

00315

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION

2 COMMISSION

3 In the Matter of the) DOCKET NO. UE-991262
4 Application of PACIFICORP) Volume 3
5 For an Order Approving the) Pages 315 - 550
6 Sale of Its Interest in)
7 (1) The Centralia Steam)
8 Electric Generating Plant,)
9 (2) The Ratebased Portion of)
10 the Centralia Coal Mine, and)
11 (3) Related Facilities, for)
12 a Determination of the Amount)
13 of and the Proper Ratemaking)
14 Treatment of the Gain)
15 Associated with the sale; and)
16 for an EWG Determination.)

10 -----
11 In the Matter of the) DOCKET NO. UE-991409
12 Application of)
13 PUGET SOUND ENERGY, INC., for)
14 (1) Approval of the Proposed)
15 Sale of PSE's Share of the)
16 Centralia Facilities, and)
17 (2) Authorization to Amortize)
18 Gain Over a Five-Year Period.)

15 -----
16 In the Matter of the) DOCKET NO. UE-991255
17 AVISTA CORPORATION for)
18 Authority to Sell Its)
19 Interest in the Coal-Fired)
20 Centralia Power Plant.)
21 -----

18
19 A hearing in the above matter was held on
20 January 10, 2000, at 9:00 a.m., at 1300 South Evergreen
21 Park Drive Southwest, Olympia, Washington, before
22 Administrative Law Judge MARJORIE R. SCHAER,
23 Commissioners WILLIAM R. GILLIS, RICHARD HEMSTAD, and
24 CHAIRWOMAN MARILYN SHOWALTER.

25 Kathryn T. Wilson, CCR
Court Reporter

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1 The parties were present as follows:

2 PUGET SOUND ENERGY, INC., by MATTHEW R.
3 HARRIS, Attorney at Law, Summit Law Group, 1505
4 Westlake Avenue North, Suite 300, Seattle, Washington
5 98109.

6 AVISTA CORPORATION, by GARY A. DAHLKE,
7 Attorney at Law, Paine, Hamblen, Coffin, Brooke &
8 Miller, 717 West Sprague Avenue, Suite 1200, Spokane,
9 Washington 99201-3505.

10 THE WASHINGTON UTILITIES AND TRANSPORTATION
11 COMMISSION, by ROBERT D. CEDARBAUM, Assistant Attorney
12 General, 1400 South Evergreen Park Drive Southwest,
13 Post Office Box 40128, Olympia, Washington 98504-0128.

14 THE PUBLIC, by Charles F. Adams, Assistant
15 Attorney General, 900 Fourth Avenue, Suite 2000,
16 Seattle, Washington 98164-1012.

17 NW ENERGY COALITION, by NANCY HIRSH, Policy
18 Director, 219 First Avenue South, Suite 100, Seattle,
19 Washington 98104.

20 INDUSTRIAL CUSTOMERS OF NW UTILITIES, by
21 MELINDA J. DAVISON, Attorney at Law, Duncan, Weinberg,
22 Genzer & Pembroke, 1300 Southwest Fifth Avenue, Suite
23 2915, Portland, Oregon 97201.

24 IUOE 612, by ROBERT A. LAVITT, Attorney
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 PACIFICORP, by GEORGE M. GALLOWAY, Attorney
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1 P R O C E E D I N G S

2 JUDGE SCHAER: Let's be on the record. This
3 is the third day of hearing in Centralia applications
4 by PacifiCorp in Docket No. UE-991262; Avista in
5 UE-991255, and Puget Sound Energy in UE-991409, which
6 cases have been consolidated by the Commission, and at
7 this point in the hearing, I believe that we have a
8 proposal by Mr. Lavitt to address and then we will
9 start with Mr. Dukich's testimony.

10 MR. LAVITT: On behalf of Operating Engineers
11 612, I'm requesting that the testimony of Mr. Howins be
12 accepted by stipulation. I've consulted with the
13 parties, Your Honor, and there doesn't appear to be any
14 cross-exam for Mr. Howins, and additionally, I'm
15 requesting that his testimony be amended to include
16 Exhibit 801, previously filed with a witness who is no
17 longer appearing, so that's my proposal this morning.

18 JUDGE SCHAER: So would you give us all the
19 exhibit numbers you will have?

20 MR. LAVITT: It would be Exhibits No. 801 and
21 803.

22 JUDGE SCHAER: 803 is Mr. Howins' testimony?

23 MR. LAVITT: 803 is attached to an exhibit to
24 Mr. Howin's testimony. His direct testimony was -- I
25 actually erred in numbering his direct testimony, so I

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1 should probably amend that to give his testimony a
2 proper exhibit number, so why don't we label that 802.

3 JUDGE SCHAER: That will be T-802. So we
4 have had a proposal that Exhibits 801, T-802, and 803
5 be admitted by stipulation and that any cross-exam of
6 Mr. Howins be waived. Is there any objection to this?
7 Those documents are admitted. Thank you, Mr. Lavitt,
8 for making those arrangements, and now, Mr. Dahlke,
9 would you like to call your next witness.

10 MR. DAHLKE: We call Mr. Thomas Dukich.
11 (Witness sworn.)
12

13 DIRECT EXAMINATION

14 BY MR. DAHLKE:

15 Q. Mr. Dukich, you've sponsored testimony on the
16 behalf of Avista Corporation?

17 A. Yes.

18 Q. You sponsored direct testimony that has been
19 premarked as Exhibit T-306, and with four exhibits,
20 307, 308, 309 and 310, and rebuttal testimony, which
21 was identified as Exhibit T-318, Exhibits 319, 320, and
22 321; is that correct?

23 A. Yes.

24 Q. Do you have any corrections or modifications
25 of that testimony?

00324

1 A. Yes. On Page 13, I just need to make a
2 fairly minor correction.

3 Q. Of which exhibit?

4 A. Exhibit rebuttal which is T-318, Page 13.

5 Q. Go ahead.

6 A. Line 21, right after the word "in exhibit
7 number 319," just cross out "Avista, PSE, Idaho Power,
8 and PacifiCorp"; just cross all that out, and the
9 reason for that correction is there is nine companies
10 listed on that exhibit, and they are listed in the
11 exhibit. They don't need to be listed in the text.

12 Q. With that correction, are the answers
13 contained in your direct and rebuttal testimony true to
14 the best of your knowledge?

15 A. Yes.

16 MR. DAHLKE: Your Honor, we offer Mr. Dukich
17 for cross-examination, and we move the admission of
18 Exhibits T-318, T-306, and then the Exhibits 307
19 through 310 and 319 through 321.

20 JUDGE SCHAER: Are there any objections?
21 That evidence is admitted.

22 I have not received any cross-exhibits for
23 Mr. Dukich. Are there any parties that have cross
24 exhibits for Mr. Dukich? I'm going to ask that we
25 pause for just a moment, and I'm going to see if I can

00325

1 get the Commissioners.

2 (Discussion off the record.)

3 MR. HARRIS: The revised Exhibit 114 is
4 identical to what was with our prefiled exhibits and
5 testimony except it has hand-numbered pages now to the
6 exhibits.

7 JUDGE SCHAER: Commissioners, you will find
8 that in front of you, this document, a new Exhibit 114,
9 which has the page number, so that's just a complete
10 replacement for what you have. You also have in front
11 of you Exhibit 123, which is the Bench request admitted
12 yesterday, and you have a letter from the union
13 attorney indicating that his witness's testimony has
14 been presented by agreement and stipulation of the
15 parties, and then you should have found in your boxes
16 from Friday evening a copy of the other Bench request
17 response, which relates to Mr. Dukich's testimony to
18 some extent. Go ahead please, Mr. Cedarbaum.

19

20

CROSS-EXAMINATION

21 BY MR. CEDARBAUM:

22 Q. You haven't appeared before this Commission
23 or any other Commission as a rate of return witness; is
24 that right?

25 A. Correct.

00326

1 Q. You are not appearing in this case as a rate
2 of return witness; is that right?

3 A. In what sense?

4 Q. In the sense of establishing the rate of
5 return.

6 A. Wall street type?

7 Q. A return on equity or rate of return witness.

8 A. No, not in that sense.

9 Q. On Page 3 of your rebuttal testimony, Exhibit
10 T-318, you discuss past cases of the Commission
11 involving disallowances of the recovery of Company
12 investments, and then at the bottom of the page, you
13 say that the decision of the Commission is a direct
14 financial impact on the financial statements and
15 shareholders irrespective of the rate of return
16 authorized by the Commission for the Company, and that
17 goes on to Page 4; do you see that?

18 A. Yes.

19 Q. Did you review the rate of return analysis
20 that the Commission accepted in those prior cases for
21 this Commission?

22 A. I have reviewed them specifically. Each and
23 everyone of them, no, but I have read them in the past.

24 Q. But in preparation of your testimony in this
25 case, you didn't review those rate of return analyses?

00327

1 A. I did some of them, yes.

2 Q. Which ones?

3 A. I don't recall off the top of my head which
4 ones I looked at. Maybe if I clarified this statement,
5 it would help my answer.

6 Q. Your answer to my question is you don't
7 recall which ones you reviewed?

8 A. No.

9 Q. Sir, you are not aware that in establishing
10 the rate of return in those cases, the Commission
11 looked at a comparable group of companies that included
12 companies that had ongoing construction programs and
13 nuclear exposure?

14 A. I didn't take that as the meaning of your
15 original question when you said, did I look at the rate
16 of return. I don't know if you are talking about
17 return on equity or utility overall rate of return. If
18 you could say which one you are talking about.

19 Q. Return on equity?

20 A. So could you step back to your other
21 questions, please?

22 Q. Did you review the return on equity analysis
23 that the Commission accepted in those prior cases that
24 you reference in your rebuttal testimony?

25 A. My answer would still be yes. I did review

00328

1 some of them.

2 Q. Are you aware that the Commission looked at a
3 group of comparable companies in establishing the
4 return on equity in those cases?

5 A. Yes, I am aware of that.

6 Q. Those companies included companies that had
7 ongoing construction programs and exposure to nuclear
8 facilities?

9 A. Probably the comparable state, I would guess.
10 I can't state that for a fact, but I would guess they
11 did. If I could clarify what I mean by Page 3 when I
12 said rate of return --

13 MR. CEDARBAUM: There is no question pending
14 to you.

15 THE WITNESS: But I didn't say return on
16 equity, just so it's clear. I said rate of return
17 authorized by the Commission, and I meant by overall
18 rate of return. If I meant return on equity, I would
19 have said return on equity.

20 MR. CEDARBAUM: Your Honor, I move that this
21 last statement be stricken from the record. There was
22 no question pending.

23 JUDGE SCHAER: Is there anything that would
24 prejudice you in having that statement in the record,
25 Mr. Cedarbaum?

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1 MR. CEDARBAUM: I think I'm entitled to ask
2 questions, have them answered, and then have it be done
3 with when the answer is given.

4 MR. DAHLKE: I'll take it up on redirect,
5 Your Honor.

6 JUDGE SCHAER: I think this information is in
7 the record right now, and I'm just going to direct this
8 witness, Mr. Dukich, if there is not a question pending
9 before you, you really do need to wait for the next
10 question to be answered.

11 THE WITNESS: I understand that, Your Honor,
12 but if the predicate to the question is incorrect, I
13 think I at least have a right to clarify.

14 JUDGE SCHAER: What I would like you to do is
15 make a note to yourself and speak to Mr. Dahlke so he
16 can handle that on redirect, please.

17 Q. (By Mr. Cedarbaum) If that's going to stay
18 in the record, let me ask this, Mr. Dukich. In
19 establishing an overall rate of return, a very
20 important component of that is the return on equity,
21 isn't it?

22 A. Correct.

23 Q. Turning to Page 9 of your rebuttal testimony,
24 at Line 14, you state the investment recovery provided
25 by the Commission related to WNP-3 was different for

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1 Avista and Puget Sound Energy. Is it correct that with
2 respect to the WNP-3 case for Avista that that was the
3 result of a settlement that was presented to the
4 Commission and accepted?

5 A. Correct.

6 Q. Puget Sound Energy didn't have a settlement
7 with respect to WNP-3?

8 A. I don't know parts of their orders had parts
9 of a settlement in it or not. I don't know.

10 Q. Would you accept that subject to your check?

11 A. Sure.

12 MR. CEDARBAUM: Thank you. Those are all my
13 questions.

14 JUDGE SCHAEER: Mr. Adams, did you have
15 questions for Mr. Dukich?

16 MR. ADAMS: Just a few.

17

18 CROSS-EXAMINATION

19 BY MR. ADAMS:

20 Q. Am I correct that recently Avista filed a
21 cracker with this Commission to increase gas rates?

22 A. Yes.

23 Q. Is it correct that the amount of increase
24 amounted to about five cents per therm above the rates
25 previously in effect?

00331

1 A. I don't recall off the top of my head.

2 Q. I want to clarify that the PGA amount was
3 five cents a therm. Would you accept that subject to
4 check? I can show you the filing, if you like.

5 A. Okay.

6 Q. Turning to a different subject, the
7 reclamation funding for Avista, is there an explicit
8 tariff amount, a tariff item for that reclamation fund
9 in Avista's rates?

10 A. Not that I'm aware of.

11 Q. Is it basically bundled in with fuel costs?

12 A. I believe that's true, yes.

13 MR. ADAMS: Thank you. That's all I have.

14 JUDGE SCHAER: Ms. Davison?

15 MS. DAVISON: Let me look at my notes real
16 fast. I didn't anticipate I'd be up so quickly.

17 JUDGE SCHAER: Take just a few moments.

18 MS. DAVISON: Your Honor, I don't have any
19 questions for this witness.

20 JUDGE SCHAER: Commissioners, do you have any
21 questions for Mr. Dukich?

22 COMMISSIONER HEMSTAD: I don't.

23

24 E X A M I N A T I O N

25 BY CHAIRWOMAN SHOWALTER:

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1 Q. Well, I apologize, Mr. Dukich, because I
2 haven't heard the other testimony this morning, so if I
3 ask you a question, it may be that you are repeating.

4 I'm interested just generally in what theory
5 we apply to gain, if there is any, and what the
6 different factors are when we think about that issue,
7 and I know that one of the points you made in your
8 testimony was that, Well, the Company has incurred some
9 risk negatively in the past, and therefore -- is it a
10 "therefore," or maybe an "also" it's okay that it
11 incurred or get the benefit of some positive risks?

12 A. Right.

13 Q. Would that mean that just, for example, if
14 the Company had not happened to have incurred burdens
15 in the past or written off bad risks, does that mean
16 you wouldn't be entitled to the gain in this instance,
17 or is it in general you feel that the Company has
18 undertaken more risks than perhaps the Staff and Public
19 Counsel position gives you credit for?

20 A. I think the theoretical basis for it -- it's
21 kind of a twofold approach: No. 1, it doesn't seem to
22 be a matter of law, as far as I understand it, who gets
23 gains, so you have to search. It's kind of a balancing
24 of equities, from my rudimentary knowledge of what that
25 means of history, of equity courts versus legal courts

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1 and how that was combined, so questions of equity can
2 be taken up with questions of law.

3 Secondly, the rate of return that the Company
4 has allowed the return on equity, as far as I
5 understand, we're not aware of anyplace where it's a
6 no-gains allowance; in other words, when the return on
7 equity is established for the Company, I don't think
8 there is any presumption that there never can be any
9 gains. There may be notions that there is risk that
10 the Company incurs, but along with that, it seems there
11 should be symmetry when a gain comes along. It doesn't
12 come along very often, but when it does, the gain
13 should be allowed.

14 So if I can use my hands, if you have some
15 sort of variability around some average, it's as though
16 if you lop off all the gains, if you squash the gains
17 down, that changes the whole formula looking at the
18 future. All you are looking at is the down side and
19 never the upside, so if you balance out what risks and
20 rewards are, I think you should at least take a look at
21 the symmetry of what happens over time, which is
22 related to the risk and reward thing. The Company
23 certainly has incurred substantial write-off's over
24 time, and if we had never taken any write-off's, you
25 may come to a different decision, so I do think you

00334

1 need to look at that, and if you look at the Democratic
2 Central Committee, they said in cases where companies
3 had made that decision, where the company had never
4 taken any write-off's, then the gains went to
5 customers, but under their first principle, they said
6 if there were risks and rewards and the Company had
7 incurred some losses, then there should be a balancing.
8 So I think you do need to look at the history, where
9 there have been gains and rewards and what that balance
10 might imply. I'm not sure there is not a nice little
11 formula that does that, but I think it is something the
12 Commission should look at.

13 Q. Does it make any difference where in the life
14 of a plant we stand when a transaction takes place?
15 For example -- this is really hypothetical, but
16 supposing a plant has a 30-year life. At the end of
17 the 30 years, the Company has gotten the return on
18 equity that it expected, but also the consumers, the
19 ratepayers at that point have probably gotten the
20 anticipated benefit that they were going to get as
21 well; that is, they might have paid more up front but
22 less in the out years, all calculated based on an
23 original projection of a 30-year life.

24 Let's just say that now it turns out that
25 because of various circumstances that the plant is

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1 going to have a little bit longer life, maybe another
2 10 years, is everything after that, then, a little bit
3 up for grabs in that everyone has gotten what they
4 thought they were going to get out of the deal, so then
5 you divide it in some proportion?

6 A. I think the Centralia case is a good example.
7 It went into service, as I understand, in 1972. So
8 it's been 28 years. 28 years is not a short period of
9 time. If I was 35, I think I'd be 63 28 years later.
10 It's basically almost a whole generation in that sense,
11 so it's a long time, so I think the benefits that there
12 were and the declining appreciation curb has gone on
13 the upswing. Maybe it's been kind of misleading during
14 this hearing that it's probably bottomed out, so the
15 benefits that there were from owning the plant and
16 operating it, I think the customers have gotten and the
17 Company has gotten return on that, and now there is a
18 lot of reinvestment in the plant. In fact, the curb is
19 not going to be flat anymore. I think the projections
20 in this case are the costs going up, so it isn't as if
21 the plant is being sold at a time when it's at its
22 lowest cost. I think that does come into play. If
23 this had only been in rate base for four years, that's
24 why I think basically it is a balancing of equity and
25 fairness in looking at who benefited, who took what

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1 risks and who didn't, and so the life of the plant, the
2 benefits incurred, the promises made do come into play.

3 Q. You mentioned the plant had only been rate
4 based for four years. How do you think that affects
5 it? Supposing you have a 30-year plant, and you are
6 only four years into it?

7 A. I think you just have to look at whether or
8 not -- I think one of the other issues we haven't
9 discussed is that the premise for some of these plants
10 is based on the avoided cost. When you look at when
11 people went into it, when it was designed, if you look
12 at Mr. Johnson's testimony, I think there were times in
13 1990 when Bonneville was projecting that the price of
14 power in 2000 would be 5.7 cents or 57 mills. Now
15 we're there, and it's half of that. When Centralia or
16 Colstrip was put in or Kettle Falls, there were
17 projected costs to be six or seven cents. We've paid
18 as much for PURPA resources, so you just can't say the
19 Company invested imprudently in those costs and now
20 they are too high compared to what they were. You have
21 to look at what the law was at that time, but I think
22 you have to write it down, and the other point I think
23 that is important is they also need to be somehow
24 present valued, so, for instance, if you take the gain
25 on Centralia today, which may be, I think, 30 million

00337

1 on a system basis and present value it backwards to the
2 year that we took the write-off's in '85 and '86, that
3 gain is probably worth 10 million dollars. Just like
4 we look at the net present value of the plant forward
5 and bring it to the present, I think we need to do that
6 with all the gains and losses we are talking about
7 here, and you can do that with a four-year value of a
8 plant if you wanted to figure out whether customers
9 were getting over a avoided cost or under or at avoided
10 cost or at market or whatever number you wanted to use
11 and throw that into the equation, so I think that's a
12 variable you would look at.

13 Q. When all of the parties have projected
14 forward market costs and Centralia costs, and from
15 those tables, there can be made certain assumptions
16 about ratepayer benefit and cost, but that all assumes
17 that there are ratepayers out there in the year 2018;
18 that is, that the ratepayers would be there to have the
19 benefit of Centralia. How do you take into account or
20 how do you think the Commission should take into
21 account the possibility that in some period of years,
22 whether it's five or seven or ten, that we may have
23 legislatively determined open access in which we don't
24 know how the legislature would address the relative
25 rights of ratepayers and the utilities with stranded

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1 benefits and or stranded costs. How do we take that
2 possibility into account?

3 A. That's a tough question. I'm not sure what
4 this does for our proposal, but I'll just answer the
5 question. I think you need to plan as though they will
6 be there, and if you have some notion that ought to
7 hedge your bets then you need to arrange your portfolio
8 in such a way that you have longer- and shorter-term
9 resources so there is a mix.

10 In general that is true anyway because as you
11 look out for long-term prices, you want a portfolio of
12 long- and short-term resources to hedge your bets on
13 those kinds of issues. It wouldn't be exactly the same
14 issue, but when the time comes to pay the bills, if
15 there are no customers, that is a tough situation.
16 That is basically what you are saying. The utility
17 would be in the same position, so you would to take
18 that into account. I don't think you have any choice
19 but to plan that they will be there, unless you want to
20 stack all your resource mix with the short term on
21 resources, which is kind of what's happened. People
22 have become a lot more short-term than long-term.

23 Q. Supposing the legislature already had passed
24 open access, yet it wasn't going to take effect for
25 three years, but we knew what is was, and we knew that

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1 the ratepayers would be basically on their own and also
2 that there were no provisions for payment, for stranded
3 benefits or stranded costs, simply open access period.

4 A. In a way, that's what TransAlta has done
5 under the presumption that that plant would operate as
6 an EWG. They basically, under the federal guidelines,
7 I think, assume it will be a market plant.

8 Q. Wouldn't that mean from the buyer's point of
9 view or the Company's point view, they will have the
10 resource and there is a market out there, but from the
11 ratepayers point of view, under my hypothetical, the
12 ratepayer would not be getting any benefit from
13 Centralia if it were kept. If we disprove the
14 transaction under that hypothetical at some point in
15 the near future, the ratepayers wouldn't even have
16 access as a right to that facility, and in that
17 hypothetical, it seems to me that it would mean that it
18 would be better to get their benefit now; that is, that
19 we couldn't include in the prospective benefits these
20 out years.

