. He has an adjustment for the Colstrip outage --

11 A. Yes.

12 Q. -- is that correct? And his adjustment is

13 1.7 million WCA, does that sound right?

14 A. Yes, if I recall.

15 Q. Would you accept, subject to check, that his EFOR,

16 effective forced outage rate, just to avoid acronyms, his

17 effective forced outage rate would be lower than yours since

18 his adjustment is greater?

19 A. Yes, I could accept that.

20 Q. Now, we asked you the basis for that adjustment in

21 APB-10, a data request, do you have that?

22 JUDGE CLARK: Do you have an exhibit number?

23 MS. MCDOWELL: I'm sorry, APB-10.

24 A. Yes, I have that.

25 Q. (By Ms. McDowell) In there you indicated that the

0578

1 information you used to inform the forced outage rate that

2 you're proposing here was based on testimony in the Avista

3 general rate case, the testimony of Mr. Kalich, do you see

4 that?

5 A. Yes, I do. It was the testimony and workpapers

6 that I used.

7 Q. Can you turn to that testimony, it's marked as

8 APB-13?

9 A. Yes, I have that. Which page?

10 Q. Now, you indicate that Chart 1 on page 25 of

11 Mr. Kalich's testimony supports the statements made by you

12 and your forced outage rate, do you see that in your APB-10?

13 A. Yes, that's part of the support along with the

14 underlying page from the workpapers that was provided by

15 Avista, which I believe now has been put onto the record

16 as --

17 Q. I believe that is APB-17?

18 A. Seventeen C.

19 Q. Right. And I'll ask you about that in a moment.

20 So just sticking with this testimony for now, the chart on

21 page 4 of this exhibit is introduced with testimony on page

22 3, do you see that?

23 A. Could you repeat that, please?

24 Q. I said the chart that you refer to on page 4 is

25 introduced by testimony on page 3 of this exhibit, which is

0579

1 page 24 --

2 A. Page 24.

3 Q. -- of the testimony; right?

4 A. Yes.

5 Q. And it's a Q and A beginning with the question is,

6 "Colstrip had an extended outage in 2009. Would it be

7 reasonable to exclude this single year from the average?"

8 A. Yes.

9 Q. The response is, "No." And then do you see the

10 testimony that says, "In the 25-year history of Colstrip

11 operations there have been seven years (one event in every

12 3.7 years) where forced outage rates exceed 10 percent. It

13 is therefore not uncommon for some years to have outages

14 like the one experienced in 2009," do you see that?

15 A. Yes, I do. I might want to add to that. I think

16 it's fair to add, when I'm thinking about it here, is that

17 the chart -- and I think that statement reflects kind of a

18 combined unit three and unit four if you look at the

19 underlying data, and it's confidential, and I won't go

20 through the numbers, in APB-17C, if you look at each unit

21 separately, which is the way that these are modeled, that

22 that statement might not quite be so accurate.

23 If you take a look about halfway down the page

24 where unit four starts, well, you could go up at the

25 beginning and look at unit three, then go to unit four, and

0580

1 I would think it's safe to say that extended outages that

2 happened from each unit are perhaps not as often as the 3.7

3 years, for example.

4 Q. So just to be clear on the record here we're

5 discussing 17C?

6 A. Yes. That's where I was looking at.

7 Q. APB-17C, so to the extent we get into numbers

8 here, I understand this is a confidential exhibit?

9 A. Yes, that's why I was trying not to say anything

10 about the numbers themselves. If you look, for example, you

11 look at unit four it went from I would say 2001 all the way

12 to 2009 before what I would call an extended outage

13 happened.

14 Q. Now, it is true, without talking about the

15 specific numbers, but we can do that if we take the

16 appropriate steps, that the average outage rates shown on

17 this chart for unit four are higher than the 8 percent

18 number you've recommended?

19 A. Including what I would call the extended or

20 anomalous outages, yes, I think the average -- well, yes,

21 the answer is yes.

22 Q. Are you excluding outages other than the outage in

23 2009?

24 A. Excluding for purposes of?

25 Q. Of calculating your 8 percent rate.

0581

1 A. My 8 percent number was not directly calculated

2 from this table that we're looking at. The 8 percent

3 number, as I said before, was a somewhat qualitative look at

4 the chart and removing what I would call the extended

5 anomalous outages and literally drawing a line and coming up

6 with what I felt was a conservative number.

7 In looking at that since I filed direct testimony,

8 and especially since these exhibits were offered as

9 cross-examination exhibits, I have begun to think that my

10 8 percent number is too high, and I can explain that by --

11 if you want, I think I can say by going through the chart

12 without saying any numbers so I don't think we need to take

13 precautions.

14 If you take a look at unit four solely and you

15 take away the 2009 very large extended outage the history at

16 least as far as our other two utilities has been to use a

17 five-year outage, so I have kind of looked at that. And

18 I've worked back from that and have calculated a number, and

19 that number is significantly lower than 8 percent.

20 However, in both the proceedings and both my

21 dealings with the other two utilities I also recognize that

22 in addition to having anomalous high outages you can have

23 anomalous low outages. So if I'm looking at these numbers

24 on this table I would say, well, if we're going to not

25 allow, at least for purposes of setting base rates, not

0582

1 allow an anomalous outage then at the same time you might

2 want to look at years such as 2008 for unit -- if you're

3 dealing with unit four. And when I was dealing with unit

4 three, also 2008, those values I think are anomalously low.

5 The plants operated very good. So I would think you need to

6 remove those too.

