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1 The parties were present as follows: (continued)

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

6

10K entitled Summary

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MPG-19 439 Standard & Poor's Credit Metrics

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P R O C E E D I N G S

(Whereupon, the proceedings went on the record at 9:08 a.m.)

JUDGE CLARK: All right. Good morning, it's approximately 9:10 a.m. on January 26, 2011, in the Commission's hearing room in Olympia, Washington. This is the time and the place set for continuation of the hearing in Docket UE-100749, Patricia Clark, Administrative Law Judge, for the Commission presiding. The record should reflect that all commissioners are present for this morning's hearing.

Before we proceed with the witnesses I have a couple of housekeeping matters I would like to address. The first is that according to the order of witnesses the first witness this morning would be Mr. Ryan Fuller. There are no cross-examination questions from the parties for this witness, and the commissioners have now concluded, based on their review, that they do not have any inquiry. Accordingly, Mr. Fuller can be excused and we will be taking PacifiCorp's next witness in order.

Secondly, we do have another counsel joining us this morning, and I would like to have her enter an appearance before we go on record -- I mean before we start taking testimony.

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

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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 ///

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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

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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?

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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?

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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

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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

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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

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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

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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

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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.

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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

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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

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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?

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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.

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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

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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

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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

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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.

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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

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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 incentive 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 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 resistant 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?

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?

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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.

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

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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

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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?

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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

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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?

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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

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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?

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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

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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

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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

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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

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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

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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.

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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

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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

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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

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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

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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?

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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

4

5

6

Q. Mr. Meyer, I just have a couple quick follow-up questions on lines that Chairman Goltz just asked you. For your adjustments on the MEHC management fee did rely upon data provided to you by PacifiCorp in discovery?

7

A. Yes.

8

9

10

Q. And the numbers that you relied upon, did PacifiCorp ever update those and provide different information that is used in your testimony?

11

12

A. No, the numbers I relied on are contained in GRM-6.

13

MR. SANGER: Thank you, no further questions.

14

15

16

JUDGE CLARK: All right. Thank you for your testimony, Mr. Meyer. Is there any objection to this witness being excused? Hearing none you're excused.

17

18

19

And we're going to just take a moment off record to allow the next witness to take the stand. We're off record.

20

(Brief break taken off the record.)

21

22

23

JUDGE CLARK: We're back on record. And we are now reverting to our previously scheduled programming. Will 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

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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

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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.

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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

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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

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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

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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 ///

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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

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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

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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.

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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.

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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 --

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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 to 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

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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

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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?

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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

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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?

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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

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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,

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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

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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

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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

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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

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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?

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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?

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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

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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 ///

DIRECT EXAMINATION

1

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,"

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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

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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

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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

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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

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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

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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

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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

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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.

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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

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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

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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

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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.

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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

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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

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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;

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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

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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

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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

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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.

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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

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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

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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

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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.

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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

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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

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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

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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

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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

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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,

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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

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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

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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

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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

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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

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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?

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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

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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,

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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 ///

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REDIRECT EXAMINATION

1

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

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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 --

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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

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1 cost recovery mechanism?

2 A. There is a threshold at which they have to provide
3 additional testimony on the causes and prudence 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

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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.)

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C E R T I F I C A T E

I, TAMI LYNN VONDRAN, a Certified Court Reporter, do hereby certify that I reported in machine shorthand the foregoing proceedings in the above-entitled cause; that the foregoing transcript was prepared under my personal supervision and constitutes a true record of the testimony of the said witness.

I further certify that I am not an attorney or counsel of any parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

DATED at Edgewood, Washington this 3rd day of February, 2011.

Tami Lynn Vondran, CCR
Certified Court Reporter
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