21 I recognize that is a hypothetical, but I'm
22 trying to take into account all of the possibilities
23 that could occur, one of which is a profound change in
24 the very structure of ratepayers' rights, and we don't
25 know what it would be because we don't know what the

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1 legislature will determine if they even will.

2 A. Is that really what's been happening. I
3 think there has been an assumption that the customers
4 always get the gains, many times get the gains, and it
5 has to be an extraordinary circumstances where they
6 don't, but according to my testimony, in a way, the
7 Commission does act as a surrogate for competition, so
8 maybe there ought to be some symmetry, and maybe it
9 ought to be like you're talking about it, maybe if the
10 legislature passes a law, then gains and losses are
11 incurred by the company as the market demands, and
12 maybe that out to be true now. There may not have been
13 this firm notion of gains and losses built in. There
14 are some court cases in Idaho, I think, they use the
15 depreciation method as PacifiCorp talked about the
16 customers getting a portion of the depreciation.

17 This issue in and of itself hasn't been dealt
18 with that clearly because it's not clear who gets those
19 gains and losses, what the theoretical basis is. But
20 if the Commission, in fact, were acting as surrogate
21 for competition all along, it should be just like the
22 open market, and there should be gains and losses.
23 It's as though the legislature did pass the law, but
24 the law was you are regulated and the Commission is a
25 surrogate for competition, and therefore, you bear the

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1 gains and losses in some symmetrical fashion. That's
2 basically what we are saying.

3 CHAIRWOMAN SHOWALTER: Thanks.

4

5 E X A M I N A T I O N

6 BY COMMISSIONER HEMSTAD:

7 Q. I'd like to pursue that discussion a bit.
8 What risk does the Company or the shareholders take on
9 any long-term investment in this regulated environment,
10 other than the risk of a determination of improvements?
11 How do you objectify the risk that isn't already
12 captured in the rate of return?

13 A. If you look at the prior rate orders that we
14 have gotten that occasioned write-off's, I'm not sure
15 that they all said they were imprudent. They skirted
16 around the edges in some way, but in a way, prudence is
17 a surrogate. If there had been competition, this would
18 be out of market, so the word itself implies somehow
19 that it was a mistake or something went wrong, but what
20 it could be is you paid more than what it ought to have
21 been for the market, which is a surrogate for
22 competition again, so I think the risk that the Company
23 takes are exactly that, plus other things that could
24 happen just because of financial burdens somebody
25 decides it ought to be a 50 50 share. To some extent,

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1 WNP-3 was that; that it wasn't as though, unless the
2 entire West Coast wasn't prudent, which it very well
3 may have been, but there was a lot of people involved
4 so it couldn't have been one person made this mistake
5 and a lot of other people didn't, so there was this
6 notion of we ought to share this. It was a risk that
7 just could be called a risk of imprudency, and even if
8 we do take that risk -- their point is if there is an
9 extraordinarily good things that happens, I'm not sure
10 we understand why the Company should be excluded from
11 getting the gain. In other words, if you are
12 imprudent, you lose. If you are extraordinarily
13 imprudent, you don't get the gain. I think prudency is
14 just basically another word for surrogate for
15 competition in a way from the market standpoint.

16 COMMISSIONER HEMSTAD: Thank you.

17

18 E X A M I N A T I O N

19 BY COMMISSIONER GILLIS:

20 Q. I was interested in your comment about the
21 general trend being towards short-run resource
22 acquisitions. I guess you were referring to the
23 private sector decisions?

24 A. No. I think utility planning in and of it
25 self -- you don't see too many long-term plants on the

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1 drawing board, and the ones that are probably combined
2 cycle turbines, which are shorter lead times and
3 shorter lives.

4 Q. What do you see as the implications of that
5 trend for consumers?

6 A. Probably decreasing risk, I suppose, just
7 like the companies are trying to -- since it's harder
8 to predict what the future will be and exactly what the
9 regulatory legal environment will be and the fuel costs
10 like we are talking about here, so there is probably
11 pulling back, and in that sense I guess it protects
12 customers from signing up for a 60-year resource when
13 people aren't as confident of the future as they used
14 to be.

15 Q. Decreasing risk in what sense?

16 A. Maybe the kind of thing we are talking about
17 right now. I don't think it would be hard to imagine
18 that we could be just in the opposite position in this
19 hearing; that maybe we'll be looking at 400 million
20 dollars worth of recovery costs on Centralia, and then
21 the question wouldn't be about the extraordinary gains
22 but the extraordinary losses and whether or not it was
23 prudent and who knew what, when and all that and how we
24 ought to share that, if at all, so I think we maybe
25 avoid those things. We don't take the big gamble for

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1 building thousand-megawatt plants that depend on a
2 40-year life to be cost effective or projections of
3 avoided costs done 20 or 30 years from now.

4 Q. This is a philosophical question, but under
5 the regulated monopoly system where we focus on a
6 portfolio of resources and particularly long-term
7 resources as a goal and that was one of the advantages,
8 and what you were you are suggesting is even though we
9 have not in this state made a decision to market the
10 trends with stuff that we are or we should, and I'm not
11 sure what you are saying, however the industry is,
12 making short money, focusing on short-run portfolio,
13 and I'm curious what you see as the relative merits of
14 that change and what it might have to do with the
15 implications of how the Commission should evaluate this
16 particular decision.

17 A. I may have overstated the case in the sense
18 that our portfolio consists of resources that have
19 60-year lives, so I may have overstated in a sense that
20 if you look at the average -- I would guess the average
21 has gone down, but part of that is driven by the access
22 to short-term products, that there is other places to
23 get it.

24 In terms of the overall implication, I think
25 to the extent that the private market develops those

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1 resources, whether they are turbines or other kinds of
2 options, presumably it plugs that hole, and then they
3 become purchases rather than owned resources.
4 Especially with the shorter lead times now on turbines,
5 I don't know if the danger is as much as it might have
6 been 10 years ago when you were looking at sometimes 10
7 and 10-year planning cycles and now they might be
8 three, so if you look ahead you can do pretty well to
9 build a resource in time, so probably not major. I
10 don't think we perceive it as a huge difficulty because
11 of the lead times, and the Company is pursuing building
12 turbines as we speak for that same reason.

13 Q. I think I didn't quite understand your
14 analogies to the competitive scenario and your argument
15 for symmetry too. It seems to me that under the
16 current monopoly system, you are, as a utility,
17 protected from downside risks because you have the
18 opportunity to earn a specified rate of return, so to
19 some extent, you are in a position where you are
20 protected at least somewhat from the downside, and what
21 you might get from the upside depends. I don't fully
22 understand the direct comparison that you are making,
23 and given that we are not in a competitive environment.
24 We are in a monopoly and have been in a monopoly?

25 A. I think for one thing we aren't really

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1 protected in that sense. The only thing that protects
2 us is there are statutes on financial exigency, as I
3 understand, so we have to be really in horrible shape
4 before we can come in and say, This write-off is cause
5 and need for a rate increase. It has to be pretty
6 severe.

7 Again, if you look at the return on equity
8 witnesses, to my knowledge, I don't think any of
9 them -- I'm not aware of any that have said, This
10 comparable group of companies -- only our analysis is a
11 no-gains analysis. In other words, you can have
12 write-off's -- and we've had -- we've written off since
13 '85, I think in my testimony, 16 percent of our capital
14 additions have been written off, and I don't see that
15 as protection of anything. We weren't protected from
16 that, and I think it's important with regard to
17 Mr. Cedarbaum's question that when the rate of return
18 is reported like in my exhibits, the overall rate of
19 company return excludes right write-off's. The way the
20 financial reporting works is it's always
21 forward-looking, so any impact on the Company, it never
22 shows up in rate of return figures, so if you
23 readjusted those you may, in fact, see what's happening
24 on a return on assets kind of basis, so I think in a
25 way that whole thing is -- I don't want to use the word

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1 rigged, but the numbers come out in such a way that you
2 can't even find out what the impact of a write-off is
3 on a companies return on asset calculation. You have
4 to reconvert it because rates of return are always
5 forward-looking, not backward looking, so I guess I
6 don't feel that we have been that protected. We have
7 almost 100 million dollars worth of write-off's in the
8 last 13 years. As far as I understand, very few
9 regulated gains, if any, so that's my whole point about
10 balancing. I'm not aware that the policy or the law
11 requires that gains should always be excluded, so I'm
12 not arguing that we should not have taken the
13 write-off's. I'm arguing that we should have the
14 opportunity to get a gain once in awhile, and that
15 balances equities, and that also seems to be the
16 presumption in the return on equity calculations, but
17 we don't see the other half of it.

18 Q. But there is a difference between Avista
19 Corporation as a regulated monopoly utility and U.S.
20 Steel or some competitive enterprise where you do have
21 recourse as a monopoly to come and seek financial
22 solutions. If the burden of the write-off is such that
23 it would produce financial harm and U.S. Steel doesn't
24 have that.

25 A. It would have to be financial exigency, which

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1 is a very severe standard, but in agreement with you,
2 that, in fact, happened during WNP-3; that there was a
3 realization that this was a severe enough impact on the
4 Company that it could affect the Company's future
5 survivability at all, but the exigency standards have
6 very infrequently been applied in this jurisdiction.
7 It is very severe. Basically, you have to be on the
8 verge of bankruptcy to get any relief from that. That
9 doesn't provide any practical bail-out, but I'm not
10 saying it isn't fair. It is there, and again, the
11 monopoly status in and of itself shouldn't preclude any
12 gains, and if the Commission truly is a surrogate for
13 competition in a competitive environment, like our
14 nonregulated side, we suffer the gains and losses and
15 enjoy the gains and suffer the losses, and maybe the
16 regulated side ought to be the same.

17 COMMISSIONER GILLIS: Thank you. That's all
18 I have.

19 JUDGE SCHAEER: Mr. Dahlke, is there any
20 redirect for this witness?

21

22 REDIRECT EXAMINATION

23 BY MR. DAHLKE:

24 Q. Perhaps with the questions that the
25 Commissioners asked it's not necessary to ask this

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1 redirect, but I'll ask you at the bottom of Page 3 you
2 have this underlined material irrespective of rate of
3 return authorized by the Commission for the Company.

4 Could you reexplain what you intended by that emphasis?

5 A. Yes. If you look at the following sentence,
6 which says, Regulated rates of return do not reflect
7 the impact of this allowance on book gains, the point
8 of that was, again, that the regulated rates of return
9 exclude any impacts of write-off's. They are forward
10 looking and not backward looking.

11 Q. As a general matter in terms of rate
12 regulation for a monopoly utility, does the method of
13 regulation result in any capping on the upside for the
14 utility of what it can recover in terms of return?

15 A. We get audited, and there is a provision for
16 things to be filed for overearning.

17 MR. DAHLKE: Thank you. That's all I have.

18 JUDGE SCHAER: Is there anything further for
19 this witness?

20

21 RE-CROSS-EXAMINATION

22 BY MR. CEDARBAUM:

23 Q. Mr. Dukich, when I was asking you questions,
24 I believe you agreed with me that when the Commission
25 established return on equity in the prior cases we are

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1 talking about where disallowances were ordered, the
2 Commission looked at a group of comparable companies
3 that included companies that had an exposure to
4 disallowances with respect to nuclear facilities. I
5 think you answered my question yes.

6 A. I presume that there were companies like that
7 in there. I can't say that for a fact, but I presume
8 that's true, yes.

9 Q. Under that assumption, the return on equity
10 that was established then, the analysis included
11 companies that had disallowances with respect to
12 nuclear facilities.

13 A. Could you repeat that again? I'm sorry.

14 Q. I'll strike that.

15 MR. CEDARBAUM: Thank you. That's it.

16 JUDGE SCHAER: Anything else for this
17 witness? Thank you for your testimony, Mr. Dukich.
18 You may step down.

19 Let's go off the record briefly to allow
20 change of witnesses. I believe, Mr. Galloway, that you
21 are going to call Mr. Miller. So Mr. Miller, go ahead
22 and get set up on the witness stand, please, and for
23 any parties to distribute exhibits.

24 MR. ADAMS: Your Honor, we have two exhibits
25 we'd like to recall Mr. Johnson for, and I would like

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1 to speak to Mr. Dahlke before this happens because it
2 is a confidential exhibit. One is the response that
3 the information that Mr. Johnson was requested to
4 produce from last Friday, and the other one is a
5 confidential exhibit, which was provided to us by the
6 Company, but we need to establish ground rules.

7 JUDGE SCHAER: What we'll do, Mr. Adams, is
8 take that up after our recess this morning so you have
9 an opportunity to talk to Mr. Dahlke. At this point, I
10 believe that we would like to keep moving to keep on
11 schedule.

12 (Discussion off the record.)

13 JUDGE SCHAER: Let's be back on the record.
14 Mr. Galloway, did you wish to call your first witness?

15 MR. GALLOWAY: Yes, ma'am. Thank you. Our
16 next witness is C. Alex Miller. I ask that he been
17 sworn at this time.

18 (Witness sworn.)

19

20 DIRECT EXAMINATION

21 BY MR. GALLOWAY:

22 Q. Mr. Miller, please state your full name for
23 the record.

24 A. My name is C. Alex Miller.

25 Q. What is your position with PacifiCorp?

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1 A. I'm a vice president at PacifiCorp.

2 Q. Are you familiar with the document entitled
3 the direct testimony of C. Alex Miller that has been
4 previously marked as Exhibit T-201 in this proceeding?

5 A. Yes, I am.

6 Q. And accompanying that prefiled direct
7 testimony, are there Exhibits No. 202 through 208?

8 A. Yes, there are.

9 Q. Are you familiar with the prefiled rebuttal
10 testimony of C. Alex Miller that has been previously
11 marked as T-215?

12 A. Yes, I am.

13 Q. Are there any corrections you would like to
14 make in either your prefiled or direct or rebuttal
15 testimony at this time?

16 A. No, there are not.

17 Q. And are Exhibits 202 through 208 true and
18 correct to the best of your knowledge?

19 A. Yes, they are.

20 Q. If I were to ask you the questions set forth
21 in Exhibits T-201 and T-215, would your answers be the
22 same as set forth therein?

23 A. Yes.

24 MR. GALLOWAY: Your Honor, at this time, I
25 would like to offer, on behalf of PacifiCorp, Exhibits

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1 T-201 through 208 and Exhibit T-215.

2 JUDGE SCHAER: Are from any objections?

3 Those documents are admitted.

4 MR. GALLOWAY: Thank you, Your Honor,

5 Mr. Miller is available for cross-examination.

6 JUDGE SCHAER: At this point, I would like to
7 mark for identification three documents which were
8 distributed during our brief break. First is entitled
9 Study summary of electric transmission impacts of
10 closing the Centralia Generation Plant, and I've marked
11 this Exhibit 227 for identification. The second is
12 entitled at the top, Public Counsel Data Request
13 No. 62. I have numbered this Exhibit 228 for
14 identification, and the next is headed at the top,
15 Staff Data Request No. 12, and I have numbered this
16 Exhibit 229 for identification.

17 Mr. Cedarbaum, did you have questions of this
18 witness?

19 MR. CEDARBAUM: Yes, I do, Your Honor. Just
20 for clarification before I begin, the numbers you gave
21 the exhibits are fine. I would just point out that
22 I'll be asking questions on 227 and 229. I think 228
23 is Public Counsel's, and also with respect to 227, for
24 the record, a duplicate of this document that we
25 received in a response to a Public Counsel data request

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1 and it was stamped confidential by PacifiCorp. The
2 copy that's in Exhibit 227 is the same document without
3 a confidential stamp, and we got this directly as a
4 record from BPA, so we're going to proceed under the
5 assumption this is not confidential.

6 MR. GALLOWAY: We recognize that it is a
7 public document. It was included in a large bundle of
8 documents which were all the due-diligence materials
9 with respect to the sale which we had contractual
10 obligations to maintain the confidentiality, but this
11 particular document is a Bonneville study and very much
12 in the public domain.

13 MR. CEDARBAUM: I just wanted to make sure I
14 wasn't stepping beyond any confidentiality bounds here.

15 JUDGE SCHAER: I appreciate that sensitivity
16 and also letting us know so if there is a later
17 question, we know that the source was not the Company.

18

19 CROSS-EXAMINATION

20 BY MR. CEDARBAUM:

21 Q. At Page 4 of your rebuttal testimony, T-215,
22 you state at Line 8, If the Commission were to exclude
23 the accruals -- referring to environmental liabilities
24 associated with the mine -- it should only impact the
25 47.5 percent of the mine that is included in

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1 PacifiCorp's rate base.

2 My question is, does that statement assume
3 that the sellers agree to the balance of the estimated
4 mine liability, that being the 52 and a half percent,
5 as being a deduction in the break-even mine sales price
6 calculation?

7 A. Yes.

8 Q. If the sellers don't agree to that
9 assumption, then the exclusion of the estimated mine
10 liability reduces the break-even mine sales price
11 dollar for dollar; is that right?

12 A. That's correct.

13 Q. If could you look at what's been marked for
14 identification a Exhibit 229, do you recognize this as
15 the Company's responses to Staff Data Request No. 12
16 and 24?

17 A. Yes, I do.

18 Q. And these are true and correct to the best of
19 your knowledge and belief?

20 MR. CEDARBAUM: Your Honor, I would offer
21 Exhibit 229.

22 MR. GALLOWAY: No objection.

23 JUDGE SCHAER: That document is admitted.

24 Q. (By Mr. Cedarbaum) If you could look at
25 Staff Data Request No. 24 that's included in Exhibit

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1 229. This document contains additional information
2 about the environmental liabilities, including the
3 effects of exclusion of the liabilities on the plant
4 gain and the mine payment; is that right?

5 A. Yes, it does.

6 Q. Can you just for purposes of clarification
7 explain the columns of figures corresponding to the
8 line for plant gain and mine payment? It's about three
9 quarters of the way down the page?

10 A. You just want to know what those are?

11 Q. If you could just clarify what they are, yes.

12 A. The first column as filed shows the plant
13 gain and the mine payment as we filed in the case.
14 Those include the effects of the environmental
15 liability taken out, the two- and three-million
16 dollars. The way this operates is the mine payment is
17 determined first. Then what is left over after the
18 mine payment from the total purchase prices is what is
19 ascribed to the plant and then from that, of the total
20 purchase prices ascribed to the plant, the gain is
21 calculated, so as you remove liability from the mine,
22 the mine break-even payment goes down, the plant gain
23 goes up.

24 In addition to that, as you remove the
25 environmental liability from the plant, which

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1 essentially reduces our basis in the plant that
2 increases the plant gain, so that's what you see going
3 on across the column, so in the 47-and-a-half percent
4 of mine, environmental liability excluded, a portion of
5 the mine, environmental liability, 47-and-a-half
6 percent has been included, and the third column shows
7 what happens if you remove 100 percent.

8 Q. Staying those numbers, other than the
9 "as-filed" column, the other two scenarios, is it
10 correct that the other seller's share of the price
11 would be increased which increases their respective
12 gain?

13 A. As the mine payment goes down, the amount
14 ascribed to the plant goes up and everybody's gain goes
15 up.

16 Q. I'm done with Exhibit 229 for now. Staying
17 also on Page 4 of your rebuttal testimony at Lines 11
18 through 14, you discuss the Staff recommendation for
19 PacifiCorp to seek an IRS ruling with respect to an
20 excess deferred federal income taxes, and you refer to
21 other utilities' similar requests. Is it correct that
22 the other utilities that you are referencing are
23 Portland General Electric and Puget Sound Energy?

24 A. I don't know off the top of my head. I
25 believe that to be correct.

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1 Q. What other utilities were you referencing?

2 A. I don't just remember which two. On a data
3 request response, we identify two.

4 Q. Will you accept that subject to your check?

5 A. Subject to check, I will accept that.

6 Q. Are you also aware subject to check that
7 Puget Sound Energy has not gone ahead and made that
8 request?

9 A. I don't know that, but I would be willing to
10 accept it subject to check.

11 Q. Did you review PGE's request to the IRS?

12 A. Not personally, no.

13 Q. So you are not familiar with exactly how they
14 stated their request and presented their arguments on
15 this issue?

16 A. No. I'm only familiar with our tax people's
17 recommendations that it's very similar to this case.

18 Q. In your -- I think it was in your direct
19 testimony. I'm not sure you need to look at it, but
20 take the time if you need to, but you have a discussion
21 of the benefits of the transaction. Would you agree
22 that there are benefits to the transaction with respect
23 to Centralia's location on the transmission grid in
24 this area?

25 A. One of the aspects of Centralia is that it is

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1 placed at a specific point in a transition grid which
2 benefits transmission concerns on the west side of the
3 mountains.

4 Q. Did you or anyone at PacifiCorp do analysis
5 that would try to quantify those benefits?

6 A. I did not, no.

7 Q. Referring you to Exhibit 227 for
8 identification, have you seen this document?

9 A. No, I have not.

10 Q. Would you accept subject to your check that
11 it was part of the Company's response to Public Counsel
12 Data Request No. 7?

13 A. Yes, I would.

14 Q. Would you also accept subject to your check
15 that this is a public document presented by BPA which
16 does quantify the value of Centralia's place on the
17 transmission grid?

18 A. I'm sorry; could you say that again, please?

19 Q. Would you accept subject to check that this
20 document is an analysis that BPA performed which
21 quantifies the benefit of Centralia's location on the
22 transmission grid in this region?

23 A. I haven't read this, but the title on the
24 last page says, Budget impacts if the Centralia Plant
25 is closed.

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1 Q. Thank you.

2 MR. CEDARBAUM: Your Honor, I'd offer Exhibit
3 227.

4 JUDGE SCHAER: Any objection?

5 MR. GALLOWAY: I would question the relevancy
6 of this exhibit. As I understand it, the transmission
7 benefits attributable to the Centralia Plant occur when
8 the plant is operating. I think everyone has an
9 expectation that TransAlta is going to operate the
10 plant, and therefore, whatever transmission benefits
11 there are to the grid are unaffected by the sale, and
12 therefore, the quantification of what the costs would
13 be to Bonneville if the plant were not operated has
14 nothing to do with the proposal to sell.

15 MR. CEDARBAUM: Your Honor, there has been
16 testimony from a number of witnesses about losing the
17 value of Centralia to the region with its early
18 closure. This document was an analysis that BPA did to
19 quantify the value to the region of Centralia's
20 location on the transmission grid. I think it's very
21 relevant to the issues that were raised in this case.