7 So I would go back and then take the years perhaps

8 from 2007 going back to 2003, five years. That's somewhere

9 between the first five years and the 8 percent. So I guess

10 what I'm saying in a long-winded way is looking again at

11 these numbers I still believe 8 percent is very

12 conservative.

13 Q. So, Mr. Buckley, you would agree, based on that

14 last conversation, or last answer, that the point of a

15 rolling average is to smooth high years and low years into

16 kind of one normalized outage rate; correct?

17 A. Mathematically that's the point, but that's not

18 the reason for removing the anomalous years. As I stated in

19 my testimony, I just don't feel it's appropriate to embed an

20 outage which you know by its nature requires a little bit

21 more review and a little bit more analysis by all the

22 parties before the costs are recovered. And so it's not

23 that--as I said again in my testimony--the Company could not

24 recover those costs through some other mechanism, or if it

25 had a PCA mechanism if the outage was ultimately determined

0583

1 to have prudently occurred. So it's a two -- it's not just

2 throwing it out willy-nilly, it's not using it for a

3 purpose.

4 Q. So let me ask you about a couple of things you

5 just said. Can you turn your attention to page 16 of your

6 testimony, please?

7 A. Yes, I'm there.

8 Q. So you don't contend in your testimony, and it

9 sounds like based on the testimony you just gave, that this

10 outage is an imprudent outage?

11 A. This particular outage, no, I do not. I do feel

12 when you have a larger outage it does warrant an

13 investigation.

14 Q. So on the top of page 17 you talk about the fact

15 that the process you're proposing here, removing this large

16 outage from the forced outage rate, is one that you follow

17 for Avista and Puget Sound, do you see that?

18 A. Yes, I do.

19 Q. It is true that those utilities have power cost

20 mechanisms that would allow them to recover a portion at

21 least of the forced outage irrespective of whether it was

22 included in the forced outage rate in the net power cost

23 model; correct?

24 A. Yes. And after a review during the -- for the

25 case of Puget, the PCA, in the case of Avista the ERM, the

0584

1 ERM, you have an opportunity, the parties have an

2 opportunity to review everything about that and decide

3 whether it be prudent. For the case of PacifiCorp, which

4 does not have any kind of power cost mechanism, then I'm

5 proposing it could be done through an accounting petition or

6 some other method, which is really very similar if not the

7 same as what we've already done with -- I believe it was the

8 kind of anomalous hydro generation outages back during the

9 energy crisis there was some deferred power costs that the

10 Company filed for recovery of.

11 Q. Is it Staff's position that the disallowance of

12 the cost in a rate proceeding would then trigger the ability

13 for the Company to file a request for deferred accounting to

14 see if it could be -- a prudent cost could be recovered

15 outside of the rate case process?

16 A. No. It's not related to imprudence or

17 disallowance because we're not recommending to disallow

18 anything. It would be sometime after the event the Company

19 would file its petition to recover those excess costs in

20 some manner that it deemed appropriate. And then, you know,

21 the parties would have time to review it. And along with

22 that they would have time to review, you know, perhaps

23 mitigating events, which has certainly happened with our

24 other utilities in the case of Colstrip that, you know,

25 might have countered those excess costs.

0585

1 But, you know, I'm not prescriptive on the

2 methodology of how that would be accomplished, it would be

3 something up to the Company as far as the timing and stuff.

4 But it would not be triggered by a disallowance of any kind

5 or a recommended disallowance.

6 Q. Let me just follow up. Because the effect of your

7 removing the outage from the forced outage rate would be to

8 disallow the costs associated with that forced outage rate

9 or that forced outage in this case; correct?

10 A. No, no, this case is forward-looking. I mean

11 we're setting up a base rate outage rate for these plants to

12 be used in the future. So what we're not doing is embedding

13 that, keep using the word anomalous outage or relatively

14 rare outage into base rates into the future. There's no

15 disallowance on that. And, you know, so it's -- this is

16 normalized rate setting, this is along with 40 or 50 years

17 of water. It's one of the many variables that go into net

18 power costs.

19 Q. I understand. I guess I'm just trying to -- maybe

20 it's a semantical issue, but you have a $1.5 million

21 adjustment, which I guess I was referring to as a

22 disallowance in this case associated with this outage?

23 A. That's to reflect the future rate year power cost

24 of the normalized power supply cost being that much lower

25 because of the lower averaged forced outage you would assume

0586

1 for based rates. If two years from time, or let's say

2 during the rate year if there was an extended outage that

3 happened on any of the plants then, you know, the Company

4 would have the right to come in, as you have now, to file a

5 petition for recovery which you believe are excess costs,

6 and what the parties can argue at which they may, it's more

7 future-looking.

8 Q. In this case, assuming the Commission accepts your

9 forced outage rate and your adjustment of 1.5 million, would

10 Staff support such a regulatory accounting petition filed by

11 the Company to recover that outside of this rate case?

12 A. Are you talking about any general outage or one

13 tied to Colstrip?

14 Q. This specific outage which you indicated you do

15 not believe is an imprudent outage.

16 A. Right. I think that -- I mean we get into the

17 difficulties as always with any kind of deferred accounting

18 and what costs are, but I think that, yes, we would have to

19 be open to look at that. And, again, as what happened

20 with -- for example, we just finished a rate case with

21 Avista, we found in their case, this may be totally

22 different than yours, that the water conditions, and the gas

23 prices and the energy prices during the period that the

24 outage occurred, you know, did a large part was mitigated,

25 or mitigated a large part of the extra expenses of the

0587

1 outage. But I think we're certainly open to any petition.

2 Q. I wanted to ask you some questions about your

3 arbitrage adjustment which I believe is on -- you discuss

4 beginning on page 5 of your testimony, APB-1T?

5 A. I'm there.

6 Q. Now, just to provide some background, in this

7 adjustment you proposed to impute additional revenues into

8 PacifiCorp's net power cost to -- for margins associated

9 with arbitrage transactions; is that correct?

10 A. Yes.

11 Q. And in support of that adjustment on the bottom of

12 page 6 and the top of page 7 you refer to Avista and Puget

13 Sound capturing such revenues from these transactions

14 through their power cost adjustment mechanisms, do you see

15 that?

16 A. Yes.

17 Q. Now, it's true, isn't it, that those utilities

18 track both their net power costs and their net power cost

19 associated revenues --

20 A. Yes.

21 Q. -- through those power cost adjustment mechanisms?

22 A. Yes, I do.

23 Q. So that is consistent with the Commission's

24 principles about matching and symmetry that you're tracking

25 both revenues and costs associated with a particular item;

0588

1 correct?

2 A. The symmetry issue as far as arbitrage

3 transactions I don't believe apply. So that -- the reason I

4 say that is because arbitrage, at least as I think we're all

5 using it, is pretty much risk free transactions that utilize

6 the Company's transmission system and it's ability to

7 deliver power from one area to another and take advantage of

8 that. So if you're entering in a -- what we call an

9 arbitrage transaction that should be -- if you're buying 50

10 megawatts over here or you're selling it here and there's--I

11 don't want to say a guaranteed margin, but if it's not one I

12 could call equivalent to a trading transaction perhaps that

13 you perhaps buy power, hold it or looking for somewhere and

14 you may lose money on that one. I think arbitrage

15 transactions that are carried on by Puget and Avista and I

16 believe yourself I don't think they're symmetrical. They

17 should be generally always on the plus side.

18 Q. So it is true that both Puget and Avista capture

19 both trading and arbitrage in their power cost adjustment

20 mechanisms; correct?

21 A. Of the regulated utilities, yes.

22 Q. And if you had included trading as a part of your

23 adjustment here it would decrease your adjustment, wouldn't

24 it?

25 A. I'm not sure on the calculation, it's been a while

0589

1 since I looked at it, it could be negative in the sense,

2 yes, it could be. I'm not sure, I don't remember the data

3 enough to calculate that. But you would expect it to be

4 around zero over the long-term. In this particular example

5 in the year I used it could be negative.

6 Q. Now, the manner in which you calculated the sales

7 margin you looked at historical actual net power cost

8 margins for certain short-term transactions; correct?

9 A. Yes, the Company data. We used the transactions

10 that were marked by the Company as being arbitrage.

11 Q. So it's true, isn't it, that this Commission

12 previously opposed a power cost adjustment -- or previously,

13 excuse me, rejected a power cost adjustment mechanism for

14 the Company on the basis that it had no actual power cost in

15 the WCA to use as a true-up, that's been referred to as the

16 "pseudo" actual issue?

17 A. Yes, which in a way is exactly why I'm proposing

18 this adjustment is that because we -- the Company is not

19 capturing actuals, "pseudo" actuals or otherwise. Yet I

20 believe there's significant revenues that the Company

21 experiences, and I'm willing to share with the Company, you

22 know, and that's not a round of zero point, it should always

23 be positive as I testified earlier. That's why proposing

24 this adjustment if the Company had a power cost adjustment

25 it perhaps would not be necessary if those accounts were

0590

1 captured within the power cost adjustment mechanism.

2 Q. But the basis for your adjustment, Mr. Buckley, is

3 actual margins, actual historic margins; correct?

4 A. It's an average over the four years of data based

5 on the actual transactions that the Company indicated in

6 response to the data request, yes, which is as I say 16,

7 17,000.

8 Q. So isn't it a fair reading of the Commission's

9 prior order on rejecting a power cost adjustment mechanism

10 that if actual power costs can't be measured without further

11 study and review that actual revenues associated with net

12 power costs would have the same problems associated with

13 them, the same impediments to being reflected in rates?

14 A. I'm not speaking for the Commission certainly, but

15 it's my opinion that these should be included. We have --

16 the costs are there right now. The cost of the transmission

17 system is being paid for by ratepayers, and so the costs are

18 there. It's just, I believe, that not all the benefits are

19 there. And the --

20 Q. Well, the costs are there on a normalized basis;

21 correct, not on an actual basis?

22 A. No, I think the cost of the transmission system is

23 fixed, most of it. So that's end rate base, so that's

24 there. I think that most of the costs that support these

25 transactions are there. It's utilizing the transmission

0591

1 system primarily which gives the opportunity to make these

2 sales.

3 Q. Let me ask you about another issue, and this is

4 directly related to the Company's transmission system. It's

5 the issue about wind integration for nonowned wind plants,

6 and that would be your adjustment associated with non-SCL

7 owned Stateline, Campbell and Oregon QFs, are you familiar

8 with that adjustment?

9 A. Yes, that includes both the inter and intra-hour

10 portions.

11 Q. And I think you discuss that adjustment, just so

12 everybody has a reference point, at page 24 of your

13 testimony, APB-1CT, do you have that?

14 A. Yes, I do.

15 Q. Now the note I have here that is that adjustment

16 is approximately -- it's a combined adjustment of

17 approximately 4.1 billion on a WCA basis, does that sound

18 right?

19 A. Yes, including everything.

20 Q. Now, the basis for your adjustment, which I think

21 is set forth on page 24, lines 8 through 9, is that these

22 wind facilities do not provide revenues to PacifiCorp to

23 offset the costs of providing the integration services, do

24 you see that?