22 MR. GALLOWAY: I'm still confused. Is
23 Mr. Cedarbaum suggesting this is evidence of further
24 evidence of why it's a good idea to sell the plant?

25 JUDGE SCHAER: That was my impression; is

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1 that correct, Mr. Cedarbaum?

2 MR. CEDARBAUM: It could be taken that way or
3 it could be taken that the owner, if it's TransAlta, or
4 the owners if the sale doesn't go through can have this
5 representation by BPA as to the value of the facility
6 to the region, and they can approach BPA with whatever
7 actions they see fit to try to extract some value with
8 respect to the plant, and it just seems to me we've
9 talked about the value of this facility going forward
10 or not going forward to the region. This places a
11 quantification of that value.

12 MR. GALLOWAY: I have no objection with that
13 explanation.

14 JUDGE SCHAER: The document is admitted.

15 MR. CEDARBAUM: I have no more questions.

16 Thank you.

17 JUDGE SCHAER: Mr. Adams, did you have
18 questions of this witness?

19 MR. ADAMS: Yes, Your Honor.

20

21 CROSS-EXAMINATION

22 BY MR. ADAMS:

23 Q. Mr. Miller, I just want to give you a
24 reference. I'm not going to ask you specific questions
25 about it, but in your Exhibit T-201, Pages 10 and 11,

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1 you have some discussion concerning the reclamation
2 costs; do you recall that testimony?

3 A. Yes, I do.

4 Q. And then at least one exhibit, I think your
5 Exhibit 206 contains some specifics about reclamation,
6 and I would direct your attention to basically Page 118
7 and 119 in that exhibit.

8 JUDGE SCHAER: Mr. Galloway, looking at these
9 pages of this exhibit, it appears they are all marked
10 confidential, but this was not filed with the
11 Commission as a confidential exhibit and sealed. Is
12 this to be treated as confidential, or is it now a
13 public document?

14 MR. GALLOWAY: This is a public document. It
15 was confidential for purposes of the auction process
16 but lost its confidential status once the bids were
17 included.

18 Q. (By Mr. Adams) Do you have my reference,
19 Pages 118 and 119?

20 A. Yes. It's in the Centralia offering memo?

21 Q. Yes. I just want to ask you a couple of
22 general questions. You've use two terms that I would
23 like you to define for me. One is, "Put in trust," in
24 reference to the reclamation funds, and second of all
25 is, "electing buyers." Could you define those in terms

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1 of this agreement and in terms of the reclamation?

2 A. "Put in trust" means that certain of the
3 owners took funds and put them in a trust fund so there
4 is actual cash sitting in an account, so "put in trust"
5 means having dollars sitting in a separate account like
6 a savings account.

7 Q. Does each one of those owners maintain
8 control over that trust account? In other words, is
9 the money in their bank, or is it in PacifiCorp's bank?

10 A. It's not in PacifiCorp's bank.

11 Q. So they are responsible for keeping those
12 funds in that trust account?

13 A. I believe that's correct.

14 Q. What is an electing owner, buyer?

15 A. I only hesitate because there is a 50 percent
16 chance here. An electing buyer is either one that has
17 elected to put funds in a trust or one who has not. I
18 believe it's one that has elected to put funds in its
19 own trust.

20 Q. For those who do not elect to put it in its
21 own trust, how do they deal with reclamation costs?

22 A. They pay PacifiCorp.

23 Q. In both instances, is there cash?

24 A. No, there is not.

25 Q. Is money paid to PacifiCorp if PacifiCorp is

00364

1 going to keep that reclamation fund?

2 A. That is my understanding, and it is kept as a
3 ledger account, if you will, such that we keep track of
4 the funds but we don't keep the funds separately.

5 Q. And is interest or some other form of value
6 given to that fund?

7 A. Yes.

8 Q. In this particular case, am I correct that
9 PacifiCorp is not an electing buyer?

10 A. That's correct.

11 Q. How about Avista and Puget?

12 A. I don't know for each one of them.

13 Q. A couple of questions I had about -- in
14 looking specifically at Page 119 at the table, there is
15 Table 7F-2. Am I correct this table shows the total
16 operating costs of the Centralia mine for 1993 through
17 '97?

18 A. I believe that to be correct, but I did not
19 prepare this or study this.

20 Q. But this is the mine, not the generating
21 plant; correct?

22 A. Yes.

23 Q. When the various owners make payments to
24 PacifiCorp for the fuel supply, are these the, if you
25 will, the costs that they are covering?

00365

1 A. I believe so.

2 Q. At about the seventh line from the bottom of
3 this chart, there is a line entry on the left side that
4 says, Final reclamation expense; do you see that?

5 A. Yes.

6 Q. Is that the final reclamation cost that you
7 discuss on Page 11 of your testimony, Lines 17 through
8 20.

9 A. There are two types of final reclamation
10 expenses. Some final reclamation expenses are expended
11 currently and some are, in a sense, put away for a
12 final reclamation after pits are closed and sometime in
13 the future.

14 Q. That's perhaps what I'm trying to clarify
15 here. If we'd used the term "current reclamation
16 costs" and those reclamation costs that are sort of
17 ongoing, is that number already in the final
18 reclamation expense? Is that where it's located, or is
19 there another line entry for which you call current
20 reclamation costs?

21 A. I don't know where the line items are. There
22 are several types of reclamation. There is interim
23 reclamation. There is final reclamation, so it's
24 probably beyond my expertise, but there are -- moving
25 of dirt can be accounted for in several different ways,

00366

1 so there is both interim reclamation, which I believe
2 is a pit that's still active and moving dirt around.
3 Final reclamation refers to a pit that has been mined
4 as no longer being mined.

5 Q. Would I be correct that all of those costs,
6 however categorized, would appear in this table; that
7 is, the table on Page 119?

8 A. I believe that to be correct.

9 Q. These costs then presumably are recovered in
10 rates by the various utilities that are purchasing
11 power from Centralia?

12 A. PacifiCorp recovers its share in rates. I
13 don't know about the other companies.

14 Q. Let's look at also Page 118, which is right
15 across the way here, in the table 7F-1. I just want to
16 understand a couple of these numbers. This table that
17 is a table on Page 118, also shows Centralia delivered
18 coal cost for '93 through '97; correct?

19 A. Yes.

20 Q. And to the best of your knowledge, this table
21 is correct?

22 A. Yes.

23 Q. The table shows native coal. You notice up
24 at the top left of the chart, and then partway down
25 towards the bottom, external coal?

00367

1 A. Yes.

2 Q. And I'm gathering native coal comes from the
3 Centralia mine, and the external coal comes from
4 Wyoming?

5 A. You are correct on the native coal, and the
6 external comes from someplace else other than the
7 Centralia mine.

8 Q. And for the figures under native coal on Page
9 118, do they reflect the recovery of both current and
10 final reclamation costs?

11 A. As currently estimated.

12 Q. Looking at 1993 as an example, it shows
13 PacifiCorp price per ton of \$20.89; do you see that?

14 A. Yes.

15 Q. It also shows the price for the owners' group
16 is \$22.91, just about four lines down.

17 A. Correct.

18 Q. Why is the price per ton lower for PacifiCorp
19 than the owners' group?

20 A. Because we are earning a return on our rate
21 base, and we are charging the other owners for a return
22 on our fixed capital that's employed.

23 Q. But am I correct that the reclamation costs
24 are the same for both PacifiCorp and the other?

25 A. Yes. And they reflect an earlier estimate of

00368

1 reclamation expenses or required reclamation expenses.

2 Q. If you look over at Page 119, 1993, can you
3 explain why the total operating costs for 1993 shown
4 there is lower than the delivered cost for PacifiCorp
5 and the owners' group as shown on Page 118. At the
6 very bottom, you will see \$20.63.

7 A. I don't know.

8 Q. I want to leave this exhibit but stick with
9 the reclamation issue, and that is, under the proposed
10 sale agreement to TransAlta, is there any -- and I mean
11 the word "any" in its literal sense -- liability that
12 it stays with the current owners if that sale goes
13 through?

14 A. Yes.

15 Q. Would you please explain what that liability
16 is?

17 A. That liability is that TransAlta for some
18 reason cannot fulfill its obligation to reclaim the
19 mine, and that somehow that that falls back on
20 PacifiCorp as a previous owner.

21 Q. Would that risk be only to PacifiCorp, or
22 would that be to all of the owners?

23 A. It would fall first to PacifiCorp.

24 Q. Because you are the owner of the mine?

25 A. That's correct, and the permanent holder.

00369

1 Q. Do you have agreements between the respective
2 owners that would allow PacifiCorp to seek recovery
3 from the other owners?

4 A. Yes, we do.

5 Q. And this risk would not be known, basically,
6 until some final closure to the mine occurs; is that
7 correct?

8 A. That's correct.

9 Q. So if for some reason it was closed down five
10 years from now, it would occur then. If it were 30
11 years from now, it would be 30 years from now?

12 A. That's correct.

13 Q. Is TransAlta bound to put any set amount of
14 funds aside as the new owner of the plant for
15 reclamation?

16 MR. GALLOWAY: Objection, Your Honor. Does
17 the question go for the contract or the regulatory
18 requirements?

19 MR. ADAMS: I would restrict the question as
20 going to the contract.

21 THE WITNESS: No.

22 Q. (By Mr. Adams) So it can decide whether it
23 wants to fund or not fund that issue on its own.

24 MR. GALLOWAY: Same objection.

25 MR. ADAMS: The same, if you will, target of

00370

1 the question; that is, relating to the contract.

2 THE WITNESS: As long as they are following
3 the laws and regulations, they can do it as they want.
4 Our contract does not bound them.

5 Q. Am I correct that the mine and the generating
6 plant are being purchased by separate subsidiaries of
7 TransAlta?

8 A. Yes.

9 Q. Do you know if that's for liability reasons?

10 A. I don't know their reasons.

11 Q. Neither the generating plant or the mine are
12 being held by the parent; is that correct?

13 A. That's correct. There is a parent guarantee.

14 Q. I want to move to a different area,
15 Mr. Miller. I want to ask you a few questions about
16 the bids, and I will make the recommendation to counsel
17 that I'm going to try to keep these quite general so
18 that we do not get into confidentiality issues. Do you
19 have before you what has been marked for identification
20 228?

21 A. Yes, I do.

22 Q. You've described the bid process in your
23 testimony, and I'm correct, am I not, that after sort
24 of an initial determination of interest, it came down
25 to a small number of final bids; is that correct?

00371

1 A. I would hesitate on your defining it as a
2 "small number."

3 Q. I'm trying to be as general as possible.

4 A. Yes. There was a short list developed which
5 included a subset of those that provided indicative
6 interests.

7 Q. We'll call it a short list. The bidders had
8 the option of submitting both conforming and
9 nonconforming bids; is that correct?

10 A. Yes.

11 Q. Because I understand from your testimony that
12 the bid that was actually accepted from TransAlta was a
13 nonconforming bid?

14 A. That's correct.

15 Q. On Friday, Mr. Ely testified that there was a
16 higher bid submitted as one of the finalists, but it
17 was also a nonconforming bid.

18 MR. GALLOWAY: Your Honor, I object. The
19 witness wasn't here; had no idea what the substance of
20 the testimony was.

21 JUDGE SCHAER: Mr. Adams, can you ask the
22 question just simply, Was there another bid; was it
23 nonconforming? I don't think you need to characterize
24 what another witness's testimony was. This witness may
25 not have heard. Go ahead.

00372

1 Q. (By Mr. Adams) Am I correct that one of the
2 short list included a nonconforming bid from another
3 party that at least on a cash basis was a higher bid
4 than what was accepted?

5 A. No.

6 Q. Not on a cash basis?

7 A. No. You can show higher dollars. That
8 doesn't mean that it's a higher bid.

9 MR. GALLOWAY: Your Honor, I think we're at a
10 point that I would consider highly sensitive and would
11 wish that we proceed on a confidential basis if there
12 is further inquiry in this area.

13 JUDGE SCHAER: We are going to take our
14 morning recess at 10:30. We could take that now. I
15 would like the two of you to figure out how you can get
16 the information you need into the record.

17 MR. ADAMS: Your Honor, that would be fine,
18 but I'll tell you, I'm just about through with the
19 question; although, I was a little surprised by the
20 answer so I may need to ask a couple of questions.

21 JUDGE SCHAER: Why don't we take our morning
22 recess now and come back at 20 till, and I believe,
23 Mr. Adams, during the recess, you have conversations to
24 have with both Mr. Galloway and Mr. Dahlke.

25 MR. ADAMS: That's correct, Your Honor.

00373

1 (Recess.)

2 JUDGE SCHAER: Mr. Adams, you were checking
3 on a couple of items. Do you want to give us a brief
4 update?

5 MR. ADAMS: I believe Mr. Galloway and I have
6 cleared a question and answer which will serve for our
7 respective purposes and still keep things confident, so
8 I think we can avoid getting into anymore sensitive
9 issues on the bids.

10 On the water power issue -- perhaps we could
11 address it right after lunch -- we have talked with the
12 Company on two exhibits; one of which is very
13 confidential, and we need to deal with it -- I don't
14 know if the word is top secret or whatever the label
15 is, but there is a sensitivity amongst utilities on
16 this issue, and we would propose that it be entered
17 such that only certain parties could see the document.
18 There would be no reference to the substance of the
19 document, as I understand it, here on the public
20 record.

21 JUDGE SCHAER: Let's continue with your
22 questions for Mr. Miller.

23 MR. GALLOWAY: Your Honor, may I make a
24 statement on this confidentiality. It is certainly the
25 case that Mr. Adams and I have solved our near-term

00374

1 challenge, but I am troubled by the overall tenor of
2 how these issues are being dealt with. There is
3 certainly, as I understand it, an insinuation, at least
4 from the questions, that somehow the companies did not
5 behave prudently in respect to the bid that they
6 accepted. That's not really Mr. Lazar's testimony, and
7 if that impression is being left, I think the
8 applicants would prefer, in fact, to go into
9 confidentiality session and at least generically
10 discuss that, if indeed, Public Counsel is intending to
11 make that point or some variation of it.

12 Heretofore, we are just having these feints
13 on various issues without really driving them to any
14 ultimate conclusion, and I think we could manage it in
15 a confidential session, and if it's important to the
16 Commission to be comfortable that we did the right
17 thing, I think that's how we should proceed.

18 JUDGE SCHAER: Let me indicate to you,
19 Mr. Galloway, that what my goal is, to the extent we
20 can do it without damaging the record the parties need
21 to make, is to keep this hearing public and open, so I
22 have asked parties, not just in these hearings, but I
23 think this was discussed at the prehearing conference,
24 and it's something that we even discussed, I believe,
25 in our procedural rules to try to come up with

00375

1 confidential exhibits where they can refer to certain
2 lines or columns and get the information they need into
3 the record without having to close a hearing, because
4 Commission places a high value on having an open
5 process here.

6 I have not picked up any inference such as
7 you were suggesting. In my directions to counsel, I
8 have been seeking to find a way that Mr. Adams can get
9 the information he feels needs to be in this record in
10 this record without prejudicing any of the applicants
11 or causing us to have to seal part of this record, and
12 I don't think we've reached a point now -- really, it's
13 his baby right now. If he feels there is something he
14 has to ask and can't do it another way, he can do that,
15 but I don't view any kind of taint or hidden inference
16 that your client has not been fully cooperative because
17 I think they have. We are trying to be very careful in
18 what we do.

19 MR. GALLOWAY: Thank, Your Honor.

20 JUDGE SCHAER: Go ahead, Mr. Adams.

21 Q. (By Mr. Adams) I think there was sort of a
22 question pending before the break, and let me rephrase
23 the question. Is it correct that the owners considered
24 and rejected a bid of higher nominal value at the
25 Seattle meeting?

00376

1 A. There was another bid that on its face had a
2 dollar figure that was higher than the accepted bid,
3 but other economic terms and conditions that were
4 surrounding that bid made it such that it was not the
5 highest value bid.

6 Q. Would you turn to Exhibit 228, please, for
7 identification 228?

8 A. Yes.

9 Q. Do you see that consists of Public Counsel
10 Data Request 62, 63, and 64. I've stapled them all
11 together in a bundle.

12 A. Yes.

13 Q. Are these responses true and correct to the
14 best of your knowledge?

15 A. Yes, they are.

16 MR. ADAMS: I'd move the admission of Exhibit
17 228.

18 JUDGE SCHAER: Any objection? That document
19 is admitted.

20 MR. ADAMS: That concludes our questioning at
21 this time, but I do want to at least indicate that we
22 have requested the board presentations which the
23 Company has -- I think they barely got back from
24 Wyoming so they have not had an opportunity to provide
25 it yet, but the request was for by this evening. We

00377

1 have not seen that material, and I would just sort of
2 want to reserve the opportunity to address that issue
3 if we get a response and see there is anything relevant
4 to the proceeding.

5 MR. GALLOWAY: I have been sort of
6 anecdotally aware of Mr. Adams; interest in those
7 documents. To my knowledge, we have not received a
8 formal request for them. That's not a problem, but the
9 reason they haven't been delivered, at least as far as
10 I know, is that they haven't been actually requested,
11 unless we've missed something on the way between here
12 and Wyoming.

13 MR. ADAMS: I think you missed it on the fly,
14 because they were faxed to your office and Mr. Wright's
15 office.

16 JUDGE SCHAER: I think you can deal with this
17 off the record, and only if there is some problem that
18 erupts with something not being obtained do I think the
19 Bench needs to hear anything about it. You've
20 concluded your question?

21 MR. ADAMS: Yes, Your Honor.

22 JUDGE SCHAER: Ms. Hirsh, did you have
23 questions for this witness.

24 MS. HIRSH: Yes, I do.

25

CROSS-EXAMINATION

1

2 BY MS. HIRSH:

3

4 Q. In your testimony, Page 23, Lines 10 and 11,
5 am I to interpret that this sentence says, the plant is
6 expected to produce about four million megawatt hours
7 annually, PacifiCorp will balance its load with market
8 purchases; is that correct?

8

A. Yes.

9

10 Q. Am I to interpret these two sentences to mean
11 that PacifiCorp has already agreed to purchase power
12 back from TECWA?

12

13 A. No. It was merely a way of pointing out how
14 much it's producing today. How we are going to replace
15 the power has not yet been determined. There was also
16 some significant uncertainty surrounding replacing the
17 power because of the pending sale of our California
18 service territory and the effects of SP-1149 in Oregon.

18

19 Q. How do you expect to make the decision to
20 replace the power?

20

21 A. I would expect our loads and resources to be
22 reviewed pending outcome of some of these issues and
23 looking forward to when the deal could or would close
24 and for our power groups to propose and get decision
25 from senior management on those.

25

Q. If I could -- Your Honor, I'm not going to be

00379

1 here tomorrow. If I could ask a question relating to
2 Dr. Weaver's testimony, and if Mr. Miller cannot answer
3 the question, that's fine, but it might be a general
4 enough question that he could do it. In Dr. Weaver's
5 testimony on Page 4, Line 20, I can read it to you.

6 JUDGE SCHAER: Do you have a copy of that you
7 can make available to the witness, Mr. Galloway?

8 MR. GALLOWAY: I do. Is this the direct
9 testimony?

10 MS. HIRSH: I think it's T-209.

11 Q. (By Ms. Hirsh) It says, In addition,
12 continued ownership could be impacted by potential CO2
13 taxes, potential increased forced outage rates, and
14 higher maintenance costs for an older facility. Are
15 you at that spot?

16 A. Yes.

17 Q. Would future market purchases be subject to
18 CO2 taxes potentially?

19 A. Can you ask that once more just so I'm clear?

20 Q. I was just asking, it says that continued
21 ownership could be subject to potential future CO2
22 taxes, and I was asking whether future market purchases
23 would be subject to the same future taxes?

24 A. Said another way, if CO2 taxes are imposed,
25 purchase power could have those costs included.

00380

1 Q. And do you know if the risk of potential
2 future CO2 taxes was factored into the cost of power in
3 the replacement scenarios presented in Dr. Weaver's
4 testimony?

5 A. I'm going to say I don't believe so. There
6 is no, I believe, specific CO2 dollars added in the
7 base cases.

8 Q. Now, switching back to your rebuttal
9 testimony, Exhibit T-215, Page 3, Lines 20 through 23,
10 I believe PacifiCorp is proposing to keep some of the
11 proceeds to pay for future costs associated with an
12 existing liability, which is the contaminated soil
13 issue proposed here; is that correct?

14 A. I don't believe so, and I say that because
15 I'm not sure of your question. This is not relating to
16 contaminated soils. This is relating to potential
17 determinations of environmental costs relating to
18 conditions that exist prior to closing but which are
19 not found until after closing.

20 Q. Then the sentence before that starts on Line
21 18 does not apply to the sentence that starts on Line
22 20?

23 A. Soil contamination is a part of that.

24 Q. Would it be reasonable for PacifiCorp to use
25 some of the sale proceeds to address future risk of

00381

1 environmental regulation relating to carbon dioxide
2 emissions or further tightening of clean air standards
3 by investing those dollars and resources that reduce
4 that risk?

5 A. Could you stay first part again? Would it be
6 reasonable --

7 Q. Would it be reasonable -- PacifiCorp is
8 reserving some of the net proceeds for a liability that
9 it has relating to this project, to this plant --

10 A. Yes.

11 Q. -- and I'm wondering whether potential future
12 liabilities, if you see them coming in forecasts then,
13 would it be reasonable to take some of the proceeds
14 from the sale also that you are going to use for past
15 liability -- well, this says future costs -- for
16 potential other future costs related to other
17 environmental regulations?

18 A. I don't think so. The analogy is not exactly
19 correct because these dollars are reserved for already
20 existing conditions, so it's not for future costs.
21 It's for pre-existing conditions that are determined or
22 found out in the future.

23 MS. HIRSH: No further questions.

24 JUDGE SCHAER: Commissioners, did you have
25 questions for Mr. Miller?

00382

1 EXAMINATION

2 BY COMMISSIONER HEMSTAD:

3 Q. I'm interested in the amount of going-forward
4 risk that is possibly a problem for ratepayers in the
5 future from the reclamation issue. I believe you said
6 there is a parent guarantee. Would you describe that?

7 A. Yes. At the time of the purchase, it was
8 clear that TransAlta was going to purchase the plants
9 to subsidiaries in this case, which is not an uncommon
10 practice. We required as an owners' group that we
11 wanted them to have solid financial backing. We did
12 not want to use a subsidiary in anyway to avoid that
13 whole backing of TransAlta, so we required that the
14 parent guarantee the obligations of the subsidiaries.