25 A. Yes.

0592

1 Q. Now, you don't dispute that PacifiCorp is

2 providing these services through its open access

3 transmission tariff or its OATT?

4 A. Not at all.

5 Q. And you don't dispute either that PacifiCorp's

6 current OATT does not allow for recovery of the cost of

7 providing wind integration services to nonowned wind

8 facilities in its control area?

9 A. That's true under their present OATT. And that's

10 where I guess I have to add that I have a fundamental

11 problem with what the Company is doing. I appreciate the

12 fact that the Company has offered to remove the inter-hour

13 costs associated with the nonowned plants. And, you know, I

14 read the rebuttal on the intra-hour and recognizing that

15 right now your OATT does not allow -- I think there's many

16 things said in there. But fundamentally I still come down

17 to, in looking at our WAC rules, looking at RCWs, and I just

18 cannot see anywhere in there where it's up to the retail

19 ratepayers to pay the cost of a service that's provided

20 essentially to a wholesale customer or marketer or however

21 or wind plant, that retail customers are the ones that

22 should be responsible for that, irrespective of what FERC

23 allows through its present OATT.

24 Q. Let's talk about that a little bit. Can you turn

25 to page, excuse me, Exhibit APB-16, one of the

0593

1 cross-examination exhibits, the first -- I'll just represent

2 to you it's about the first 20 pages, the first three

3 sections of the recent FERC notice of --

4 A. Yes, I don't know if I have that one with me but

5 I'm familiar with it, and I'm not contesting.

6 Q. Do you want a copy of it?

7 A. If you're going to point me to a particular

8 portion of it or are you going to ask a general --

9 Q. I might ask a question about a particular page

10 depending on the answers you give me, so it would be your

11 fault.

12 A. Yes, I think I need a copy. (Document handed to

13 the witness.) Thanks. Okay, I have it.

14 Q. Okay. Thank you. So are you aware that in 2010

15 FERC rejected a proposal by Puget Sound Energy to include a

16 wind integration charge in its OATT?

17 A. Generally aware of that, yes.

18 Q. And are you aware that that decision followed

19 several others by FERC denying individual utility proposals

20 to amend their OATTs to include the ability to charge

21 nonowned wind providers in their control area, charges

22 associated with wind integration?

23 A. I'll accept that. I think that from my very basic

24 reading of it I think one of the problems that FERC has, and

25 I think you even said it in your rebuttal testimony, is just

0594

1 what should those charges be. Which gets to the point again

2 of why retail customers should pay for them.

3 Q. And do you understand that FERC has just opened

4 this notice of rulemaking to address that issue in terms of

5 what should be in utilities' OATTs with respect to these

6 wind integration charges?

7 A. Yes, I saw that in general, and I also looked for

8 FERC to say something about deferral of cost but didn't see

9 it, so I was disappointed in that.

10 Q. You understand that PacifiCorp is bound by FERC

11 both to provide the integration services to these nonowned

12 wind facilities and as to what fees it can charge these

13 facilities?

14 A. I'm not denying that, yes.

15 Q. Doesn't this suggest an alternative to your

16 adjustment, one where the Washington Commission monitors

17 these issues and requires PacifiCorp to make such a filing

18 to amend its OATT as soon as FERC provides guidance on what

19 exactly is appropriate and permissible for a utility like

20 PacifiCorp to charge?

21 A. I mean we generally follow FERC issues. We don't

22 have people spending a lot of time on FERC issues, and what

23 the Commission wants to do in regards to that I can't say.

24 I would assume the Company knowing that it has -- its

25 required to do something, there are costs associated with

0595

1 that, that it would have done everything, you know,

2 prudently to start addressing the issue.

3 But again we still get to the problem of where is

4 it said that, you know, the remaining retail customers are

5 the ones that should pick up the cost. I can equate it, you

6 know, for example of -- well, in a way to handle this -- I

7 mean one way rather than make an adjustment here is to go in

8 and start allocating transmission and generation plants to

9 wholesale customers like is done, you know, in some

10 jurisdictions, not necessarily for this but for companies

11 that have wholesale and retail actions. That's one way to

12 do it. I just don't understand how or why, in my opinion,

13 that retail customers should pick up these costs.

14 Q. So, Mr. Buckley, your arbitrage adjustment is

15 premised on the theory that customers benefit from

16 PacifiCorp's transmission system; correct?

17 A. That is -- yes, yes. And I think those are real

18 transactions that are made. And again I think if I can

19 purport to what you're getting to --

20 Q. Can I ask the question first?

21 MR. TROTTER: Excuse me, Your Honor, no other

22 witness has been interrupted so far, and I don't think

23 Mr. Buckley should be the exception. So it was a wide-open

24 question, and I'll ask for the Bench's assistance if this

25 gets out of hand.

0596

1 JUDGE CLARK: All right. And it will be provided.

2 MS. MCDOWELL: Thank you.

3 THE WITNESS: Does that mean I can continue a

4 little bit or...

5 Q. (By Ms. McDowell) No. I'm going to ask my next

6 question which is --

7 JUDGE CLARK: Don't push it.

8 Q. (By Ms. McDowell) So you'd acknowledge that

9 customers benefit from PacifiCorp's transmission system and

10 control area responsibilities and the fact that it has a

11 large widespread transmission system; correct?

12 A. Yes. And I'm getting to the wind integration.

13 And I think what the Company said in their rebuttal

14 testimony is, which is true, that the benefit of the

15 ratepayers is the Company operates its system in a reliable

16 fashion with the wind integration in there. You know, but

17 that would be there with or without the wind, and it doesn't

18 really speak to who covers the cost. Of course the

19 customers benefit from the operation of the transmission

20 system, the reliability, the load fall, I mean everything

21 about the whole system they benefit from. But that still to

22 me is not related to who, you know, the appropriate cost

23 recovery of the wind integration related additional cost.

24 Q. Given the status of these issues at FERC right

25 now, isn't it true that providing these integration services

0597

1 to nonowned wind facilities within a control area providers'

2 service territory is just a cost of having and maintaining a

3 control area?

4 A. Well, yes --

5 Q. They're unavoidable --

6 JUDGE CLARK: One at a time.

7 A. It is a cost, and it's a cost that's required on

8 the Company from FERC. And again as I have said many times,

9 it's just a matter of this, I believe this -- the retail

10 ratepayer is not the one that should be picking up the cost

11 of the extra cost of the wind integration which is

12 significant.

13 Q. (By Ms. McDowell) Are you aware that both the Utah

14 and Oregon Commissions within the last year, two years, have

15 rejected adjustments to nonowned wind integration charges on

16 the basis that it was a better idea to just wait and see

17 what FERC would do?

18 A. Well, I'm not sure if they have a 21 or 20-percent

19 increase before them either. And also I'm not sure if at

20 the time that they were doing whatever their cases were that

21 the wind integration cost had gone from I think the Company

22 said near a dollar from its last rate case, to $6 in this

23 case, to $9, in I think it's the last study that was put

24 out. So I -- there's a lot of other things other than them

25 saying we're going to let retail payers pay the cost. If

0598

1 this Commission chooses to do that it certainly has the

2 right. But my recommendation is that they don't. And I

3 think it's particularly given the large uncertainty and the

4 large movement in those costs. So those kind of two things

5 combined is still to me troublesome.

6 MS. MCDOWELL: That's all I have. Thank you,

7 Mr. Buckley.

8 JUDGE CLARK: All right. I don't think anyone

9 else indicated cross-examination for Mr. Buckley. Let me

10 check. No. We have inquiry from the Bench? Commissioner

11 Jones.

12 MR. JONES: Let me see. Yes, just a couple

13 clarifying questions.

14

15 CROSS-EXAMINATION

16 BY MR. JONES:

17 Q. Mr. Buckley, on your arbitrage sales mechanism you

18 describe on pages 5 to 9 of your testimony, you do make a

19 distinction as you just discussed with Ms. McDowell about

20 trading transactions versus arbitrage transactions; correct?

21 A. Yes, I do. The data I looked at distinguished

22 between those transactions the Company called trading and

23 those that they called arbitrage.

24 Q. This is just kind of a threshold question. Based

25 on the information provided to you by the Company in dealing

0599

1 with other companies are you -- is that distinction

2 adequately made in their filings with you and are you able

3 to make that distinction?

4 A. I think so. Besides being labeled that way by the

5 Company you can usually follow the transaction path itself,

6 by it generally shows on a date or a time "X" megawatts

7 purchased, and then "X" megawatts sold. So there's a fairly

8 good matching between the totals of what's bought and sold,

9 and of course you have to probably include losses in there.

10 But I think at least on the data that I was presented, in

11 addition to being marked that way, it was fairly easy over

12 those four years to follow.

13 Q. Okay. And I won't get into the confidential

14 information and specific numbers on page 7, but I'll ask you

15 a question, I think, that will stay away from that. But my

16 question is there appears to be a trend in the number of

17 transactions both buy and sell, there appears to be a trend

18 in the direction that is in a certain direction that may

19 lessen at least in an amateur, just in my mind, the need for

20 an adjustment like this. Could you comment on that without

21 getting into confidential information?

22 A. I can comment. And I don't know, I don't know the

23 reason for that and that it has trended the way that you

24 implied. So I don't have a good answer for the reason why,

25 you know. It could be, you know, regionally these

0600

1 transactions are made across a broad region, so it could be

2 the water conditions promoted more transactions such as

3 this. And it could be the Company is not doing these types

4 of transactions, so I don't know.

5 Q. Okay. And your recommendation is different

6 than -- your recommendation for an adjustment differs from

7 ICNU's adjustment in that you would allow the Company a

8 10 percent, quote, sharing --

9 A. Yes.

10 Q. -- of profits?

11 A. Yes. These are transactions that, you know, the

12 Company should be making in utilizing its transmission

13 system. It certainly should be rewarded in some fashion for

14 making the effort to do so.

15 MR. JONES: I think, Judge, that's all I have.

16 Thank you.

17 JUDGE CLARK: Thank you. Commissioner Oshie.

18

19 CROSS-EXAMINATION

20 BY MR. OSHIE:

21 Q. Mr. Buckley, there have been a lot of testimony

22 earlier both yesterday and maybe some today on, you know, if

23 we're going to update the power cost what should be in the

24 updates. And that's really what I would like to get from

25 Staff is what Staff believes should be updated. I think in

0601

1 your testimony you state that it would be the gas price

2 update, of course, and then any long-term FERC contracts.

3 And you have with regard to that I believe I have a short

4 list of what they may be, and maybe you can answer whether

5 you believe they should be included or not in an update

6 that's performed by the Company. One is the Mid-Columbia

7 purchases. And the other is -- I can go through my short

8 list since you have your pencil out. The Chehalis spinning

9 reserve capability, the Idaho point-to-point transmission

10 rate, the Chehalis lateral pipeline expense and then coal

11 costs.

12 A. Okay.

13 Q. Which of those, if any, does Staff believe would

14 be appropriate for the Company to include in any power cost

15 updates?