15 So I think that means, if I can jump ahead,
16 that TransAlta's parent corporation is on the hook for
17 anything that goes on with our two subsidiaries here,
18 including the reclamation liability.

19 Q. I believe in response to a question from
20 Mr. Adams, you indicated that TransAlta was buying
21 through two separate subsidiaries in order to deal with
22 some of those liability questions; is that a fair
23 statement?

24 A. That is correct. One is buying the mine and
25 one is buying the plant.

00383

1 Q. How did you determine how many dollars would
2 ultimately go into the trust fund to the future
3 responsibility of the current owners for the 15-year
4 period of your liability?

5 A. Our environmental people reviewed recent
6 studies and evaluations of both the plant and the mine,
7 and that refers to specific sorts of environmental,
8 potential remediation concerns, and based upon their
9 judgment and their evaluations determined that the two
10 and three million dollars was appropriate.

11 Q. How will you determine the responsibility for
12 future liabilities during that 15-year period as a
13 result of the projected operation of the buyer? In
14 other words, there is a 15-year period in which the
15 current owners have a responsibility, as I understand
16 it, but you are now a new buyer that will be operating
17 the plant and the mine. How do you differentiate
18 between what they will be doing and the liabilities
19 arising from that in this 15-year period?

20 A. TransAlta must show that it was a
21 pre-existing condition.

22 Q. Are you comfortable that's an easy
23 differentiation?

24 A. I'm not comfortable at all it's an easy
25 determination. I think it's a very difficult

00384

1 determination and one that would likely be argued and
2 potentially litigated at the time.

3 Q. On Page 2 of your rebuttal testimony, there
4 is a reference there to a recently filed -- I'm at the
5 beginning of Line 10 through Line 14 -- the recently
6 filed lawsuit challenging the constitutionality of the
7 tax concessions related to the plant and the mine that
8 are tied to scrubber installation. Is that a
9 Washington state lawsuit?

10 A. Yes, it is.

11 Q. Who is the plaintiff in that proceeding?

12 A. The lawsuit was brought by Kenicott,
13 Burlington Northern, and one other mine, and I believe
14 it's the attorney general of the state of Washington;
15 although, I'm not exactly sure who they've sued to
16 challenge the constitutionality of the law.

17 Q. So it's the competing coal interests?

18 A. And the railroads, yes, and they've done this
19 across the country and have been somewhat successful as
20 well, from my understanding.

21 Q. More broadly, I'm interested in the theory of
22 the case that Pacific is posing here with how the gain
23 should be distributed. This really pursues the
24 questioning that Chairwoman Showalter pursued with
25 Mr. Dukich. Would you sketch out for us broadly

00385

1 Pacific's theory as to why the gain here should be
2 shared?

3 A. I'd be happy to take a general shot at it.
4 Our next witnesses, Mr. Wright, is specifically
5 addressing that issue, but basically, we are proposing
6 a method whereby the gain is split based on the amount
7 of depreciation that has occurred on the plant so far,
8 so that the theory is customers have paid for the
9 depreciation in return of capital, of a portion of the
10 plans. Those dollars are no longer at risk, so the
11 undepreciated portion is the portion that the Company
12 faces risk on, and that is the percentages of
13 depreciated, undepreciated, or remaining to be
14 depreciated that we're using to split the gain.

15 Q. Has Pacific had in front of this Commission
16 or in front of the Oregon Commission in the past asset
17 sales where the issue of gains has been presented?

18 A. I don't know of any. Specifically, with
19 PacifiCorp and recent gains in other jurisdictions, we
20 have presented the same proposal, and at least two
21 jurisdictions -- at least one has approved and one has
22 indicated approval of the depreciation reserve method,
23 so on Friday, the Wyoming Commission approved the
24 depreciation-reserving method, and Idaho has also
25 indicated support.

00386

1 COMMISSIONER HEMSTAD: That's all I have.

2

3

E X A M I N A T I O N

4 BY JUDGE SCHAER:

5 Q. Mr. Miller, I'd like you to look first at
6 Page 20 of your direct testimony Line 14, please. At
7 this point, you are describing the difference between
8 the conforming bid and the nonconforming bid offered by
9 TECWA, and beginning at Line 15 under A, you list the
10 three major differences between those, and the first
11 you list is that TransAlta did not purchase the stock
12 of CMC, only its assets; is that correct?

13 A. That's correct.

14 Q. Is CMC going to continue as a corporation
15 after the sale?

16 A. I think until it gets dissolved, the only
17 thing it will have is the stock. It will no longer
18 have any assets or operations.

19 Q. Is that a separate corporation from
20 PacifiCorp?

21 A. It's a subsidiary of PacifiCorp.

22 Q. The reason I'm asking this question and the
23 reason I'm somewhat concerned by the statement is that
24 in my limited experience in this area in dealing with
25 solid waste companies, it has been the case that they

00387

1 have been taking the assets of the company but not its
2 stock in order to try to avoid future liabilities,
3 particular super-fund liabilities for solid waste
4 dumps. Is that parts of what's going on here also? Is
5 that going to leave a situation where they will not
6 have the liabilities of CMC?

7 A. No, it will not.

8 Q. Why not?

9 A. Because they have specifically agreed to take
10 on all those liabilities. Their concern was that there
11 was something associated with the stock that they
12 didn't understand, but they are going to take all of
13 the liabilities associated with the assets. We were
14 unconcerned because we knew the only thing that the
15 stock related to was the assets of the Centralia mine.

16 Q. So you have a written agreement from the
17 buyer that all of those liabilities will be covered?

18 A. They are taking the mine, and they will get
19 the mine permit in their name and all those liabilities
20 transfer to the new owner.

21 Q. And then in a future scenario, if something
22 should happen to the mine, would PacifiCorp still be
23 liable and under a super-fund theory because you are in
24 the chain of owners where this site has come out of?

25 A. My understanding is that the law associated

00388

1 with mines is different than that for super-fund sites.
2 Today, the law does not permit going back to previous
3 owners for mine reclamation.

4 Q. So that is the basis of your statement that
5 ratepayers will not face any liability in this area in
6 the future.

7 A. My statement was that they have taken on all
8 of these liabilities. There is always the potential
9 for changes in the law. If you have visited Centralia,
10 there are very large holes in the ground associated
11 with the mine. We would not expect the state of
12 Washington ultimately to allow those holes to go
13 unfilled, and therefore, we do believe there is some
14 potential secondary liability associated with those
15 reclamation liabilities, even though current law states
16 that we cannot be affected back through chain in time.

17 Q. Looking at your rebuttal testimony, Exhibit
18 215, at Page 8, Lines 15 and 16, you state that
19 PacifiCorp's proposal effectively caps the customer
20 borne monetary risk associated with existing
21 environmental liabilities. Could you just expand on
22 that for me on any potential risks that would remain?
23 Would those just be the risks to the Company and not to
24 the shareholder because of this statement, or what
25 would that mean?

00389

1 A. I'm sorry, I didn't find your site.

2 Q. I'm sorry. I'm looking at this is Page 3 of
3 your rebuttal testimony, Lines 15 and 16.

4 A. The environmental liabilities associated with
5 the plant are separate and apart from the reclamation
6 liabilities, so these are a traditional environmental
7 liabilities, such as fuel spills and other things that
8 can occur at basically any industrial facility. What
9 we are saying here is that if our gain sharing proposal
10 is accepted, and we are allowed to deduct these amounts
11 from the calculation of the gain, then we would not
12 look back to ratepayers in the future if preexisting
13 conditions are determined and found and work there way
14 through and come back to PacifiCorp.

15 If those amounts are not included in the
16 calculation of the gain, preexisting conditions are
17 determined, then we would come back to seek recovery
18 from customers, so essentially, if the two and three
19 million are deducted, then it's shareholder
20 responsibility going forward. It's part of our whole
21 gain sharing proposal. If not and we're not reserving
22 in any sense for those potential liabilities in the
23 future, then we wouldn't come back and look to
24 customers.

25 Q. This again is just environmental liability

00390

1 and not reclamation liability; is that correct?

2 A. That is correct.

3 Q. Next I'd like to you look at your Exhibit
4 208, please?

5 A. Could you tell me what that is?

6 Q. Exhibit 208 is CAM-7. Looking at CAM-7, Line
7 14, please. Looking at this page on Line 14, there is
8 an amount indicated for fuel stock inventory. Is this
9 the fair market price value price using the methodology
10 agreed upon in the nonconforming bid?

11 A. Yes.

12 Q. Looking at Line 63 of this same page, there
13 is an amount of 8 million 464 thousand 656 dollars for
14 book value of fuel and oil inventory. Would you accept
15 subject to check that after removing 72 thousand
16 dollars for oil costs, the remaining book value of the
17 coal inventory is 8 million 392 thousand 656 dollars?

18 A. Yes, I would.

19 Q. So is it your position, based on your
20 exhibit, that the fair market value of the coal
21 inventory is less than the book value?

22 A. Fair market value as agreed to be determined
23 in a sale is less than the book value, yes.

24 Q. You stated in your earlier testimony that the
25 accepted nonconforming bid was a better deal for the

00391

1 Company than the conforming bid; is that correct?

2 A. I stated it was a better value bid for all
3 parties, including customers.

4 Q. Do you believe that this treatment of the
5 coal costs, is that part of that for all value?

6 A. Yes. It was one of the three components
7 required to get the additional 67-million-dollar bid.

8 JUDGE SCHAER: Any redirect for this witness?

9 MR. GALLOWAY: There is.

10 JUDGE SCHAER: Actually, one moment,
11 Mr. Galloway. We wish to enter the response to Bench
12 Request 9 into the record. Should that be done through
13 this witness or through another Company witness?

14 MR. GALLOWAY: Could you describe what it is?

15 JUDGE SCHAER: The Bench requests sought
16 power supply model that PacifiCorp was using.

17 MR. GALLOWAY: That would be Dr. Weaver.

18

19 REDIRECT EXAMINATION

20 BY MR. GALLOWAY:

21 Q. Mr. Miller, I want to make sure that the
22 record is crystal clear as to the difference between
23 what you refer to as environmental liability associated
24 with the mine and reclamation liability and how that is
25 going to be handled. As I understand your testimony,

00392

1 environmental liability as it relates to both the plant
2 and the mine has to do with soil and water
3 contaminating that may have occurred while the plant
4 and mine were in the hands of the current owners.

5 A. That's correct.

6 Q. And the current owners through the sale
7 agreement have agreed that for the next 15 years that
8 if TransAlta can demonstrate that some soil or water
9 contamination resulted from their ownership that they
10 would be obligated to pay that amount.

11 A. There are ownership reflecting the current
12 owners, yes.

13 Q. But that TransAlta would bear the burden of
14 proof to demonstrate that this contamination was
15 preexisting.

16 A. That's correct.

17 Q. And the reserves that have been talked about
18 for the plant mine are reserves that PacifiCorp
19 proposes to book as a contingency against these sorts
20 of claim for preexisting liability.

21 A. That is correct.

22 Q. And if these reserves are permitted and if
23 PacifiCorp is permitted to retain one third of the gain
24 from the sale as it's proposed, PacifiCorp would hold
25 customers harmless against any such environmental

00393

1 liabilities.

2 A. That's correct.

3 Q. You separately testified in respect to the
4 reclamation liability associated with the mine; do you
5 recall that?

6 A. Yes.

7 Q. And there has been no reserve in the
8 transaction accounting for that sort of secondary
9 liability for reclamation; is that correct?

10 A. That is correct, there has been no reserve.

11 Q. You testified that under current law,
12 PacifiCorp does not believe that that secondary
13 liability exists.

14 A. That is correct.

15 Q. Has PacifiCorp made a determination in the
16 event that the secondary liability arose and the law
17 was changed or somehow the liability was visited upon
18 PacifiCorp, how it would treat that matter for
19 regulatory purposes, for ratemaking purposes is what I
20 mean?

21 A. No.

22 Q. I believe in response to a question you
23 responded that the owners were contractually
24 responsible to PacifiCorp in respect to that secondary
25 reclamation liability?

00394

1 A. Yes, for their portion of the mine.

2 Q. 52-and-a-half percent?

3 A. That's correct.

4 Q. And the balance would have to be borne in
5 some manner by PacifiCorp?

6 A. That's correct.

7 Q. In the event that this Commission required
8 all of the proceeds from the gain to be allocated to
9 customers, or if this Commission did not permit the
10 reserves to be maintained for the environmental
11 liability, would PacifiCorp wish to revisit the issue
12 of the responsibility for those environmental
13 liabilities were they to arise?

14 A. Yes.

15 Q. You were asked by Mr. Cedarbaum about the
16 transmission benefits associated with the Centralia
17 plant?

18 A. Yes, I was.

19 Q. Is it your understanding that those
20 transmission benefits accrue when the plant is
21 operating?

22 A. Yes.

23 Q. Do you have an expectation that TransAlta
24 will operate the plant?

25 A. That is my understanding.

00395

1 Q. Switching subjects, the matter of these trust
2 funds that have been established by electing buyers
3 with respect to reclamation liability, I believe you
4 responded to Mr. Adams that the electing buyers were
5 free to do what they wished with those funds; do you
6 recall that?

7 A. Yes, I do.

8 Q. Was that entirely accurate?

9 A. They are free to do what they want with those
10 funds as long as they follow the terms of the trust
11 agreements that have been established.

12 Q. Is PacifiCorp a party to those trust
13 agreements?

14 A. That is my understanding.

15 Q. It's the purpose of those trust agreements to
16 make sure the funds are applied to reclamation?

17 A. Yes.

18 Q. You were asked about some potential CO2 tax
19 associated with any purchase power that might replace
20 the output of Centralia; do you recall that?

21 A. Yes.

22 Q. Do different types of generation produce
23 different levels of CO2, as far as you are aware?

24 A. That's my understanding.

25 Q. And do coal plants produce the highest level

00396

1 of CO2 emissions?

2 A. I believe that to be correct.

3 Q. So is it fair to conclude that it's only if
4 PacifiCorp bought its replacement power purely from
5 coal generation sources that the exposure would be
6 equivalent to the continued ownership of Centralia?

7 A. Assuming that the plants were essentially
8 identical, yes.

9 Q. But if, for example, the acquisition was made
10 from a portfolio of resources that included some
11 natural gas plants, the CO2 exposure would be lower?

12 A. Yes.

13 Q. You were asked by the Administrative Law
14 Judge about the nonconforming bid from TransAlta that
15 provided for valuing the coal inventory at market.

16 A. Yes.

17 Q. Is it your understanding that the economic
18 associated with that adjustment are less than two
19 million dollars?

20 A. Yes, they are.

21 Q. And on the matter of nonconforming bids, you
22 testified, I believe, that parties were permitted to
23 make nonconforming bids. Is that entirely accurate?

24 A. They were allowed to make nonconforming bids.
25 We did specify that they would be discouraged.

00397

1 Q. No withstanding that warning, were
2 nonconforming bids received?

3 A. Yes.

4 Q. Were the majority of the final bids received
5 nonconforming in some manner or another?

6 A. Yes, and, as a matter of fact, we received
7 one non bid that was extremely nonconforming or away
8 from the conforming aspects of the requirement.

9 Q. And my final question is, you've indicated
10 that on Friday, the Wyoming Commission had adopted the
11 depreciation reserve method for sharing gain; do you
12 recall that?

13 A. Yes, I do.

14 Q. What did they adopt that policy in respect
15 to?

16 A. The Centralia sale.

17 Q. Same transaction that is before this
18 Commission.

19 A. That's correct.

20 Q. And was that like your proposal to have a
21 two-thirds one-third sharing of gain between customers
22 and shareholders respectively?

23 A. Yes, the same percentage that was proposed
24 here.

25 MR. GALLOWAY: Thank you. I have nothing

00398

1 further.

2 JUDGE SCHAER: Is anything further for this
3 witness?

4 MR. ADAMS: I have just a very quick
5 question.

6

7

RECROSS-EXAMINATION

8 BY MR. ADAMS:

9 Q. In your reference to Exhibit 208, which I
10 think characterized the flow sheet which showed how the
11 gain would be calculated, I want to ask you about a
12 point raised in prefile testimony raised by staff
13 witness in Utah, because it sounds like there is
14 agreement between the Utah staff and PacifiCorp on this
15 point. This is in relation to the computation shown on
16 208. This is by Rebecca Wilson: "Our audit found an
17 error that understated the gross amount of the gain by
18 about 3.1 million. We understand PacifiCorp concurs
19 with our finding." Is that a correct statement?

20 A. Yes, it is. This gain calculation will be
21 trued-up and audited at the end of the transaction or
22 shortly after we close. The results of that will be
23 used to calculate a final gain based on how the sharing
24 decision comes out from the various commissions. Our
25 partners in the plant are as interested in anyone else

00399

1 in auditing these final results, so I expect by the
2 time we get to the end, there will be no further
3 errors.

4 Q. As it relates to that specific 3.1 million
5 dollars, could you tell me which line entry that would
6 affect?

7 A. I cannot. We can get that for you.

8 MR. ADAMS: That's all.

9 JUDGE SCHAER: Anything further for this
10 witness? Thank you for your testimony, Mr. Miller.
11 You may step down. Let's go off the record briefly to
12 change witnesses.

13 (Discussion off the record.)

14 JUDGE SCHAER: Let's be back on the record.

15 MR. GALLOWAY: Mr. Wright, you need to be
16 sworn.

17 (Witness sworn.)

18

19 DIRECT EXAMINATION

20 BY MR. GALLOWAY:

21 MR. GALLOWAY: Clarification should indicate
22 that Mr. Wright is appearing in place of and adopting
23 the testimony of Anne Eakin, who filed direct testimony
24 in this matter. Mr. Wright filed rebuttal testimony in
25 his own name, which contains the traditional background

00400

1 information that witnesses provide in such testimony,
2 so it was not my intent to go through that again unless
3 it is desired, and we will, in the course of
4 introducing the testimony, strike from Ms. Eakin's
5 testimony the portions associated with her.

6 Q. Mr. Wright, please state your full name.

7 A. My name is Matthew R. Wright.

8 Q. What is your position with PacifiCorp?

9 A. I'm the vice president of regulation of
10 PacifiCorp.

11 Q. Are you familiar with the prefiled direct
12 testimony submitted previously by Anne Eakin and
13 adopted by you, which has been identified as Exhibit
14 T-213?

15 A. I am.

16 Q. Is there an Exhibit 214 accompanying that
17 testimony?

18 A. There is.

19 Q. Are you familiar with prefiled rebuttal
20 testimony of Matthew Wright, which has been previously
21 identified at T-226?

22 A. I am.

23 Q. Are there any changes you would like to make
24 in the prefiled direct testimony?

25 A. The only change I would seek to make would be

00401

1 with respect to the biographical information as it
2 relates to Ms. Eakin, and I would seek to strike that
3 and replace it with my own information as contained in
4 my rebuttal testimony.

5 Q. Except for that change, if I were to ask you
6 the questions set forth in your direct testimony T-213
7 and your rebuttal testimony Exhibit T-226, would your
8 answers be the same as set forth therein?

9 A. They would.

10 Q. Is Exhibit 214 true and correct to the best
11 of your knowledge?

12 A. It is.

13 MR. GALLOWAY: Your Honor, at this time I
14 would offer Exhibits T-213, 214 and T-226.

15 JUDGE SCHAER: Mr. Galloway, I would like you
16 to indicate what pages and lines we should strike
17 information from before we do that, please.

18 Q. (By Mr. Galloway) Mr. Wright, are you able
19 to read from to the record those pages and lines
20 associated with Ms. Eakin's biographical information?

21 A. Yes. I would seek to strike in the direct
22 testimony of Anne Eakin, T-213, Page 1, Lines 6 through
23 18.

24 JUDGE SCHAER: It appears that perhaps on
25 Line 3 we should put your name, sir; is that correct?

00402

1 THE WITNESS: Indeed.

2 JUDGE SCHAER: Any objection to the admission
3 of these documents? They are admitted.

4 MR. GALLOWAY: Mr. Wright is available nor
5 cross-examination.

6 JUDGE SCHAER: Mr. Cedarbaum, did you have
7 questions of Mr. Wright?

8 MR. CEDARBAUM: I have a few.

9

10 CROSS-EXAMINATION

11 BY MR. CEDARBAUM:

12 Q. If we could start off on Page 4 of your
13 rebuttal testimony, T-226. At Line 11 through 13 you
14 state, During the time between the initial capital
15 investment is incurred and when the investment is used
16 and useful and recognized in rate base, shareholders
17 are not compensated for their cost of money. Isn't it
18 correct that PacifiCorp is allowed to accrue AFUDC or
19 an allowance for funds used during construction when
20 it's building a power plant or any new facility?

21 A. I believe that's the case.

22 Q. And AFUDC is recognized by Pacific on its
23 income statement; is that right?

24 A. I don't know personally, but I believe that
25 that is correct, yes.

00403

1 Q. On Page 9 of your rebuttal testimony, Lines 8
2 through 10, you indicate that one of the three things
3 the Company is requesting from the Commission is to
4 authorize PacifiCorp to write off generation related to
5 regulatory assets in the amount of the customer's
6 portion of the net gain immediately reducing the
7 Company's rate base, and then you also state farther
8 down that the proposal is to write off the Yampa
9 acquisition associated with the acquisition of the
10 Colorado-ute generation plants; do you see that?

11 A. Yes, I do.

12 MR. CEDARBAUM: Your Honor, I think when we
13 were off the record and coming back on the record, I
14 had asked to have marked for identification as Exhibit
15 230 a document. I'm not sure if that's been done or
16 not on the record.

17 JUDGE SCHAER: That hasn't been done on the
18 record, and what I'd like to do at this point is mark
19 the response to Bench Request No. 9 as Exhibit 230, and
20 then treat the document you distributed as Exhibit 231
21 for identification. Exhibit 231 for identification is
22 a document with a Commission service date of January
23 15th, 1992 in Docket No. UE-911186, stating order
24 granting petition is amended. Go ahead, please.

25 Q. (By Mr. Cedarbaum) Mr. Wright, referring you

00404

1 to Exhibit 231 for identification, have you ever seen
2 this document?

3 A. No, I haven't.

4 Q. Would you accept subject to your check that
5 this is an order of the Commission authorizing
6 PacifiCorp to record the acquisition costs of
7 Colorado-ute generating resources on its books of
8 accounts?