16 A. Well, first of all, I don't think you can

17 blanketly say that any kind of cost is totally acceptable.

18 I mean it really depends on the nature of the cost, how long

19 the parties have to review it, the transparency of the cost.

20 So I listed a few in response to the data request, and I

21 think in my testimony in a general sense. The list you just

22 gave me are very specific, and I'm not sure if I want to

23 comment on those specifically or what I would say is a

24 standard in general.

25 Q. Okay. I understood the standard, and I believe,

0602

1 or I interpreted your statement to mean, that Staff had an

2 opportunity to look at it, and it was transparent and Staff

3 had an opportunity to, I'll use another word, to analyze it

4 and evaluate it. That may take more than a week or

5 depending on the nature of the transaction and the number of

6 parties involved and it's complexity?

7 A. Yes.

8 Q. And I don't know if any of these, the Mid-Columbia

9 purchases, for example, and maybe if --

10 A. It might be -- I can go through them and give my

11 opinion on those and maybe that provides a good example --

12 Q. Sure I think that would be helpful.

13 A. -- of this several. The first one related to

14 Mid-Columbia cost. Typically those are, if I'm correct,

15 that that's what these are about, are costs related to the

16 Mid-Columbia contracts that PacifiCorp has with the PUDs

17 there. And, yes, we've allowed updates by our other

18 utilities in these because the initial numbers were

19 budgeted, and further along the PUDs have submitted updated

20 budgets that then get passed through to the utility and are

21 relatively transparent. So we've recommended that they are

22 allowed to be updated.

23 The lateral pipeline is much the same way. It's

24 costs are relatively transparent from a third-party. We

25 can, I think, as long as we have reasonable time to look at

0603

1 those they shouldn't be too much of a problem.

2 Coal costs are much the same way. Initially a lot

3 of times they will be, as we go through it, the nine or ten

4 or in this case longer case, you know, certainly things are

5 going to change. And I think it's best to have the best

6 available information as we can. So those costs that are

7 transparent, such as those that I mentioned and things like

8 contract -- new long-term contracts, which is one of the

9 ones that I cited that the Company has entered into, those

10 are there and should be included.

11 When we get to the examples you spoke of here my

12 recommendation on the Chehalis spinning reserves is a

13 completely other kind of adjustment. That's related to the

14 issue that I address in my testimony that I don't believe

15 there should be recovery of that because it was something

16 that was, I want to say promised in a prior proceeding. And

17 that's not your typical update I don't believe. So I don't

18 think that gets to your question.

19 The Idaho PTP, on its face that kind of update

20 would be one that I think could be made. It's a contract

21 that says, you know, we have new rates in effect for the

22 rate period, and it's going to go into effect. As you know

23 from my testimony, I'm recommending an adjustment on that

24 that's not related to the ability to update it. It's just

25 related to other issues. But that is an example of a

0604

1 contract that, you know, if it didn't have those other

2 issues would probably be allowed to be updated. So that

3 kind of goes through those specific examples.

4 You know, every time you try to make something

5 prescriptive something else is going to come along. And

6 that's the way I think we found on this. But the

7 fundamental thing is that the parties have to have time to

8 review it. And, you know, that includes a whole range of

9 running through from the power supply cost and running the

10 models all the way through revenue requirements, all the way

11 through rate design, all the way through everything. So

12 there needs to be a significant amount of that work that's

13 actually done by both the Company and the parties on these

14 updates. The more transparent they are the better.

15 So we get into issues like gas price updates. We

16 say, yes, but the gas price updates we do with Puget and

17 Avista are significantly different than the gas price

18 updates we do with PacifiCorp. And PacifiCorp, I think,

19 will require more time than the relatively transparent gas

20 price updates we do with the other utilities.

21 Q. Do you have a sense of how much time Staff will

22 need? I understand it's dependent upon what inputs have

23 changed, when a company will update its power costs?

24 A. I think that, you know, at a minimum if the

25 transactions are maybe noticed, you know, we maybe get a

0605

1 heads up on them, if we get the workpapers, you know, the

2 day that the update is filed, if it's a complete package,

3 you know, then probably for us probably, you know, several

4 weeks.

5 You know, however, I have sympathy for the

6 intervenors who maybe don't have as large of a staff who

7 just have the right to update their consultants may be

8 elsewhere. So that timeframe may be something you need to

9 talk to with Mr. Falkenberg, as an example, for one of the

10 intervenors. Again that's a blanket two weeks. If there's

11 a problem then there's a problem and, you know, we have to

12 do the best we can. That's essentially what we try to do.

13 Q. Thank, Mr. Buckley, and we do appreciate the work

14 you do and Staff does working on these issues, and also your

15 understanding of how much time Staff would need. Because if

16 we don't know from Staff the amount of time it needs to

17 review the evidence, as these power costs are updated, then

18 we really don't know what to assign it, if you will, and we

19 certainly -- I think we can do that to say --

20 A. I believe that, too. You know, one of the things

21 that helps is a continued dialogue with the companies during

22 this process. And sometimes it can save a lot of time when

23 you have a very short timeframe to be able to pick up a

24 phone and ask a question and not necessarily have to go

25 through the attorney route perhaps and that route. And so

0606

1 the working relationships we have with different companies

2 are different, but that's something that helps when you're

3 dealing with these updates. And I think they benefit

4 everybody. So that's something that would really help is

5 continued dialogue during the process and the ability to,

6 you know, timely just sometimes answer simple questions.