9 A. Yes Colorado-ute.

10 MR. CEDARBAUM: Your Honor, I would offer
11 into the record Exhibit 231.

12 MR. GALLOWAY: No objection.

13 JUDGE SCHAER: That document is admitted.

14 Q. Mr. Wright, there is nothing in the Company's
15 case in this proceeding regarding the prudence or the
16 merits of the Colorado-ute acquisition; is that right?

17 A. That's correct.

18 MR. CEDARBAUM: Those are all my questions.

19 JUDGE SCHAER: Did you have questions?

20 MR. ADAMS: No questions.

21 MS. HIRSH: No questions.

22 JUDGE SCHAER: Mr. Lavitt? No questions.

23 JUDGE SCHAER: Ms. Davison?

24

25

CROSS-EXAMINATION

00405

1 BY MS. DAVISON:

2 Q. Good morning. I'm Melinda Davison, and I'm
3 counsel for the Industrial Customers of Northwest
4 Utilities. Is it your testimony that PacifiCorp has
5 structured this bid and sale in a way to maximize the
6 price of the Centralia facilities?

7 A. I believe that the Company conducted a very
8 professional and well-run auction process that was
9 designed to extract the maximum bid from the bidders.

10 Q. At the time that that process was conducted,
11 and actually, sitting here today, you have no idea how
12 the various commissions will treat the gain associated
13 with this sale; is that correct?

14 A. No.

15 Q. You do know how this Commission will treat
16 the treatment of this gain?

17 A. I believe you said any other Commission.

18 Q. Let me break it up into pieces. At the time
19 that the sale was conducted and the bid was collected,
20 PacifiCorp did not know how the gain would be treated
21 by any jurisdiction; is that correct?

22 A. That is correct.

23 Q. We did hear testimony today about how the
24 Wyoming Commission will be treating the gain of this
25 sale; correct?

00406

1 A. We did indeed.

2 Q. But you do not know how the Oregon Commission
3 or the Washington Commission or the Utah Commission
4 will be treating the gain; correct?

5 A. Correct.

6 Q. I was curious about your statement on your
7 rebuttal testimony, which is Exhibit T-226, Page 4,
8 Lines 21 through 22, and if I understand you correctly,
9 you are stating that the depreciation reserve
10 methodology is one in which it will encourage the
11 Company to maximize the sale price, and my question for
12 you is, with that acceptance of that methodology,
13 apparently you have already maximized the sale price;
14 is that correct?

15 A. I believe this is in reference to other
16 transactions. One of the reasons why we support the
17 depreciation reserve methodology, and it is just one of
18 them, is that we believe in providing companies with
19 the stake in outcomes. If you have a process that
20 awards 100 percent of the gain to customers, then
21 arguably, the Company has no incentive to seek the best
22 price for auctions on a going-forward basis. It's
23 simply cut out of the whole process.

24 Q. Further up on that same Page 4, Lines 6
25 through 7, you state that because Centralia is a

00407

1 relatively old facility, the method results and a
2 substantial majority of the gain go to customers; do
3 you see that sentence?

4 A. Yes, I do.

5 Q. So if Centralia happened to be a power plant
6 that had been in rate base only for a few years and had
7 very low power costs associated with it, PacifiCorp
8 turned around, found a buyer for that facility, and it
9 turned out that the numbers were that and it was only
10 five percent depreciated, would it be PacifiCorp's
11 position that 90 percent of the gain should go to
12 PacifiCorp in that circumstance?

13 A. We're proposing it to be depreciation reserve
14 methodology in this case, I think if there were another
15 case with those circumstances, we would have to look at
16 it. I would simply point out that I understood a great
17 deal of testimony in this case was to the effect that
18 power is more expensive in the early part of ownership
19 or when it goes into rate base, so I would imagine that
20 the circumstances that you describe are probably
21 unlikely in as much as there wouldn't be particularly
22 low-cost power. If that were the case, the majority
23 benefit would go to the consumers from the sale, so all
24 of that is taken to mean that I'm not proposing that
25 every single case is treated as the Centralia sale.

00408

1 It's a methodology that we believe is appropriate in
2 this which case because it shares rewards and risks.

3 Q. Turning to Page 9 of your rebuttal testimony,
4 Mr. Wright, on Lines 4 through 10, you list what you're
5 requesting the Commission to do. Specifically, on Line
6 25, you state you are asking the Commission to approve
7 the methodology for calculation of the net gain. Did
8 the Wyoming Commission approve the methodology for the
9 calculation of the net gain?

10 A. Yes.

11 Q. Isn't it true that the Wyoming Commission did
12 not approve the methodology for the net gain because
13 there was a tax true-up that occurred, based on
14 Mr. Bush's testimony in Oregon?

15 A. I believe that the parties agreed to take
16 that issue effectively off line and discuss it, but in
17 principle, the Company didn't object to the tax
18 true-up. It was wholly dependent on the method by
19 which the gain would be returned to customers.

20 The Wyoming Commission favored for what it's
21 worth, a rate credit to customers, and therefore, there
22 would be a tax true-up that arose as a result of that,
23 but I think in principle it is true to say that the
24 calculation of the gain as described in Mr. Miller's
25 testimony, they did accept.

00409

1 Q. But if I just understood your answer
2 correctly, there will be a tax true-up in Wyoming.

3 A. Yes.

4 Q. Moving on to Lines 8 through 10, isn't it
5 correct that the Wyoming Commission did not accept that
6 proposal either; that is, the proposal to write off
7 generation assets?

8 A. That's correct.

9 MR. GALLOWAY: Your Honor, may I clarify the
10 record? There is an "either" thrown into the first
11 time the question was asked, which I think suggests
12 that there was some other matter that the Commission
13 didn't approve, which I think is contrary to
14 Mr. Wright's testimony, and she restated the question,
15 and I didn't know which version is the official one.

16 MS. DAVISON: It's my understanding that the
17 Commission did not -- as I just established with this
18 witness that the Wyoming Commission did not accept
19 PacifiCorp's proposal as filed; that during the course
20 of the hearing, there was an agreement to change the
21 calculation of the net gain based on the tax true-up,
22 and so that was the basis on which I made that
23 statement. I think the record is pretty clear on that
24 now.

25 MR. GALLOWAY: I think the record is muddled

00410

1 because I think the summary that was just made is
2 inconsistent with Mr. Wright's testimony, so perhaps if
3 he could restate his testimony so it's clear.

4 JUDGE SCHAER: Mr. Galloway, I think that I
5 will allow you to explore this with him on redirect.
6 Do you have further questions for the witness?

7 MS. DAVISON: One more.

8 Q. (By Ms. Davison) Mr. Cedarbaum asked you a
9 question earlier regarding the write-off of the Yampa
10 acquisition. Is there any evidence in this record as
11 to exactly PacifiCorp's proposal on the write-off of
12 the Yampa acquisition?

13 A. I believe there is.

14 Q. Could you point me to that?

15 A. In my rebuttal testimony, we identify the
16 Yampa projects as the regulatory assets that we have
17 previously in Ms. Eakin's testimony that I have now
18 adopted. We described what we seek to do is use the
19 customer portion of the net proceeds of the sale to
20 write off generation related regulatory assets by
21 reducing the Company's rate base. The purpose of the
22 rebuttal testimony was to divide those regulatory
23 assets up, so I think taken together, that describes
24 what our process would be.

25 Q. So other than your testimony that's contained

00411

1 on Page 9 of your rebuttal testimony, Lines 12 through
2 17, there is no other evidence in this record regarding
3 the Yampa acquisition write-off; is that correct?

4 A. I'm not sure I fully understand. Evidence
5 such as what?

6 Q. Is there any other testimony, any documents,
7 any work papers, any numbers associated with that that
8 you are aware that has been submitted in the testimony
9 in this proceeding?

10 A. There may well have been in discovery. I'm
11 not familiar with every discovery request that's been
12 asked. I think it's extremely likely that one of the
13 parties did ask about that adjustment, but I would have
14 to check discovery requests.

15 MS. DAVISON: Thank you.

16 JUDGE SCHAER: I think we should break now
17 for our lunch recess and plan to be back here at 1:15.
18 At that point, there are some items, Mr. Adams, that
19 you were bringing up that we will deal with, and then
20 we will continue with the Commissioner questions for
21 this witness.

22

23 (Lunch recess taken at 11:45 a.m.)

24

25

00412

1 AFTERNOON SESSION

2 (1:20 p.m.)

3 JUDGE SCHAER: At this time, Mr. Adams, you
4 had a couple of items you wished to address?

5 MR. ADAMS: Yes, Your Honor. First off, I
6 guess I hadn't had an opportunity with Mr. Dahlke to
7 discuss how the confidential exhibit would be retained
8 as top secret. Could we go off the record for just one
9 second?

10 JUDGE SCHAER: Certainly.

11 (Discussion off the record.)

12 JUDGE SCHAER: During the time we were off
13 the record, we discussed treatment of certain materials
14 which we have designated as super confidential because
15 they are materials that must be kept confidential even
16 from certain of Avista's commercial partners who are
17 parties to this proceeding, and so I've marked for
18 identification as Confidential Exhibit 507 a multipage
19 document which states at the top, Avista Contract
20 No. E-99-00774, and consists of five pages, and it's my
21 understanding, Mr. Adams, that you are offering it and
22 that all counsel have agreed to its admission; is that
23 correct?

24 MR. ADAMS: That's correct.

25 JUDGE SCHAER: Would you please indicate, Mr.

00413

1 Adams, which party's counsel may view this document?

2 MR. ADAMS: Counsel, obviously, from Avista,
3 from the Staff, from the Energy Coalition, and myself,
4 Public Counsel, are the four parties, plus the Bench
5 and the Commission.

6 JUDGE SCHAER: Is there anything in
7 particular you wish to draw anyone's attention to in
8 this exhibit?

9 MR. ADAMS: No, Your Honor.

10 JUDGE SCHAER: I'm going to ask you at this
11 point to present the next item, which I believe
12 involves recalling Mr. Johnson to the stand.

13 Mr. Dahlke, would you like to call your witness?

14 MR. DAHLKE: We would recall Mr. Johnson to
15 the stand at this time.

16 JUDGE SCHAER: Mr. Johnson, I would want to
17 remind you that you are under oath in this proceeding.
18 Go ahead, Mr. Adams.

19 MR. ADAMS: I'm distributing right now to the
20 parties a two-page document entitled, Centralia Plant
21 Replacement Power.

22 JUDGE SCHAER: I'm going to mark for
23 identification as Exhibit -- what would be the next
24 number in the 300 series, Mr. Dahlke?

25 MR. ADAMS: We show 330 as being the last

00414

1 one.

2 MR. HARRIS: I think 331 was Bench Request
3 No. 1 for Avista.

4 JUDGE SCHAER: Thank you, Mr. Harris. I'm
5 going to mark for identification a Exhibit 332 a
6 document entitled at the top, Centralia Plant
7 Replacement Power that appears to be a two-page
8 document. Go ahead, Mr. Adams.

9

10 RECALL ON CROSS-EXAMINATION

11 BY MR. ADAMS:

12 Q. You may call last Friday you had indicated
13 you had done some new numbers that updated numbers in
14 your Exhibit 304, but you had not printed them out?

15 MR. DAHLKE: I'll introduce an objection at
16 this point, and the question again gets at kind of the
17 heart of our issue, which is whether we were updating
18 the exhibit we had filed. My recollection is where we
19 left it Friday was that Mr. Johnson had certain
20 information which was on his computer which was not a
21 part of the exhibit that we had submitted and not an
22 update to the exhibit, in our view, and for that reason
23 was not responded to in the data request, so I'd prefer
24 the question be asked just in terms of whether this is
25 the information that he said he had available, which

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1 was not previously put into the record last week.

2 MR. ADAMS: I have no problem with that
3 characterization, so I will stay away from the word
4 "update."

5 JUDGE SCHAER: Mr. Johnson, can you answer
6 the question as restated by your counsel, please?

7 THE WITNESS: I'd like to hear the question
8 again.

9 Q. (By Mr. Adams) Would you characterize what
10 has been marked as Exhibit 332 as a sensitivity
11 analysis to your Exhibit 304 that's in the record?

12 A. That would be a fair characterization.

13 Q. Is that based on the most current information
14 you have on power costs?

15 A. It's based on the November 1st, '99, forecast
16 that I presented in an earlier data request.

17 Q. Just to avoid confusion, this is not the
18 Aurora Model; is that correct?

19 A. No, this is not the Aurora Model. This is an
20 internal forecast.

21 Q. Looking at what's been marked Exhibit 332, am
22 I correct that the moving from left to right, you have
23 the date, then low market and medium market. Do you
24 see the medium market with the top number over 1999 of
25 \$23.07?

00416

1 A. Yes.

2 Q. Am I correct that those numbers in that
3 column are contained in your Exhibit 304?

4 A. That's correct.

5 Q. And the next column over marked 11/1/1999
6 forecast, these are the new numbers that you have just
7 run?

8 A. That's correct.

9 Q. And those new numbers, do they correspond to
10 a medium market scenario?

11 A. No. They correspond to the November 1st, '99
12 forecast.

13 Q. Now, moving just to the right of that, the
14 far right has got a column entitled Centralia versus
15 market and you will see that there is two scenarios,
16 2001 through 2010, and then under that 2002 through
17 2020. Am I correct that that 2002 should be 2001?

18 A. That's correct.

19 Q. So you basically have a 10- and 20-year run?

20 A. That's correct.

21 Q. Then looking at the far right column that is
22 entitled, "Centralia versus market," the upper number,
23 the 5.9 million dollars is the 10-year present value;
24 is that correct?

25 A. That's the 10-year present value of the cost

00417

1 of Centralia versus market replacement.

2 Q. The number right under that, the negative
3 25.4 million, that's the 20-year present value for that
4 same scenario?

5 A. That's correct.

6 Q. Is the 25.4-million-dollar present value
7 number, the negative number, the equivalent of the 7.7
8 million dollars that you cite in your testimony at
9 Exhibit T-303, Page 4?

10 A. It's computed mathematically equivalent, but
11 I'm not saying it's the equivalent analysis.

12 Q. But it's the same mathematical analysis?

13 A. That's correct.

14 MR. ADAMS: Thank you. That's all we have,
15 and I would move the admission of Exhibit 332.

16 JUDGE SCHAER: Any objection?

17 MR. DAHLKE: No objection.

18 JUDGE SCHAER: Anything further for
19 Mr. Johnson? You may step down.

20 MR. ADAMS: Would you like me now to pick up
21 the confidential exhibit and then seal it and give it
22 back to the parties?

23 JUDGE SCHAER: Yes. Let's go off the record
24 for a moment.

25 (Discussion off the record.)

00418

1 JUDGE SCHAER: Commissioners, did you have
2 questions of Mr. Wright? Mr. Wright has resumed the
3 stand.

4 CHAIRWOMAN SHOWALTER: I think I have some
5 questions.

6

7

E X A M I N A T I O N

8 BY CHAIRWOMAN SHOWALTER:

9 Q. Reading what was Ms. Eakin's testimony and is
10 also yours, I think, I gather that PacifiCorp sees that
11 there can be different positions on this issue of how
12 to allocate the gain, and it seems to me that in
13 reading the testimony, you are now looking on the one
14 hand, some people might say that if once the Company
15 gets its return of equity and inequity, that's it and
16 that's sufficient, and not only is it sufficient, but
17 anything more is too much, and therefore, the
18 ratepayers get everything.

19 On the other hand, there is a theory that the
20 Company is the owner of the plant and takes some risks,
21 but that in any event, there may be extraordinary
22 burdens or benefits that weren't anticipated, and when
23 you get in that arena, some kind of allocation is
24 possible to the companies; and that PacifiCorp's own
25 recommendation, you say in Ms. Eakin's testimony is a

00419

1 compromise of those two, but then you go on to say that
2 your method is using this depreciation reserve, and I
3 think when I first read, Well, this is a compromise, it
4 seems simple that and no more, or one might say balance
5 of two positions, but then you introduce the
6 depreciation reserve methodology, so my question is, is
7 that because the depreciation methodology happens to be
8 a convenient compromise point between these two
9 theories, or is there a theory that underlies the use
10 of the depreciation reserve itself, and if it's the
11 latter, why isn't that simply the theory as opposed to
12 something being a compromise between two other peoples'
13 theories?

14 A. I think it's true to say that the
15 depreciation reserve method is, to some extent, a
16 compromise between two theories, and I think it has
17 that attraction, ultimately. I believe very strongly
18 that there needs to be a balancing of risk and reward,
19 and given the particular circumstances of this plant,
20 the depreciation reserve methodology does result in an
21 allocation with two-thirds going to customers and a
22 third to shareholders.

23 I don't know that the theory is hugely
24 technical in as much as is it exactly 64 percent of the
25 risk that has been discharged and exactly 36 percent of

00420

1 the risk outstanding for shareholders. I think it does
2 reflect the fact that on day one of a new investment
3 before the asset is concluded in rate base,
4 shareholders basically show the 100 percent of the risk
5 they take, and they always bear the ownership risk. As
6 you move through time that risk is discharged through
7 payments through the rate base, but they always bear
8 the risk of keeping the plants open, of making
9 additional investments, and I think the scrubbers is a
10 good example in this case, so there is always a risk
11 associated with get that plant to the end of life. If
12 you are at the end of the life, if it's a day before
13 the plant is to close, clearly there is very little
14 risk left in that plant, and even if something untoward
15 came along at that stage, you would simply close the
16 plant down and everyone would walk away, and you would
17 have a strong argument there that the company and
18 shareholders are being made whole, so much as I would
19 like, I don't think it's possible for me to tie 64
20 percent of the risk discharged for the customers and 36
21 to shareholders, but I think I do think it represents a
22 balance and a shift in the risk over time in
23 investment, and I do think it represents a fair
24 compromise in this case.

25 Q. A couple of questions then, let's say it's

00421

1 early in the life of the plant, so only two years have
2 gone by. I think you might have been asked that
3 question earlier, and I think you said you are not
4 particularly urging this methodology for other cases,
5 but how does the depreciation methodology work in a
6 case where the plant has not been owned very long?

7 A. In that case, if it was strictly applied,
8 upon telling a 20-year life, let's say, eight percent
9 of the depreciation would have been covered in those
10 two years, which result in 8 percent to customers and
11 92 percent to shareholders. At that stage, arguably,
12 customers had not been paid much of the capital
13 invested in that plant, but the risk was still there
14 very much for the company, and that would be the
15 outcome. I'm not proposing, necessarily, that that
16 would be our position in such a case, but just to
17 answer the question, that strictly would be the
18 interpretation.

19 Q. In that particular hypothetical, if during
20 those first two years the ratepayers had paid a higher
21 share of their overall costs because there were
22 up-front distribution of costs of the plant relative to
23 its benefits, does did that change the equation?

24 A. I'm not sure I totally follow.

25 Q. This might not be strictly true

00422

1 mathematically, but in essence, if in the first two
2 years the ratepayers had paid more than 8 percent of
3 the responsibility, even though it had only been only 8
4 percent of the time of the life of the plant, does that
5 change your analysis?

6 A. You would certainly have to look at that on
7 the particular merits of that case.

8 Q. Likewise, let's go to the end of the 20
9 years. Each side has gotten whatever it is they
10 thought they were going to get at the beginning of the
11 20 years in terms of return or paying the rates.
12 Supposing there is some kind of windfall or something
13 unexpected, is that something then that should be
14 divided among the ratepayers and the shareholders, or
15 is that kind of risk a reward, the very kind that the
16 ratepayers are entitled to because -- I'll let you fill
17 in the "because," but I guess on the other hand that
18 the shareholders did get the return they were looking
19 for.

20 A. I think if you just close the door on the
21 plant and everybody walked away, I think there would be
22 a persuasive argument. If you sell the plant, if the
23 plants is still worth something, it's fully depreciated
24 but you sell the plant, new risks arise. Clearly, if
25 the plant is worth something, its useful life is not

00423

1 the same as its depreciable life.

2 There is still an option that you could keep
3 it for the benefit of customers. If it's being sold,
4 risks arise as a result of that sale process in exactly
5 the same way as we've seen in this case. There are
6 ongoing risks associated with environmental costs or
7 reclamation costs coming to revisit the previously
8 owners. I think if there is an argument that could be
9 made that the plant could be left in rate base
10 effectively for the benefit of customers, then there is
11 an argument about replacement power costs, so I think
12 all of those things may come as part of that case as
13 well, so in its simplest form, it's if you close the
14 door and walk away. If you sell anything, there is a
15 risk and reward involved.

16 Q. I'm following you when you say if you close
17 the door at that moment, everything worked out as
18 planned, but if you don't close the door at that
19 moment.

20 A. If you don't close the door and you
21 subsequently sell the plant and it's worth something,
22 you have to looking look at the risk and reward
23 associated with that sale.

24 Q. And then are you suggesting that there are
25 risks and rewards that arise as time goes on that

00424

1 either weren't anticipated at the outset when the plant
2 was first built or shouldn't be taken into account, or
3 weren't already taken into account when the plant was
4 built and a rate of return was awarded?

5 A. Correct, because it wouldn't have been
6 anticipated at the time the plant is sold at the end of
7 it's depreciable life, so that could very well be the
8 case, yes.

9 CHAIRWOMAN SHOWALTER: I think that's my
10 questions.

11

12 E X A M I N A T I O N

13 BY COMMISSIONER HEMSTAD:

14 Q. I have just one clarifying inquiry. I
15 believe in answer to a question to Mr. Miller, you
16 indicated that Wyoming and Idaho had made their
17 decision here, and you want to reference only Wyoming.
18 What has Idaho done?

19 A. The situation in Idaho is that the decision
20 is uncontested, opposition is uncontested. Staff were
21 the only intervenor in the case that recommended our
22 approval of methodology, so it's currently with the
23 Commission for decision, but it's uncontested. In
24 Wyoming, we did get a Bench decision last Friday
25 approving the Company's approach.

00425

1 COMMISSIONER HEMSTAD: Thank you. That's all
2 I have.

3

4

E X A M I N A T I O N

5 BY JUDGE SCHAER:

6 Q. Mr. Wright, do you have any thoughts about
7 whether and how a customer's shareholder sharing
8 mechanism, such as the depreciation reserve method you
9 have proposed in this case, might be applied to
10 nondepreciable assets or specifically to power
11 contracts?