7 MR. OSHIE: I have no other questions. Thanks.

8 JUDGE CLARK: Chairman Goltz.

9

10 CROSS-EXAMINATION

11 BY MR. GOLTZ:

12 Q. So following up on the theme of doing the best we

13 can following from what Commissioner Oshie said. It's left

14 a little ambiguous in my mind as to when if you suggest that

15 we set a date and say by "X" date we need all the updates

16 allowing several weeks to have Commission Staff,

17 Mr. Falkenberg or others to kind of negotiate with the

18 company, that seems a little bit potentially open ended and

19 concerning because what if you don't agree and meanwhile the

20 clock is ticking. I think normally at least one would

21 think, and I'm sure an outsider would think we go through

22 this opening testimony, responsive, rebuttal and it's always

23 things are moving until then, and if we don't sort of land

24 on positions and costs and revenues at the time of the

25 rebuttal case, at least at the time of the closing of the

0607

1 hearing, or at the very latest at the time of briefs. I

2 heard you say in response to a question that you're still

3 considering one and you'll let us know in the briefs. I

4 mean is the brief the deadline, the time when we say, here,

5 is that when it ends? Is that when we're done with the

6 record? Or maybe you could suggest something in the briefs?

7 A. That would be -- well, you know, one, it kind of

8 depends on how long it is between briefs and the compliance

9 filing. It depends on, you know, what's happening in the

10 world. It depends on many things. But I understand the

11 problem is it's a moving target. And if the Commission is

12 trying to make a decision and its target is unknown, which

13 is what we've had lately, I think, it's hard to actually sit

14 down and make a decision and do that. So, you know, it

15 seems just from -- if all else is equal that you want

16 whatever, you know, update there is to be done about this

17 time.

18 Q. About now?

19 A. Yeah. Because I think that way you'll have some

20 numbers to, you know, to have some firmed up numbers that

21 you have to make your decisions on.

22 Q. Because right now what we have is that which is in

23 the rebuttal testimony?

24 A. Yes.

25 Q. That's the latest?

0608

1 A. You have the rebuttal, and then there's the

2 statement by the Company if they want to do one more update

3 based on December 31st.

4 Q. Right. Which is information that they have

5 available to them now?

6 A. Right. Now, this is a good example. We're

7 sitting here today, the Company's rebuttal case says they

8 want to do December 31st and have offered to do that whereas

9 other parties may want, well, no, this is, you know,

10 January 20th and we should include like, for example, today

11 Bloomberg reported that gas prices went down about four and

12 a half percent so you get into --

13 Q. It's --

14 A. So I think to -- one of the answers has been for

15 us to do what we did with the other utilities is not pick a

16 date for them to develop their internal price curve but

17 we've used a very transparent, you know, three-month average

18 that's been published as of such and such date. So rather

19 than a situation we have proposed with PacifiCorp where we

20 have a December 31st kind of cutoff date, they're going to

21 take that internally, massage that data in some fashion

22 which is not transparent to us or the other parties, and

23 then come out with a price curve.

24 That's different than what we have with Avista,

25 for example, where, you know, an intervenor or parties or

0609

1 myself can say, okay, as of this date we're taking the

2 three-month kind of rolling average, if you will, of year

3 ahead forward prices and average them out between two

4 locations we use in the region. That's very different.

5 That's transparent as about as it can get. The Company's

6 proposal is a little less transparent, which is kind of why

7 in my testimony I was proposing that we do the transparent

8 way with Avista.

9 Q. By transparent you generally mean easily

10 verifiable --

11 A. Published prices that are out there that you can

12 get. And it's over, you know, an average of some period

13 before so you do smooth out events like today's four and a

14 half percent decrease. But again you get into the same

15 problem is when do you set that? You know, the last several

16 cases with the other utilities have been settlements, and we

17 have either come up with a day or we've come up with a

18 number as part of those settlements. But theoretically I

19 think there should be a day, and I can try and give it some

20 thought and put it in brief of what we think would be

21 appropriate.

22 Q. I have no further questions. But maybe at

23 tomorrow's hearing, and I understand it looks like we're

24 going to finish tomorrow, we do have an open meeting so

25 there's a little bit of down time, for all of you at least,

0610

1 because we probably won't start until after the open meeting

2 is over, maybe the parties could think about it just having

3 some conversations. Because if there is an agreed to time

4 and set of issues where there's updates that would make it a

5 lot easier. If not then I guess we would have to hear

6 either in briefs or in some interim filing what the

7 proposals are to actually affect both time-wise and

8 scope-wise these various net power cost updates.

9 A. Again, I'm speaking from a Staff perspective who

10 is concentrating on that particular case at the time or

11 trying to, you know -- we do have the problem, a realistic

12 problem, with the other parties of just their availability

13 to be able to analyze this data. And I think the

14 commissioners should be sympathetic to that side of things,

15 I think, which adds a lot to this proceeding.

16 Q. So maybe in the morning before our hearing starts

17 you can find some room or something to talk about this if

18 that's possible. If not we'll have to set up another time

19 or process to figure this one out. It's not something I

20 feel comfortable letting drift.

21 MR. GOLTZ: So I have no other questions.

22 JUDGE CLARK: Redirect.

23 MR. TROTTER: Thank you, Your Honor.

24 ///

25 ///

0611

1 REDIRECT EXAMINATION

2 BY MR. TROTTER:

3 Q. Just staying with that update issue, Mr. Buckley.

4 I think you used the term or characterized the Company's

5 proposal as using the price curve as after December 31st.

6 Should that be December 11th, or do you have a specific

7 recollection at this point?

8 A. Not at this point without going to rebuttal. I

9 thought somebody earlier yesterday said December 31st.