12 A. Clearly, it wouldn't work.

13 Q. It wouldn't work as a depreciation reserve,
14 but is there some part of the theory in terms of how
15 much time something has been paid by ratepayers and how
16 much time remains on a contract that you think might be
17 analyzed in a similar way, or is it something you have
18 thought about?

19 A. I must admit I haven't given that a great
20 deal of thought.

21 Q. Is it your position that sharing the gain on
22 sale between ratepayers and shareholders is fair
23 because ratepayers and shareholders have shared in the
24 risks and benefits of the Centralia plant?

25 A. Yes, I think it's fair that -- shareholders

00426

1 and ratepayers have shared risks historically, and I
2 think they continue to share risk associated to its
3 investment, so I think it's appropriate both from a
4 historical perspective and on a going-forward
5 perspective.

6 Q. Would your position change if Centralia could
7 only be sold at a loss instead of a gain?

8 A. Not necessarily. I think we recognize in my
9 rebuttal testimony that a decision in this case isn't
10 necessarily precedential for any other case, but if
11 circumstances were very similar and we were looking at
12 a loss, it would be a stretch for me that it shouldn't
13 apply equally to the other side of things. I think
14 we've recognized that.

15 Q. How would allocating all the gain on sale to
16 ratepayers affect your utility's decision to sell a
17 power plant?

18 A. A power plant or this power plant?

19 Q. A power plant. Say the Commission were to
20 decide in this proceeding that 100 percent of the
21 benefit went to ratepayers, and next week, we're
22 considering selling another power plant for whatever
23 reasons. How would that affect your analysis or your
24 decisions?

25 A. I can only talk in general terms because

00427

1 clearly we're not thinking of selling any of the
2 plants, but I think it would act as a huge disincentive
3 for us to even think about it.

4 This case is not about trying to reward
5 shareholders with super return. It's about trying to
6 minimize risk for all parties, for ratepayers and for
7 shareholders going forward. This case ultimately
8 reduces risk for everybody. In a separate case, if it
9 was part of restructuring or some other form of
10 diversment, I think a decision that doesn't allow the
11 Company's stake in the outcomes provides no incentive
12 at all for us to sell plant and would reduce risk for
13 customers, so I think it would impact our decision
14 elsewhere.

15 Q. Would it affect your utility's motivation to
16 capture full value for a plant if you did decide to
17 sell it?

18 A. That's difficult to say. I think it may do.
19 I think it would act as a disincentive, but I can't say
20 that that means we would take the first bid that comes
21 along; clearly, we wouldn't. We would run a
22 professional process, but as I say, I believe in giving
23 people a stake in outcomes. I think you get a better
24 result.

25 Q. The final step in this hypothetical, suppose

00428

1 the plant is above market and could only be sold for a
2 loss. Do any of your answers change?

3 A. So it's stranded investment? .

4 Q. Yes.

5 A. So the question is, would this methodology
6 apply to stranded costs?

7 Q. To some extent. Going through the questions
8 we just went through, if we had a situation where today
9 100 percent of the gain went to ratepayers, tomorrow
10 you are selling a different plant, and you are selling
11 a plant that is above market and it has to be sold for
12 a loss, how would that decision in this case impact
13 your decision on the next sale, if at all?

14 A. A decision with a 100 percent of the gain
15 going to ratepayers is consistent with the Company
16 bearing no risk whatsoever, either historically or
17 going forward. That would have to be consistent with
18 the Company bearing no risk of any investment, such as
19 a stranded investment; therefore, stranded costs would
20 have to be fully rewarded to the Company. That's the
21 quid pro quo of that particular scenario.

22 JUDGE SCHAER: Any redirect for this witness?

23 MR. GALLOWAY: There is.

24

25

REDIRECT EXAMINATION

00429

1 BY MR. GALLOWAY:

2 Q. You were provided a hypothetical on two
3 occasions with respect to a plant that was only five
4 percent depreciated and talked a little bit about the
5 consequences of that, and you went on to suggest that
6 each of these plant sales needs to be considered on its
7 own terms. Do you think that there is a principled
8 difference between a sale such as this one of the
9 Centralia facility and sales of plants that might go on
10 in the context of restructuring?

11 A. Absolutely I do believe that.

12 Q. What are the factors that might differentiate
13 those sales in the context of restructuring?

14 A. Within the context of restructuring, you may
15 very well be in the position where you have enforced
16 divestment of assets or assets become stranded as a
17 result of competition. That's fundamentally different
18 from this case where, as I said earlier, we are really
19 looking to minimize the risk for the Company and
20 customers going forward. I think the circumstances are
21 quite different.

22 Q. And even as between discreet plant sales,
23 might there be principle differences in terms of how
24 the gain should be handled?

25 A. That may very well be the case. We're not

00430

1 asking for this case to be seen as precedential. I do
2 believe very strongly in looking at each case on its
3 merits.

4 Q. For example, do you think there might be
5 principled differences to distinguish this case from
6 the proposed sale of the Colstrip units by Puget
7 Energy?

8 A. Yes. My understanding of that case, although
9 I'm not an expert, is that was first and foremost
10 motivated by the state of Montana, and I think a much
11 different motivation in as much as the whole risk of
12 continued ownerships are not the same as here. Here, I
13 think we have tried to demonstrate that the risks to
14 all parties from continued ownership are the things
15 that are motivating the sale of the plant. I don't
16 think those circumstances were the same in the Colstrip
17 case, and therefore, the analysis of the numbers would
18 play a much greater part in that decision than in this
19 one where you have contingent liabilities, unknowns
20 which I think are a larger part of this case.

21 Q. You've been asked a couple of times in effect
22 why a utility needs incentives to pursue sales of
23 assets where appropriate. Does the sale process
24 itself, can it give rise to regulatory risks for the
25 Company?

00431

1 A. Yes.

2 Q. Can you give me an example?

3 A. I can give you an example from this case,
4 where it would appear that the testimony of the ICNU is
5 that now even if we don't go ahead with the case, the
6 risk to the Company is that they treat the Company as
7 though we had sold it, which creates a risk in and of
8 itself.

9 Q. Just by virtue of having to propose to sell
10 it?

11 A. Just by virtue of having to propose to sell.

12 Q. Would this appear inconsistent with the
13 notion that once you get a plant rate base, it's a low
14 risk situation?

15 A. Clearly.

16 Q. Clearly what?

17 A. Clearly inconsistent.

18 Q. You were asked whether the Wyoming Commission
19 had examined the Company's methodology for calculated
20 gain on sale; do you recall that?

21 A. Yes.

22 Q. Do you believe that the Wyoming Commission
23 did?

24 A. Yes.

25 Q. And how do you distinguish the issue of the

00432

1 methodology for calculating a gain on sale from the tax
2 treatment of how that gain is flowed through to
3 customers?

4 A. The gain calculation is the same. The tax
5 situation in Wyoming arose as a result of the way in
6 which the Commission wanted to treat the gain to
7 customers. Our methodology involves the writing down
8 of the rate base and the tax effects of that, which
9 were included in Dr. Weaver's analysis, would be passed
10 over through the remaining life of that range of asset,
11 which I think it was 23 years. What the Wyoming
12 Commission wanted to do was provide a rate credit over
13 a period to be determined, but probably as little as
14 two or three years, and therefore, there needs to be a
15 tax true-up associated with the reduced revenues that
16 the Company would have, so it's not so much an issue of
17 the gain calculation. It's an issue of how that gain
18 is returned to customers.

19 Q. What is your understanding on a present value
20 basis of the revenue requirement effect of using a
21 credit methodology with the associated tax gross-up
22 with the Company's proposed methodology of writing down
23 a regulatory asset with the gain?

24 A. On a net present value basis, they would be
25 the same.

00433

1 Q. One final question: You responded that the
2 matter of appropriate incentives was one of the reasons
3 that you supported the use of the depreciation reserve
4 method for allocating the gains. Could you very
5 briefly summarize what you think are the other reasons
6 why you would support the use of that method?

7 A. Very briefly, if I may, as I have said, I
8 believe the Company has shared historically with
9 ratepayers the risk of investment in the plant, and I
10 believe it takes the ownership risk ultimately. I
11 think it takes the investment risk associated with any
12 new investment. I think it bears reclamation and
13 environmental risks, and if it continued to own the
14 plant, it faces the whole risk associated potentially
15 with deregulation.

16 Customers, on the other hand, I think, don't
17 own the plant ultimately and don't have that ownership
18 risk. I think they are protected, clearly, by the
19 regulation process itself where they only pay the cost
20 of service, the cost of the plant if it's fair and
21 reasonable and is deemed prudent by the Commission, and
22 therefore, arguably, the customers over history have
23 paid a fair price for a fair service.

24 On a going-forward basis, I think we've
25 already seen in this case that the Company does have

00434

1 residual risks. It has residual risks associated with
2 reclamation, with environmental issues. I think it has
3 residual risks associated with replacement of power
4 costs, which are not automatically included in rates,
5 and I think our approach is a compromise and does
6 recognize there is a risk to customers as well as
7 associated with the sale. We could look back in 20
8 years and see that customers have paid more as a result
9 of replacement power than if we had kept Centralia, but
10 it seems to me that there is an equal if not greater
11 probability that they would have benefitted from that
12 sale. I think there is almost universal support for
13 the sale of the plant on the basis that it reduces
14 risks for everybody, and those are some of the reasons
15 why we support the sharing.

16 MR. GALLOWAY: Thank you, Mr. Wright. I have
17 nothing further.

18 JUDGE SCHAEER: Is there anything further for
19 this witness; Mr. Adams?

20 MR. ADAMS: Just a few follow-up questions,
21 Mr. Wright.

22

23 RE-CROSS-EXAMINATION

24 BY MR. ADAMS:

25 Q. You had updated us on a couple of states.

00435

1 Could you tell us where Utah's process is of your
2 application?

3 A. We received Staff and Intervenor testimony on
4 Friday. We filed rebuttal testimony this Friday --
5 tight timetable everywhere -- and we have hearings, I
6 think, the 22nd commencing, so in Utah we're not yet
7 into the hearing stage and still in the rounds of
8 testimony.

9 Q. Am I correct in Utah that the staff of the
10 Utah Commission has recommended rejection of his your
11 proposal?

12 A. Yes. As they did in Wyoming, yes.

13 Q. And am I correct that they've urged rejection
14 of the sale itself?

15 A. Staff, no. Staff haven't, but Division of
16 Public Utilities have not recommended that we don't
17 sell. I must admit I've only read the testimony
18 quickly, but I think that's correct.

19 Q. I'm talking about the staff because we have
20 the testimony that was just filed from Rebecca Wilson;
21 is she the staff?

22 A. Yes.

23 Q. She's recommending the Division rejects the
24 Company's proposal as not in the public interest?

25 A. My reading of that -- and as I say, I've only

00436

1 managed to do skim it -- is that she would not
2 recommend it under certain circumstances. I think
3 ultimately they are supportive of the sale.

4 Q. Let me go onto read: "Further, even if Utah
5 were to receive its role in allocation on the gain, 29
6 million dollars does not address all the risks
7 identified in the BPU Exhibit No. 1.9. In order for
8 this sale to be in the public interest, Utah customers
9 must be compensated for the risk that replacement costs
10 will be higher than the cost of keeping Centralia. A
11 share of gain sufficient to compensate Utah customers
12 for this risk is notably large."

13 A. You have an advantage over me there in you
14 have the testimony in front of you. I think you will
15 find there are parts in the testimony where -- my
16 overall reading of it, anyway -- suggests they are not,
17 in principle, against the sale. I think they have some
18 concerns about replacement power going forward, but
19 that was very much the position the Staff took in
20 Wyoming, and we were able to convince the Commission
21 that it was a sharing of risk and reward.

22 Q. Is there also a large issue about the
23 interstate allocation in Utah?

24 A. There is.

25 Q. Could you just give us the percentage swing,

00437

1 if you will, between the Staff and the Company?

2 A. I'll do my best. This arises as a result of
3 the way in which the Company, PacifiCorp, allocates
4 costs and benefits across its various jurisdictions,
5 and there is an accord -- it's called the modified
6 accord -- between the states which is quite complicated
7 but has to do with pre and post merger, and that is
8 Utah Power and Pacific Power, not ScottishPower and
9 PacifiCorp merger, that has to do with the existence of
10 that plant's merger.

11 In the 1997 rate case in Utah, Utah moved
12 away from the modified accord to some other called the
13 rolled-in method. That gives rise to an issue as to
14 jurisdictional allocations. That's for another day and
15 another state, but just to answer the question, we
16 would allocate something in the region of -- I think
17 it's three to five percent of the gain to Utah whilst
18 the other methodology would result in something like 25
19 to 30 percent of the gain going to Utah. I think those
20 numbers are in the right ballpark.

21 Q. So that's an issue that in addition to the,
22 if you will, the merits of the sale is another issue
23 that's in play in Utah?

24 A. It is. It actually points to one of the
25 other risks associated with pursuing the sale at all.

00438

1 Q. How about Oregon; where are you in Oregon?

2 A. We're at the briefing stage. We are just
3 about to file reply briefs. There has been an initial
4 round of briefs filed last week, I believe, and this
5 Thursday reply briefs. There are no hearings in
6 Oregon.

7 Q. Am I correct, is the Oregon staff
8 recommending a 95 percent ratepayers, 5 percent Company
9 split?

10 A. That's one of their recommendations. They
11 proposed two courses. One was to settle the case now
12 on a 95-5 basis. The other one was they have conducted
13 an explicit calculation where they computed something
14 on the order of 17.8 million dollars was required to
15 meet their no-harm standard, and they proposed in the
16 alternative that that amount be credited to customers
17 and that the balance of the gain be treated in the next
18 rate case, so they proposed two methodologies more
19 accurately.

20 MR. ADAMS: Thank you. That's all I had.

21 JUDGE SCHAER: Ms. Davison?

22

23

RE CROSS EXAMINATION

24 BY MS. DAVISON:

25 Q. Earlier, Mr. Galloway asked you a series of

00439

1 questions regarding industry restructuring and the
2 selling of plants in that context. Isn't it correct
3 that Oregon is going through restructuring at the
4 moment?

5 A. That is correct.

6 Q. Isn't it also correct that PacifiCorp's
7 position in restructuring in Oregon is that you receive
8 recovery of 100 percent of stranded investment?

9 A. No.

10 MS. DAVISON: Excuse me.

11 Q. Isn't it true that you are advocating that
12 you, PacifiCorp, are advocating that you receive 100
13 percent recovery of stranded costs?

14 A. No, I don't think that's right. I think
15 we're at the stage in 1149 discussions where the
16 parties are currently being asked what their position
17 is with these issues as the whole restructuring process
18 develops. I know for a fact that we are currently in
19 the stage of replying to a series of staff positions on
20 restructuring while this variation was raised. We have
21 not yet filed our comments in this regard. Last week,
22 we filed our filed our comments with respect to this
23 area, and we weren't proposing 100 percent. I can't
24 recall.

25 The upshot of it all is it's far from clear.

00440

1 We haven't yet been definitive about our position in
2 Oregon, and I think it's wrong to portray the fact of
3 steadfastly taking a position where 100 percent of
4 stranded costs are recovered by the Company. I think
5 you'd have to go into this in a lot more detail, and
6 that's for the Oregon Commission to ultimately resolve.

7 Q. Are you advocating sharing along the lines of
8 this depreciated reserve methodology in Oregon?

9 A. No. Well, I can't recall. I really can't.
10 I don't have the information before me. I can't
11 recall.

12 Q. My last question is on this tax true-up
13 issue. In responding to some questions from
14 Mr. Galloway you portrayed it as a Wyoming issue
15 because of how the gain is being allocated by Wyoming.
16 Isn't it true that the issue was first identified by
17 Mr. Bush in Oregon, and that it is not just a Wyoming
18 issue?

19 A. That's completely correct. It arises as a
20 result of how the customer portion of the gain is
21 returned. It's not a specific Wyoming issue. It's an
22 issue relating to how that percentage to be gained by
23 customers is returned.

24 MS. DAVISON: Thank you.

25 JUDGE SCHAER: Is there anything further for

00441

1 this witness?

2 MR. GALLOWAY: No.

3 JUDGE SCHAER: Thank you Mr. Wright for
4 you're testimony. Let's go off the record for a moment
5 to change witnesses.

6 The next witness is Ms. Hirsh from Northwest
7 Energy Coalition.

8 (Witness sworn.)

9 JUDGE SCHAER: Go ahead please, Mr. Adams.

10

11 DIRECT EXAMINATION

12 BY MR. ADAMS:

13 Q. Ms. Hirsh, have you prefiled in this case
14 your testimony identified as T-701 and an exhibit
15 identified as 702?

16 A. Yes.

17 Q. And are they true and correct to the best of
18 your knowledge?

19 A. To the best of my knowledge.

20 Q. Do you have any revisions that you want to
21 make to either of those exhibits?

22 A. No. I will state that the exhibit was not
23 prepared by me, but I have reviewed it and submitted it
24 to go with our testimony, but I did not prepare it.

25 Q. Are you also participating in the Oregon

00442

1 proceeding?

2 A. Yes, we are.

3 MR. ADAMS: Your Honor, I move the admission
4 of Exhibit T-701 and 702.

5 JUDGE SCHAER: Any objections? Those
6 documents are admitted. Are there any
7 cross-examination exhibits for Ms. Hirsh? None have
8 been provided. Did you have questions for Ms. Hirsh,
9 Mr. Cedarbaum?

10 MR. CEDARBAUM: No, I don't.

11 JUDGE SCHAER: Actually, I think I should be
12 asking the applicants first. Mr. Harris?

13 MR. HARRIS: Just a few.

14

15 CROSS EXAMINATION

16 BY MR. HARRIS:

17 Q. Good afternoon, Ms. Hirsh. I have been
18 through your testimony, and I think it would be fair to
19 characterize it as testimony that highlights some of
20 the environmental issues surrounding the plant; would
21 you agree with that?

22 A. Except for issues relating to the mine, that
23 is correct.

24 Q. You focus, in fact, in particular on air
25 quality issues.

00443

1 A. Yes.

2 Q. And I think you even make the point that the
3 scrubbers themselves, although they will have a
4 beneficial effect on air quality, they will increase
5 CO2 emissions?

6 A. That is correct.

7 Q. Can I ask you, do you favor a carbon tax? Is
8 that something the Coalition favors on a going-forward
9 basis?

10 A. The Coalition at the present time does not
11 have a position on a carbon tax, but I could speculate
12 that we would support one.

13 Q. And can you foresee a scenario under which
14 carbon taxes are imposed at a level that would make it
15 uneconomic to run the Centralia plant, or is that
16 beyond the knowledge that you have?

17 A. I have not done those calculations, but I
18 would not foresee a carbon tax high enough to foreclose
19 on the plant.

20 Q. What about more stringent air regulations;
21 can you foresee a scenario under which more stringent
22 air regulations would require emission controls beyond
23 the scrubbers themselves?

24 A. No.

25 Q. Is it the Coalition's position that the plant

00444

1 should be closed before the end of its useful?

2 A. Yes.

3 Q. And if it were up to the Coalition, when
4 would the plant be closed?

5 A. The Coalition has been on record, as is noted
6 in the testimony, of one of the companies that we have
7 sought for the plant to be converted to a gas plant,
8 and we would support that action now.

9 Q. Absent conversion, you would support plant
10 closure?

11 A. In this proceeding, we are not advocating
12 that the plant be shut down.

13 MR. HARRIS: Thank you. I have nothing
14 further.

15 JUDGE SCHAER: Did you have questions,
16 Mr. Galloway?

17 MR. GALLOWAY: I have no questions.

18 JUDGE SCHAER: Mr. Dahlke?

19 MR. DAHLKE: No questions.

20 JUDGE SCHAER: Mr. Adams?

21 MR. ADAMS: Is this considered redirect, or
22 where am it?

23 JUDGE SCHAER: This would be your cross for
24 the witness. I believe you introduced her testimony as
25 a courtesy to the Bench.

00445

CROSS-EXAMINATION

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BY MR. ADAMS:

Q. As a pragmatist, do you believe that the Centralia Plant will cease operations regardless of the outcome of this proceeding?

A. No.

Q. So as a practical matter, it's going to be there with scrubbers; is that correct?

A. Yes, that is correct.

Q. Are you aware of any current pending legislation to impose a carbon tax?

A. To the best of my knowledge, there is no current national proposal to have a carbon tax. There have been previous proposals to institute what's called a BTU tax, but at the present time, there is not one.

Q. Would you agree that if there ever was to be a carbon tax, it would be at least a few years down the line?

A. Yes.

Q. Given the experience with sulfur dioxide legislation, do you believe there is a high probability that existing plants would probably be either partially or fully grandfathered, at least for some period of time? Do you have any belief in that regard?

A. I suspect they will be partially

00446

1 grandfathered. I don't suspect they will be entirely
2 grandfathered.

3 Q. Addressing each of the utilities very
4 briefly, starting with Avista, their Exhibit 304 and
5 Exhibit 328 are both based upon market price quotes for
6 power over a 10-year period, which Mr. Johnson has
7 extended to 20 years at a two-and-a-half percent
8 inflation rate; do you recall that?

9 A. Yes.

10 Q. Does this satisfy your position that the
11 replacement power must be environmentally preferable?

12 A. No, it doesn't. In fact, I asked Mr. Johnson
13 if he added any environmental adders to his
14 calculations of market prices, and he said he did not,
15 so I don't believe they factored in any future
16 environmental regulation.

17 Q. Turning to PSE, is it your understanding that
18 Puget has used the Aurora Model to estimate the cost of
19 replacement power?

20 A. Yes.

21 Q. To your knowledge, does Aurora differentiate
22 between power on the basis of environmental
23 characteristics?

24 A. I actually don't know. I don't believe it
25 does, but it does have a provision to include a carbon

00447

1 tax if you want to use that in it, but I don't recall
2 if PSE used it.

3 Q. How about as far as differentiating between
4 different kinds of power?

5 A. No, they did not.

6 Q. And finally with Pacific, where they use what
7 they call a market clearing price model, to your
8 knowledge, does that market clearing price model
9 differentiate between different types of power based on
10 environmental characteristics?