10 Q. But the Company's rebuttal will have the correct

11 date?

12 A. Yes.

13 Q. And so really in response to some of the first

14 questions from Company counsel you said that that price

15 curve was not current enough for purposes of a compliance

16 filing, did I understand you correctly?

17 A. It's a combination of both. It's still based on

18 something now that is by the time three to four weeks back.

19 That troubles me slightly less than the transparency of the

20 internal determination of the ultimate forward price curves

21 that's using generally available data, that's the part that

22 troubles me more and requires more time to investigate.

23 Q. You said in one part of one answer that it would

24 take several weeks quote/unquote to review a compliance

25 filing, and then you said two weeks. But does the time the

0612

1 Staff needs for review of a compliance filing related to how

2 many things are being updated?

3 A. Yes, definitely.

4 Q. So if it is just a price curve being updated would

5 it take two weeks for Staff to review that or less or more?

6 A. Just that probably less, much less, although again

7 you have to run it through the -- PacifiCorp specifically

8 uses an internal model, the GRID model, so it's a little bit

9 different to handle than what the other utilities have, but

10 in general, yes, it would be less time.

11 Q. As you add on different items to be updated that

12 tends to lengthen the time for review?

13 A. Different items and also different decisions that

14 are ultimately made by the Commission in their order.

15 Q. You were asked some questions regarding APB-16

16 which is a FERC document, do you recall that?

17 A. Yes.

18 Q. And you used the acronym OATT, that means open

19 access transmission tariff; is that right?

20 A. Yes.

21 Q. Is that a FERC tariff?

22 A. That's a FERC tariff.

23 Q. Is that tariff filed here at the Commission as an

24 intra-state tariff?

25 A. They file it here as information, I don't think --

0613

1 it's not filed as a WUTC tariff.

2 Q. So that tariff, is that subject to FERC approval?

3 A. Per jurisdiction.

4 Q. Has PacifiCorp ever filed in its federal tariff,

5 and specifically the OATT, a wind integration element, a

6 wind integration chart?

7 A. I don't know if they've attempted to, I don't

8 recall if they have specifically. I don't think they have

9 yet because I believe they took notice from the Puget

10 proceedings and I'm assuming are developing a filing, but I

11 can't speak 100 percent for sure.

12 Q. Do you recall in the rebuttal testimony of

13 Mr. Duvall, Exhibit GND-5T, page 45, that he referred to

14 FERC, "conditionally accepted a proposal by Westar to add a

15 new Schedule 3A charge, whereby all variable generators

16 located within Westar's balancing authority area pay a

17 regulatory service fee for power exported outside of the

18 balancing authority area"?

19 A. Yes, I recall that portion of the testimony.

20 Q. You were also asked some questions about the

21 Colstrip outage. Are you -- and how other utilities might

22 have the costs associated with that deflected, do you recall

23 that generally?

24 A. Yes.

25 Q. Are you aware of any outage threshold in PSE's

0614

1 cost recovery mechanism?

2 A. There is a threshold at which they have to provide

3 additional testimony on the causes and prudency of actions

4 taken regarding that outage, but I can't recall what the

5 percentage of that particular outage is. But there is a

6 clause in their power cost adjustment that requires that.

7 Q. And in your testimony you refer to this case and

8 particularly power supplies as forward-looking?

9 A. Well, it's normalized forward-looking, yes.

10 Q. And what is the date that's being focused on in

11 terms of the power supply costs?

12 A. 2011, 2012 time frame.

13 MR. TROTTER: Thank you. I don't have any further

14 questions.

15 JUDGE CLARK: Thank you. Thank you for your

16 testimony, Mr. Buckley. Is there any objection to this

17 witness being excused? Hearing none you're excused. And I

18 believe that will conclude this afternoon's proceedings.

19 As Chairman Goltz noted, there is an open meeting

20 tomorrow in this room, which means unlike yesterday you need

21 to take your items with you when you leave this afternoon,

22 and we will reconvene tomorrow as soon as the open meeting

23 concludes. The only thing I can give you is an

24 approximation, probably somewhere between 10 and 10:30.

25 MR. GOLTZ: Judge Clark, I know Mr. Buckley is

0615

1 excused, but in case after we hear from Mr. Falkenberg if we

2 have further questions for Mr. Buckley will he be present in

3 the building?

4 JUDGE CLARK: I'm not excusing him if you want to

5 have further questions, Chairman Goltz. I'm sorry, I

6 retract that, Mr. Buckley.

7 THE WITNESS: I will, I guess, now be available.

8 JUDGE CLARK: Yes.

9 MR. GOLTZ: Just in case, and you can borrow a tie

10 if you want.

11 JUDGE CLARK: All right. We are at recess until

12 tomorrow morning.

13 \* \* \* \* \*

14 (Whereupon, the proceedings went off

15 the record at 5:16 p.m.)

16

17

18

19

20

21

22

23

24

25

0616

1 C E R T I F I C A T E

2

3 I, TAMI LYNN VONDRAN, a Certified Court Reporter,

4 do hereby certify that I reported in machine shorthand the

5 foregoing proceedings in the above-entitled cause; that the

6 foregoing transcript was prepared under my personal

7 supervision and constitutes a true record of the testimony

8 of the said witness.

9 I further certify that I am not an attorney or

10 counsel of any parties, nor a relative or employee of any

11 attorney or counsel connected with the action, nor

12 financially interested in the action.

13 DATED at Edgewood, Washington this 3rd day of

14 February, 2011.

15

16

17

18 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Tami Lynn Vondran, CCR

19 Certified Court Reporter

License No. 2157

20

21

22

23

24

25