11 A. No, it does not.

12 MR. ADAMS: Thank you. That's all I have.

13 JUDGE SCHAER: Mr. Lavitt, do you have any
14 questions?

15 MR. LAVITT: No.

16 JUDGE SCHAER: Commissioners?

17

18 E X A M I N A T I O N

19 BY CHAIRWOMAN SHOWALTER:

20 Q. I have a question on the discussion of your
21 discussion of environmental benefits. If you had a
22 transaction which was exactly neutral or maybe a tiny
23 bit negative to the public interest, and you introduced
24 into it some environmental issues that if accommodated,
25 in your view, would be in the public interest, and it

00448

1 would push the whole transaction over into those
2 company-plus category. In that hypothetical, I take it
3 you would say, Well, now it's in the public interest
4 because these environmental issues made the difference,
5 the marginal difference that made the whole difference.

6 A. Right. That's where we get to the point
7 where we state in our testimony that there is more to
8 the public interest than just the economic benefits.
9 We would include the environmental benefits in that.

10 Q. Take another hypothetical. Supposing there
11 is a transaction that independent of the environmental
12 issues is in the public interest; that is, dollars,
13 numbers, other risks and benefits; that we establish
14 that it is in the public interest. What then happens
15 to this marginal difference that could be made, from
16 your point of view, to add another plus on top of that?
17 Is the Commission required to try to condition the
18 transaction to be as good as it can be, or if the
19 transaction is already in the public interest, do other
20 pluses, such as environmental ones, fall by the
21 wayside? How do you address that question?

22 A. I would again go back to our point that the
23 public interest is made up of the economic benefits and
24 the environmental benefits.

25 Q. But do you think without the environmental

00449

1 benefits that you've outlined, is it not in the public
2 interest. This transaction would not be in the public
3 interest?

4 A. I believe that's still in question here in
5 this proceeding.

6 Q. But my hypothetical was a different one.
7 Assume you've got some transaction where without the
8 environmental benefits, it is in the public interest.
9 Then what do you do with the extra issues that might
10 increase the benefit of a transaction? Do we as a
11 Commission have to try to insist that this is the very
12 best transaction that can be done from all points of
13 view -- and I agree with you the public interest is
14 certainly broader than just dollars -- or do we say,
15 it's good enough, if the proposal is good enough to
16 serve the public interest?

17 A. We believe that since environmental
18 stewardship is one of the fundamental tenets of the
19 public interest; that it is beholden to the Commission
20 to look at maximizing the environmental benefit that we
21 can get out of this transaction. Certainly one that
22 has had such environmental impacts in its life, and
23 since future power purchases continue to have an
24 environmental impact going out into the future, there
25 are ongoing environmental impacts that will occur into

00450

1 the future that the Commission should factor into its
2 decision.

3 Q. Then I also think your testimony or your
4 organization's testimony attaches the testimony of Bob
5 Jenks, and I take it you are incorporating that to your
6 own testimony for the purposes of this proceeding?

7 A. Yes.

8 Q. There on Page 2 of the Jenk's testimony,
9 there is a sentence that's on Line 13. It's talking
10 about the comparative costs of Centralia and market,
11 and it says, "If we don't sell the asset, the output
12 value of the resource accrues to customers," and
13 doesn't that assume that the customers are there to get
14 the accrued benefit of Centralia?

15 A. Yes, it definitely does assume that, and if
16 we look at Oregon, I think those, at least on the
17 residential side, those customers will continue to be
18 customers in Oregon and of PacifiCorp, and here in
19 Washington, we don't see in the near future that there
20 will be a change in customers, but in the long-run,
21 that's an open question.

22 Q. In the long-run, if you look out 10 years,
23 would you say there is a significantly higher
24 probability 10 years out than, say, three years out a
25 probability that customers will not be tied to their

00451

1 utilities?

2 A. I think that's likely.

3 Q. And let's say 20 years out, is it even
4 higher?

5 A. Yes.

6 Q. Did you say yes?

7 A. Yes.

8 Q. By the same token, on carbon tax for example,
9 if you compared three years out to 10 years out, do you
10 think there is a significantly higher probability of
11 some type of penalty for carbon, 10 years out compared
12 to three?

13 A. Yes, definitely. Particularly, I think the
14 science and certainly the international debate on
15 climate changes is laying a pretty strong foundation.
16 Moving the political wall will take some time, but I
17 think in three years the impacts will be such that
18 politicians in the political system will have no choice
19 but to take some action.

20 Q. So am I right that 20 years out, an even
21 higher probability that somehow we will, as a country,
22 somehow attempt to internalize those carbon costs?

23 CHAIRWOMAN SHOWALTER: Thanks.

24

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00452

1 EXAMINATION

2 BY COMMISSIONER HEMSTAD:

3 Q. As I understand your testimony, you would
4 take a portion of the sale and set it aside to pay the
5 premium for power purchases that are environmentally
6 friendly.

7 A. If necessary.

8 Q. Or that would be above market.

9 A. Right.

10 Q. The utilities now have to meet regulatory
11 standards that impose duties upon them, so I assume the
12 premium would go to buy power that would be of greater
13 public benefit than the regulated standard; is that a
14 fair statement of your position? In other words, the
15 companies now currently have to meet a regulated air
16 pollution standard for emissions, and if they go on the
17 market to buy power, they are going to have to meet
18 those standards. I take it then the premium would buy
19 power that would be less polluting than the regulated
20 standards.

21 A. Yes.

22 Q. This is an open-ended question, and by asking
23 it, I'm not inferring the answer, but then you would
24 see this Commission would then, in effect, would create
25 a standard that would be a more rigorous standard than

00453

1 that of the air pollution agencies.

2 A. I would point out that some of the plants in
3 the western grid do not meet the air quality standards
4 in the Clean Air Act. They have been grandfathered to
5 not have to comply with those standards, so they are
6 not necessarily all the plants in the Western mix are
7 meeting environmental regulations as set out on a
8 national basis, but we would encourage that yes, this
9 Commission to establish leadership in movement towards
10 power resources that do not meet environmental
11 regulation on clean air issues but that are also
12 meeting -- I would add they are also meeting other
13 environmental regulations, such as fish and wildlife
14 standards.

15 Q. Do you think we would have the legal
16 authority to do that?

17 A. Of that, I cannot answer.

18 COMMISSIONER HEMSTAD: That's all I have.

19 JUDGE SCHAER: Ms. Hirsh, why don't you take
20 just a moment and think about your cross-examination
21 and see if there is any statement you would like to
22 make in terms of redirect on any of the points that you
23 have been questioned about.

24 THE WITNESS: I'm happy with my statements.

25 JUDGE SCHAER: Is there anything further for

00454

1 this witness? Thank you for your testimony. Let's go
2 off the record for a moment to change witnesses.

3 (Discussion off the record.)

4 JUDGE SCHAER: While we were off the record,
5 Mr. Wolverton came to the stand. Would you like to
6 call your witness, Ms. Davison?

7 MS. DAVISON: Yes, Your Honor, but before I
8 do that, you had asked me to remind you to do an
9 appearance for myself since I was not present on
10 Friday, so I just would like to state for the record
11 that I'm Melinda Davison, and I'm here on behalf of the
12 Industrial Customers of Northwest Utilities, and
13 Mr. Van Cleve was here on Friday, and we have the same
14 firm and mailing address.

15 JUDGE SCHAER: Mr. Galloway, I think I don't
16 have a formal appearance from you yet either.

17 MR. GALLOWAY: My name is George M. Galloway
18 of the firm Stoel Rives, LLP. My mailing address is
19 900 Southwest Fifth Avenue, Suite 2300, Portland,
20 Oregon. My telephone number is (503) 294-9306, and my
21 e-mail address is gmgalloway@stoel.com. I'm appearing
22 here today on behalf of the Applicant, PacifiCorp.

23 JUDGE SCHAER: And the record should reflect
24 that the other appearances remain the same as they were
25 on Friday.

00455

1 MS. DAVISON: The Industrial Customers of
2 Northwest Utilities would like to call Lincoln
3 Wolverton.

4 (Witness sworn.)

5

6

DIRECT EXAMINATION

7 BY MS. DAVISON:

8 Q. Mr. Wolverton, are you the same Mr. Wolverton
9 who has submitted direct testimony on behalf of the
10 Industrial Customers of Northwest Utilities in this
11 proceeding?

12 A. I am.

13 Q. Do you have any additions or correction to
14 your testimony?

15 A. I have a minor correction on Page 13, Line 6.
16 On Line 6, delete, "appears to take the position."

17 Q. Do you have any further corrections,
18 Mr. Wolverton?

19 A. No.

20 Q. With that correction, is this testimony true
21 and correct to the best of your knowledge?

22 A. It is.

23 MS. DAVISON: Your Honor, I would like to
24 move the admission of Exhibits T-600, 601, 602, 603,
25 604 and 605 into this record.

00456

1 JUDGE SCHAER: Any objections?
2 MR. GALLOWAY: No objection.
3 JUDGE SCHAER: Hearing none, those documents
4 are admitted. Go ahead, please.
5 MS. DAVISON: Thank you, Your Honor, this
6 witness is available for cross-examination.
7 JUDGE SCHAER: Mr. Harris, did you have
8 questions for Mr. Wolverton?
9 MR. HARRIS: Just a few.

10

11

CROSS-EXAMINATION

12

BY MR. HARRIS:

13

Q. Good afternoon, Mr. Wolverton. I'm going to
14 have a few questions for you about Page 9 of your
15 testimony, if you want to turn there. Before we start
16 on anything specific, ICNU takes the position pretty
17 clearly that 100 percent of the gain on the sale must
18 be flowed through to ratepayers; it must go to
19 ratepayers; is that correct?

20

A. That's correct.

21

Q. You also state in your testimony at the top
22 of Page 9 that -- and it's carryover from Page 8 -- at
23 a minimum, a symmetry should be maintained between the
24 allocation of potential stranded costs and benefits,
25 including any stranded costs associated with the

00457

1 so-called regulatory assets, such as the PURPA-QF
2 contracts; do you see that?

3 A. Yes.

4 Q. So consistent with this symmetry principle,
5 can we count on ICNU to appear in future proceedings if
6 we have a proposed sale where there is a loss? Would
7 ICNU support allocating 100 percent of the loss to the
8 ratepayers?

9 A. That's our position, yes.

10 MR. HARRIS: Thank you. I have nothing
11 further.

12 JUDGE SCHAER: Mr. Galloway?

13

14 CROSS-EXAMINATION

15 BY MR. GALLOWAY:

16 Q. Please turn your attention to Page 5 of your
17 testimony, and in particular, Line 17 where the
18 statement appears, "As ultimate risk takers, ratepayers
19 are entitled to receive all these benefits"; do you see
20 that?

21 A. Yes, I do.

22 Q. By "ultimate risk takers," is that equivalent
23 to saying that ratepayers have taken all of the risks
24 associated with Centralia historically?

25 A. What it means is that once the plant has been

00458

1 placed into rate base, all the risks of the plant, the
2 return of capital and the return on capital have been
3 included as a ratepayer responsibility.

4 Q. Is that equivalent to say that they have
5 taken all of the risks associated with the facility
6 since it went into rate base?

7 A. No. There are risks the Company will take,
8 and those risks are covered, I believe, by the return
9 on equity that the Company gets.

10 Q. And did ratepayers take all of the risks
11 prior to the plant going into rate base?

12 A. No, they did not.

13 Q. What about going forward, assuming the plant
14 is not sold, do ratepayers bear all the risks going
15 forward?

16 A. I believe that they do. The Company would
17 probably apply for any costs that the plant would incur
18 or be expected to incur, and that likely would be put
19 into rates. Now, there is always a risk of some
20 disallowance, a normal risk of disallowance, which I
21 think is covered with return on equity; that is, the
22 return on equity is based upon certain national average
23 of utilities' returns, and that national average is
24 obviously no a risk-free rate of return.

25 A national average type of return is, in

00459

1 fact, one that has a certain element of disallowance
2 risk in it, and so there is a certain amount of risk
3 already within any allowed ROE, and to some extent,
4 although the shareholders may bear some of the risks,
5 they are also being compensated for that risk.

6 Q. Are you aware of a case nationally where a
7 utility has had costs disallowed because it declined to
8 sale a generating plant that was in rate base?

9 A. No.

10 Q. Is it therefore safe to include that the risk
11 of that sort of disallowance is not reflected in rates
12 of return normally allowed for utilities going forward?

13 A. I think that the returns on equity will cover
14 any variety of risks, and I don't tend to know what
15 potential shareholders would view as the risks they
16 would be taking.

17 Q. But it would seem fairly farfetched if this
18 has never occurred, at least to your knowledge, that
19 investors would be factoring that into their investment
20 decisions, isn't it?

21 A. There are always risks that never occur, so I
22 don't know.

23 Q. And yet as I understand, your testimony in
24 this proceeding, you would be prepared to take the
25 position that if PacifiCorp does not go forward with

00460

1 the sale of Centralia that you believe it might be
2 appropriate to disallow costs associated with its
3 continued ownership just by virtue of its declining to
4 proceed with the sale?

5 A. The issue is strictly addressed in the Oregon
6 case where its trying to cost determination is made.
7 In the event in Washington, if the plant is not sold,
8 then the costs and risks can be borne by the continued
9 operation of the plant. We're taking no position in
10 Washington relative to a disallowance.

11 Q. So if PacifiCorp decides not to go forward
12 with a sale, ICNU will not seek in this jurisdiction to
13 disallow costs for that reason?

14 A. I think the issue is really related to a
15 restructuring, and if there is a restructuring and this
16 was a valued determination at one point in time, then I
17 think that should go into any kind of stranded cost
18 calculations. It would be weighed against the stranded
19 costs of other assets and stranded benefits in the
20 total system, and in the context of a restructuring or
21 evaluation during restructuring.

22 Q. So it might be your position that because
23 PacifiCorp failed to sell the plant at this point at
24 price X that in valuing the plant sometime in the
25 future for restructuring purposes that might be a

00461

1 factor in imputing the transaction that it might have
2 done?

3 A. It would be a factor, and clearly if it's 10
4 years out, the restructuring occurs over impact of that
5 factor is much less because we will have more
6 experience of market costs in the meantime.

7 Q. And that's a shareholder risk; is it not?

8 A. That's shareholder risk, yes.

9 Q. If the plant is sold and all of the gain is
10 allocated to customers as you proposed, will ICNU
11 support the recovery of any environmental or
12 remediation costs that might be visited on the sellers
13 in the future in Washington rate proceedings?

14 A. One cannot ask for a blanket support of any
15 request for any environmental costs. That would depend
16 on the terms of the contract, which I haven't fully
17 reviewed, as to who is responsible for such
18 environmental cost. Clearly, if burdens are
19 responsible for and Pacific applies for it, one would
20 not support Pacific.

21 Q. In the absence of a blanket statement, does
22 that not imply that there is risk for shareholders in
23 terms of the recovery of those costs?

24 A. Oh, yeah. There is always risk for
25 shareholders, but I think the shareholders are being

00462

1 compensated through their return on equity for risks,
2 and if you are suggesting that the Company would not
3 apply for recovery of any kind of cost, then it's
4 clearly much riskier than if the Company does apply
5 because there is some probability that if they do
6 apply, they would, in fact, get recovery of those
7 costs.

8 Q. I want to back you up a little bit. You said
9 the Company is being compensated through its return on
10 equity for these risks. I thought you had argued that
11 because the plant was sold taken out of rate base,
12 there was no investment on which any recovery was due?

13 A. The Company gets a return on equity on its
14 remaining rate base.

15 Q. So the return we are getting in the Bridger
16 plant should also cover the risk associated with the
17 residual liabilities associated with Centralia?

18 A. Right, and return on transmission pole,
19 return on any distribution facilities will, in fact --

20 Q. Automatically sweep that up.

21 A. There is an element of risk that's covered in
22 any return on equity.

23 Q. And this is something that you think
24 financial markets are going to incorporate as equity
25 returns or establish for utilities nationally that the

00463

1 all-seeing market will incorporate the risks of plants
2 that have been sold and remedial and environmental
3 risk?

4 A. I would expect that if there is any on sale
5 or any equity sale for the Company that they would
6 point out, and they would probably point out in their
7 annual financial reports of any residual risk that they
8 would have with respect to the sale, and if it's
9 recorded in those documents, I will presume that
10 investors in some way or another would take that into
11 account.

12 Q. But that's not how a return on equity is now
13 established by PacifiCorp in this jurisdiction, is it?

14 A. No. But that's how, essentially, a stock
15 market price is established, and as an ongoing basis,
16 the investors look at such things as the annual
17 reports, the SEC filings and evaluate the risks that
18 gets enfolded into the market risk and eventually would
19 raise the cost of equity above a risk-free cost.

20 Q. With respect to any residual reclamation
21 liability that might be visited on sellers, in the case
22 that ICNU is not prepared to offer blanket support for
23 the recovery of those costs and rates?

24 A. We're not going to offer blanket support, no.

25 Q. Under what circumstances will you support the

00464

1 recovery of those costs if they came to pass?

2 A. We would have to look at the proposal, and
3 you can take a position for or be neutral or against.

4 Q. What principle, knowing that principles would
5 drive your determination of whether you would support
6 the recovery of those costs?

7 MS. DAVISON: Your Honor, I guess I'm a
8 little confused. There has been a whole line of
9 questions, and I would like for Mr. Galloway to point
10 to the testimony of Mr. Wolverton in which these
11 questions are being directed at.

12 MR. GALLOWAY: As I understand
13 Mr. Wolverton's thesis, it is that once the plant is
14 sold, any risks that the sellers have in connection
15 with them are gone, and therefore, it is appropriate
16 since all of the future risks associated with the
17 replacement power and such are to be shared by
18 customers that there is no need to give the sellers a
19 share of the proceeds, and what I'm trying to
20 demonstrate is that there is material risk going
21 forward that parties like ICNU will not support the
22 recovery of the cost that the Company may face if the
23 plant is sold, unless he's prepared to tell me that he
24 will support them.

25 MS. DAVISON: Your Honor, I believe this

00465

1 witness has made clear that he has not looked at nor
2 has he testified to the issues regarding reclamation or
3 environmental issues or anything of that nature, and I
4 think it is highly inappropriate for Mr. Galloway to
5 ask this witness to make blanket assertions about
6 positions ICNU may or may not take in a future case.

7 JUDGE SCHAER: Mr. Galloway, I would like you
8 to restate the question. I believe you were asking
9 about principles of an organization, and I think you
10 were somewhat afield as you've described is the purpose
11 of your question, so please ask another question.

12 Q. (By Mr. Galloway) What factors would you
13 look at in determining whether ICNU would support the
14 recovery of secondary reclamation liability if that
15 liability were visited on the sellers?

16 A. I would certainly look at the cost, the
17 reasons for the liability, the contractual arrangements
18 that might have been made between the sellers and the
19 purchasers, for example.

20 Q. Does that say that the sheer magnitude of the
21 costs could be a factor?

22 A. I'm not so sure that the sheer magnitude
23 would be. I don't know.

24 Q. It was your word. You said you would look
25 at the costs, and I was wondering what you meant by

00466

1 that?

2 A. No. The costs in the sense of the prudence
3 of the costs. Let me add to this is that we have
4 generally taken the position that if a utility has a
5 legitimate reason for a request, we will tend to stay
6 silent. That has been ICNU's position in the past. We
7 don't support nor do we oppose.

8 Q. Let's suppose that the restructuring that you
9 describe comes to pass and ICNU members pursue direct
10 access, and residual liabilities arise 10 years from
11 now in connection with the plant or mine, conceptually,
12 do you think those are appropriate elements of stranded
13 costs to be recovered through the distribution charges
14 paid by direct access participants?

15 A. It's our position that we should look at all
16 the elements of potential stranded costs and benefits
17 in evaluating the utility system upon a restructuring,
18 and that's clearly one of the costs that should be
19 reckoned with and put into the equation of what are, in
20 fact, stranded costs or stranded benefits.

21 Q. But no matter, ignoring when they were
22 calculated, you would view those conceptually
23 appropriate items as stranded costs.

24 A. They are certainly portions of the existing
25 system that are costs, and to the extent that they

00467

1 haven't been moved to the purchaser, they would need to
2 be factored into some stranded cost calculation.

3 Q. I'd like to refer you to Page 10, Line 17 of
4 your testimony where you refer to PacifiCorp's argument
5 that is entitled to 100 percent of the gain, and then
6 again you make a similar statement on Page 13, Lines 16
7 and 17, referring to PacifiCorp's intention that its
8 shareholders entitled to 100 percent of the gain. You
9 understand, do you not, that PacifiCorp is seeking only
10 approximately a third of the gain in this proceeding?

11 A. Yes, I do.

12 Q. So this was more in the nature of a
13 rhetorical flourish?

14 A. It's clearly related. We take the position
15 that this whole issue should be treated in the context
16 of stranded costs, and when we talk about stranded
17 costs, we talk about all the resources which are above
18 market as well as those below market, and we include in
19 the PURPA contracts.

20 Q. My question was, is PacifiCorp anywhere in
21 this proceeding suggested that it was entitled to 100
22 percent of the gain on the sale?

23 A. Yes. In Ms. Eakin's testimony at the outset,
24 Ms. Eakin says that arguments can be made, as I recall
25 it.

00468

1 Q. I think that's a fair summary of the
2 testimony. She says an argument could be made, but...

3 A. We are going to take the compromise is the
4 way I read her testimony when it is put in shorthand.

5 Q. One of the things you are concerned about is
6 that if utilities are permitted to share in the gain
7 from the sale of assets, it will create an insidious
8 incentive for them to pick and choose only the assets
9 on which a gain can be recognized for the sale; is that
10 a fair characterization?

11 A. Yes.

12 Q. Any sale of an asset, whether it is for a
13 gain or a loss, is subject to approval by this and
14 other Commissions, is it not?

15 A. That's correct.

16 Q. And on any such sale, there would need to be
17 a demonstration regardless of the company's motivation
18 that the proposal was in the public interest.

19 A. I think one of major issues of this case is
20 whether a piecemeal sale of an asset does, in fact,
21 unduly benefit the shareholder.

22 Q. But there is protection for customers, is
23 there not, from a utility making bad choices or
24 inappropriate choices as to which resources it's going
25 to sell because it ultimately has to prove the wisdom

00469

1 to the Commission?

2 A. It assumes that the companies actually decide
3 to sell the resources. If I were a profit maximizing
4 monopolist, what I would do is try to sell off the
5 resources that are below market -- take the 36 percent
6 or the 100 percent or whatever the percent is -- and
7 not sell the resources at all that are above market,
8 causing ratepayers to have the pay on the expensive
9 resources, the full cost of the expensive resources,
10 and losing money on the inexpensive resources, and I
11 call this the, heads the utility lose, tails the
12 ratepayer loses scenario.

13 Q. I understand that, but you pause at a case of
14 an unregulated profit-maximizing monopolist, don't you?

15 A. No. Except under restructuring, there is no
16 obligation for the utility to sell off resources on
17 which it thinks it's going to have a loss and which the
18 shareholders might have to bear part of the loss. They
19 would be much better for their own purposes in keeping
20 the resource in the rate base, making the ratepayers
21 pay the cost of those resources.

22 Q. Does ICNU believe that all else being equal
23 that divestiture of generation is a good thing, a good
24 public policy?

25 A. Yes. We have supported the auction

00470

1 divestiture of all the resources as being the best.
2 That's all the resources as the whole, so you can weigh
3 the expensive ones against the other ones that are
4 cheaper.

5 Q. What incentive does ICNU have in mind to
6 cause utilities to dispose of their generation and
7 accomplish that goal?

8 A. Clearly, in Oregon, for example, the
9 incentive is the legislation.

10 Q. But you don't have in mind anything in the
11 nature of an economic incentive to bring about the
12 divestiture.

13 A. We have nothing in mind at the moment. I
14 think clearly we'd look at ideas for incentive.

15 MR. GALLOWAY: I have nothing further.

16 JUDGE SCHAER: Thank you. Mr. Dahlke, did
17 you have questions for this witness?

18 MR. DAHLKE: No questions.

19 JUDGE SCHAER: Mr. Cedarbaum?

20 MR. CEDARBAUM: No questions.

21 JUDGE SCHAER: Mr. Adams?

22 MR. ADAMS: Just a few questions.

23

24 CROSS-EXAMINATION

25 BY MR. ADAMS:

00471

1 Q. As I understand your proposal, it is for the
2 Commission to approve the sale and allocate 100 percent
3 of the gain to the ratepayers; is that correct?

4 A. That is correct.

5 Q. Does this differ from Staff's position in any
6 meaningful way?

7 A. No that I know of.

8 Q. At Page 2, Line 19 of your testimony, you
9 indicate that you do not address the prudence of the
10 sale itself; correct?

11 A. That's correct.

12 Q. Do I conclude that you have not done any
13 numerical analysis of whether the price being received
14 is adequate to offset the higher replacement power
15 costs over time?

16 A. That is correct.

17 Q. Have you been involved in the Centralia
18 hearings in any other states?

19 A. In Oregon.

20 Q. Have your recommendations there been similar
21 to here?

22 A. Virtually identical.

23 Q. One brief question on stranded costs. Is it
24 your position that ratepayers should pay 100 percent of
25 stranded costs which were acquired by a utility

00472

1 imprudently?

2 A. No. If it's a declaration of imprudence,
3 then it's clearly on --

4 Q. So under your approach, prudence is still an
5 issue to be resolved.

6 A. Prudence is always an issue, yes.

7 MR. ADAMS: Thank you. That's all I have.

8 JUDGE SCHAER: Commissioners, do you have
9 questions for Mr. Wolverton?

10 CHAIRWOMAN SHOWALTER: I've got one or two.

11

12 E X A M I N A T I O N

13 BY CHAIRWOMAN SHOWALTER:

14 Q. Let me paraphrase your position so that I can
15 then ask a question about it, and if I'm not correct,
16 you let me know. As I understand your position, one,
17 you say that the Company's return on equity accounts
18 for all of the risks that should be rewarded, whether
19 that's all the risks they take, I don't know, but in
20 any event, you are saying that's not only sufficient,
21 but it's all the reward that the Company should get.

22 A. Let me clarify that a little bit. Within the
23 return on equity, there is an element of risk, and
24 certainly a risk that utilities have faced
25 traditionally is risk of disallowance, and there is a

00473

1 certain band in which this sort of a normal risk
2 element, and that is covered already in the return on
3 equity. It may not cover all the risk. It certainly
4 doesn't cover the risk of imprudent actions.

5 Q. Then do you go on to assert that even if
6 anything further is given to the companies that it's
7 too high a return on equity?

8 A. It's our position that the utilities already
9 have earned a return on their capital, the ROE in
10 particular, and if you give them more, it's actually in
11 excess of an allowed rate of return. An allowed rate
12 of return is the fair and equitable rate of return by
13 definition.

14 Q. So is it your position that once that return
15 on equity is set, at whatever time it is set, that
16 anything more than that unfairly rewards the Company?

17 A. Anything substantially more than that would
18 unfairly reward the Company, yes, if there is no
19 particular reason to treat it any differently. In
20 this case, the Company has had a return on equity for
21 20 years or so.

22 Q. So for that reason then you say that the
23 ratepayers should get 100 percent of the gain because
24 to give any portion of the 100 percent to the Company
25 would unfairly reward them?

00474

1 A. That's correct.

2 Q. And then further, in other situations, rate
3 makers should pay 100 percent of the stranded costs.

4 A. That's correct. The symmetry is very
5 important, including symmetry with respect to other
6 contracts.

7 Q. On the question of symmetry, I can understand
8 that 100 percent for one and 100 percent on the other
9 is symmetrical. What would happen if both ratepayers
10 and shareholders got 50 50 just on the question of
11 symmetry. Would that be symmetrical or not?

12 A. That's symmetrical, yes. We've certainly
13 looked at that. In this case, we think it should be
14 100 percent. But if it's complete divestiture, maybe
15 50 50 makes sense, maybe 75 25, maybe 95 5 makes sense.

16 Q. I take it your position is that even though
17 50 50 is also symmetrical, in this case anyway, it
18 would reward the company beyond that return of equity,
19 so you could get back to your first principle; it
20 doesn't meet it.

21 A. Right. In the context of a restructuring
22 when there is substantial other benefits that we would
23 anticipate occurring, then another sharing might be
24 reasonable. In this context, not only do we have the
25 sharing issue, but we don't have the other assets being

00475

1 valued, and we are fearful that the other assets will
2 simply remain in rate base if they are above market,
3 and we would never get our other half of any sharing or
4 other five percent or 25 percent of any sharing.
5 That's our concern.

6 Q. Actually, you just lost me at the very last
7 minute, because it seems as if they hung onto the dogs
8 and that's always in rate base -- I'm not sure about
9 when you never get the benefit, you would have only
10 gotten 50 percent of the benefit of the ones that were
11 solved --

12 A. Right.

13 Q. -- and then you would be paying 100 percent
14 of the costs of the ones in rate base, I think would be
15 your position.

16 A. Right. So it's sort of we lose on one side
17 and have to pay on the other side so we lose there too.

18 Q. What about the issue of incentives. At least
19 with respect to a particular plant in transaction, it
20 would seem that some sharing of gain allows for some
21 kind of incentive in that plant.

22 A. There are several issues involved there. One
23 is the context. In the context of a total
24 restructuring, I think incentives probably make more
25 sense because there is some additional benefit from

00476

1 competition which might emerge. In this context, the
2 incentive simply shifts money into the shareholders
3 when, in fact, there are lots of uncertainties about
4 whether this is prudent at all. I haven't looked at
5 the full prudency arguments, but there are issues about
6 that, so it would seem to me that you are putting onto
7 the ratepayers a certain amount of risk that is not
8 being offset by benefits of restructuring.

9 Q. What about opportunistic sales, I'll call
10 them, when owners are part of a plant that comes up for
11 sale for another reason? Colstrip might have been a
12 reason; Centralia might be, but that's not particularly
13 either enforced on the owner by a legislature, for
14 example, or at an owner or co-owner's initiative, does
15 any of these principles affect that situation?

16 A. As I see it, there is really two reasons that
17 the market might value the plant more than a
18 net-present value analysis of the utility. One is that
19 the bidder in the market sees higher prices for the
20 market than does whoever is doing the analysis of a
21 present-value analysis.

22 The second one is is that the costs of the
23 facility may be different with the bidder, and the
24 winning bid, of course, is that bidder that sees the
25 widest difference between the price that he or she

00477

1 expects and the cost. If, in fact, the costs are the
2 reason that the bid is high; that is, as a new owner
3 can operate the plant much more efficiently than the
4 old owner, I'm not sure why the shareholder should be
5 reported for that.

6 Q. This gets back to your very first principle,
7 but one thing that seems implicit in your testimony is
8 that there is just no situation where the Company
9 should get more than it originally thought it would if
10 it kept the plant in rate base; that the return on
11 equity was the reward and that's it. Is there any
12 situation you can think of, either some windfall
13 situation or the plant has a much longer life than
14 everybody thought at the outset, is there any situation
15 where you think the company that owns the plant is
16 entitled to some kind of extra benefit or should it?

17 A. There are, and I think the sale of Boardman
18 by Portland General Electric is one such example where
19 they were able to find a tax benefit that would not
20 come otherwise. Being able to operate the plant better
21 is one reason that many people would be willing to pay
22 more than, say, the utility would, and I don't think
23 that the cost savings that a new owner can effect
24 should benefit the current shareholders; in fact, one
25 could argue that if a plant is being operated

00478

1 inefficiently now, and it's been operating
2 inefficiently for perhaps 20 years that certainly the
3 shareholder shouldn't get any of that benefit.

4 So one of reasons that the plant is getting
5 the positive bid is because the costs are, in fact --
6 someone can operate it better, higher operating rents.
7 Going from 80 percent to 82 percent on an operating on
8 a coal plant. That's a lot of power.

9 Q. Are you suggesting that because that
10 condition exists because someone can make better use of
11 the plant than the current owners; therefore, the
12 current owners should be held accountable in some way
13 for not being able to operate it as a single owner?

14 A. No. What I'm saying is that in that instance
15 I'm not sure you should reward the current owners if
16 they are not operating it particularly effectively,
17 with a sharing of benefits in this case.

18 Q. I think it's your position that we shouldn't
19 decide this question until there is a rate case; am I
20 right on that?

21 A. We shouldn't decide the disposition of the
22 benefits until there is a rate case.

23 Q. What a bout the Company's position that it's
24 difficult to decide whether or not you want to go
25 through with a sale if you don't know how you stand to

00479

1 benefit or not from it?

2 A. If the sharing proposal, if Avista comes
3 forward, there is no benefit to the ratepayers
4 whatsoever, and I'm not sure we would shed any tears
5 about that not going through, and the 34 percent, 36
6 percent that Pacific proposes is, again -- I'm not sure
7 if 36 percent of it goes to the shareholders, that it
8 is still in the benefit of the ratepayers, so you
9 really have two issues. One is that is it an overall
10 benefit that price is more than book, that the price is
11 more than the alternatives, and the other one is, even
12 if it is, does the shareholder benefit? Clearly with
13 Avista's proposal, the shareholder don't benefit at
14 all. They want 100 percent of it, so I'm not sure that
15 you can call that in the public interest.

16 Q. Did you misspeak or not. You said the
17 shareholder.

18 A. I mean the ratepayer doesn't benefit.

19 Q. I'm talking about the timing question of
20 whether -- given that there is a wide latitude of
21 possibilities here, at least as presented by the
22 parties as to how the gain, if there is a gain, will be
23 allocated, isn't it difficult to know whether or not to
24 proceed with a sale if the company doesn't know what
25 it's getting out of it?

00480

1 A. The company has a monopoly on the resources
2 and a monopoly on the service territory. With that
3 comes responsibility as well as ratepayer
4 responsibility, and it seems to me the company is
5 responsible for making the best actions on behalf of
6 the ratepayer. They are already getting their reward
7 through their return on equity, the opportunity to earn
8 it, and they have a public trust which corresponds with
9 the regulatory compact. Regulatory compact says
10 ratepayers should pay for whatever resources are
11 prudently purchased and acquired on behalf, for them,
12 by the companies, and there seems to be a corollary to
13 that that the companies have an obligation to operate
14 in the best interest of the ratepayers.

15 Q. So they should simply be able to read that
16 whatever that obligation is and operate by it and
17 disregard, I guess, the uncertainty to themselves as to
18 how we might treat this.

19 A. What they have found is that the plant sale
20 is beneficial, and I have not reviewed all the
21 testimony which counters that, which looks at that.
22 It's beneficial. In our view, the plant has basically
23 been transferred to the ratepayers through the payments
24 for the return on equity and the return of their
25 capital, and once they have done that, they should act

00481

1 as a steward of that resource on behalf of the
2 ratepayers, assuming that the shareholders are not
3 underly harmed or harmed.

4 Q. On the regulatory compact, it does assume,
5 doesn't it, that the ratepayers are going to be around
6 to bear up their side of the compact; that is, pay the
7 rates that support a plant?

8 A. Yes, and Mr. Galloway asked some questions in
9 that regard, and at a time when if there is
10 restructuring and the generation resources are spun
11 off, we need to take into account all of the generation
12 resources and all of the obligations of those resources
13 and figure out how to deal with them, including
14 potential reclamation.

15 Q. But when it happens, if it does, isn't it
16 likely to be a legislative determination as to how
17 stranded costs will be treated, or at least there will
18 be an active legislative debate. It may not be within
19 this Commission's ability to determine how to address
20 stranded benefits and costs.

21 A. And it may not, and it depends on the
22 legislation. In Oregon, the Commission is sort of
23 hearing those issues and has been assigned those
24 responsibilities.

25 Q. Does that mean that we have to look at the

00482

1 risk to ratepayers and companies of the possibility
2 that there will be restructuring and the risks that the
3 legislature will do one thing or another; that is, it's
4 an open question.

5 A. Yes, and it could go either way. They could
6 say, You must take those risks into account, and I
7 think it would be reasonable to take them into account.

8 Q. And by saying it's an open question, I don't
9 mean to suggest that I think that the legislature is
10 about to do this, but it's certainly in the air
11 compared to 20 years ago or longer when this idea of a
12 regulatory compact developed.

13 A. Yes.

14 CHAIRWOMAN SHOWALTER: Thanks. I don't have
15 anymore questions.

16

17 E X A M I N A T I O N

18 BY COMMISSIONER HEMSTAD:

19 Q. Why didn't you do an economic analysis of
20 this sale?

21 A. It's our view that the market and the auction
22 provides a reasonable analysis at that point in time of
23 the sale, and we don't think that second guessing the
24 auction results -- it wasn't worth our time.

25 Q. From that answer, I take it it would be your

00483

1 position that the sale itself should be approved or is
2 in the public interest.

3 A. The auction maximizes the value of that
4 plant, in our view, if it's a fairly held auction, and
5 you have to decide how fairly held that was. It will
6 find the potential owner which has the best view of the
7 market prices and the best view of cost, reductions it
8 can make.

9 Q. Does the allocation decision about the gain
10 permeate the decision as to whether the sale should be
11 approved?

12 A. It does if the gain goes entirely to the
13 shareholders, as Avista has proposed, because then the
14 ratepayers are responsible for all of the costs and all
15 of the risk of the market price with nothing to show
16 for it.

17 Q. Shouldn't we make those decisions in this
18 proceeding rather than deferring the issue of the
19 allocation of the gain to a general rate case?

20 A. The allocation of the gain in the general
21 rate case can be put in the context of where the
22 Company is going and all of the other ratepayer
23 decisions. We're suggesting that you provide the
24 ratepayers with 100 percent of the gain and then figure
25 out in the rate case how many years to spread it over

00484

1 and those kinds of things.

2 Q. So you would have us make that decision now
3 but then address in the rate case how that will affect
4 rates, but essentially having made all those
5 substantive decisions here.

6 A. Correct. So the allocation of the gain to
7 the residential customers versus the industrial
8 customers would be decided in the rate case.

9 COMMISSIONER HEMSTAD: That's all I have.

10 JUDGE SCHAER: Is there any redirect for this
11 witness? Is there anything further for Mr. Wolverton?

12 MR. GALLOWAY: I have a couple of questions
13 to follow-up to the Chairwoman's questions.

14

15 RE-CROSS-EXAMINATION

16 BY MR. GALLOWAY:

17 Q. I believe in response to questions from the
18 Bench, you suggested that if a company got even one
19 dollar of the gain from the sale, it would represent an
20 overearning of its return; is that the concept?

21 A. At the extreme, yes, I suppose that is the
22 concept, yes.

23 Q. Can you think of any other context or
24 circumstance where the fair rate of return is applied
25 in the context of a specific transaction? Isn't that

00485

1 concept one that's applied to the totality of a
2 utility's operations over the course of a test year
3 with the expectation that there will be winners and
4 losers, and the process doesn't evaluate particular
5 episodes in the life of the utility to determine
6 whether that particular transaction produces a fair
7 rate of return?

8 A. The asset has had a very specific rate base
9 effect over its life. The book value minus the
10 depreciation and the allowed rate of return has been
11 directly related to the amount of asset in the rate
12 base.

13 Q. I understand that, but can you think of any
14 other circumstances where the system has looked at a
15 simple transaction and thought that the rate of return
16 for that discreet transaction was appropriate to
17 proposing it or not?

18 A. I would suspect in some of the disallowances
19 that some of the nuclear plants and the treatment of
20 some of the nuclear plants and the effect on the
21 utilities return and equity would probably be taken
22 into account.

23 Q. But in the totality of all of its return,
24 counting all the wins and losses, wasn't it?

25 A. No. Specific to a particular asset.

00486

1 Q. But how it would affect the total returned
2 earnings?

3 A. Yes, but it would be with respect to that
4 particular asset.

5 Q. So even if your point has some validity,
6 isn't the way to apply it to look at some broader time
7 period and see whether any of these applicants, if they
8 earned this return combined with the other things that
9 have happened in the test year, whether that totality
10 of the operations produced a return that was excessive?

11 A. I think you are confusing with a realized
12 rate of return the allowed rate of return, failed rate
13 of return. How the company actually earns on the
14 return is really between the management and its
15 operations. It can foul up its rates of return, but it
16 doesn't average the allowed rate of return, so I would
17 not in any circumstances take a retrospective look at
18 the earned rates of return relative to the allowed
19 rates of return. The allowed rates of return are
20 directly related to what is in the rate base and
21 directly related to the Centralia Plant.

22 Q. The Commission has, for example, looked at
23 special contracts for industrial customers and where
24 there is a positive contribution margin to approve
25 them, has it not?

00487

1 A. It has. Even those contracts may take in to
2 individually producing. Let's than allow a rate of
3 return. They do that because absent the contract --
4 because the return on the utility --

5 Q. You said that you thought utilities had a
6 responsibility to take the best action available to
7 them for customers, and you said that in a context of
8 PacifiCorp's decision to go forward or not with the
9 sale.

10 A. Right.

11 Q. Do you think there should be adverse
12 consequences in that context for failing to fulfill
13 that obligation?

14 A. If a utility does not act in the best
15 interest of ratepayers, there are adverse consequences.
16 In the case of prudent extremes, if a utility is
17 continually underperforming -- U S West comes to
18 mind -- some of the trust that it has been entitled to
19 has probably been violated and should be taken into
20 account.

21 Q. I was talking about a more specific context,
22 this context, where I think you said that in the
23 context of whether or not to go forward with the sale,
24 a utility had a responsibility to do the right thing;
25 do you recall that?

00488

1 A. Right. Once the issue has been broached, I
2 think the utility is probably obligated now to carry it
3 through with something.

4 Q. Should there be adverse consequences if it
5 fails to?

6 A. That's going to be up to the Commission.

7 Q. My final question is, do I understand that
8 you don't know whether this transaction is in the
9 public interest if one third of the gain is allocated
10 to shareholders?

11 A. I believe the numbers that the companies have
12 presented show that there is a gain over the
13 alternative. And in that sense, it would be in the
14 public interest.

15 Q. You don't know, is my question.

16 A. Just what I've read.

17 Q. But you don't know one way or the other?

18 A. That's correct.

19 MR. GALLOWAY: Thank you.

20 JUDGE SCHAER: Is there anything further for
21 this witness? Go ahead, Mr. Adams.

22

23

RE-CROSS-EXAMINATION

24 BY MR. ADAMS:

25 Q. I just want to follow-up on one comment you

00489

1 made about second guessing and auction price. You've
2 indicated, I think on several occasions, did you not do
3 an analysis of the sale price of this proceeding;
4 correct?

5 A. That is correct.

6 Q. If the projected value of power has changed
7 between the auction date and now, when the regulatory
8 Commission is reviewing the public interest, might that
9 change your conclusion?

10 A. The projected rates of power change
11 frequently and projected costs of power -- and I
12 couldn't, as an exforecaster, say one way or the other
13 whether or not it should change the final conclusion.

14 MR. ADAMS: Thank you.

15 JUDGE SCHAER: Is there anything further for
16 Mr. Wolverton? Thank you for your testimony. Let's
17 go off the record for a moment to change witnesses.

18 (Discussion off the record.)

19 JUDGE SCHAER: Go ahead and call your
20 witness, Mr. Cedarbaum.

21 MR. CEDARBAUM: The staff calls Kenneth
22 Elgin, please.

23 (Witness sworn.)

24

25

00490

1 DIRECT EXAMINATION

2 BY MR. CEDARBAUM:

3 Q. If you could please state your full name,
4 spelling your last name.

5 A. My name is Kenneth L. Elgin, E-l-g-i-n.

6 Q. And you filed direct testimony and
7 supplemental testimony and exhibits on behalf of the
8 Commission staff?

9 A. Yes, I did.

10 Q. Referring you to what has been marked for
11 identification as Exhibit T-400, is that your direct
12 testimony in this proceeding?

13 A. Yes, it is.

14 Q. And is it true and correct to the best of
15 your knowledge and belief?

16 A. Yes.

17 Q. Do you have any corrections to make to it?

18 A. Yes. Page 19, Line 9, the word "authorize"
19 should be struck, and the word "fair" inserted. Then
20 on Line 11, "and authorized" should be struck, and the
21 word "that" should be inserted.

22 Q. With those two corrections then to your
23 Exhibit T-400, is the exhibit now true and correct?

24 A. Yes.

25 Q. Do you also have before you Exhibits 401 and

00491

1 402?

2 A. Yes.

3 Q. And those were prepared by you or under your
4 supervision and direction?

5 A. Yes.

6 Q. And they are true and correct to the best of
7 your knowledge and belief?

8 A. Yes.

9 Q. And finally, you have before you Exhibit
10 T-407?

11 A. Yes.

12 Q. That constitutes your supplemental testimony
13 in this case?

14 A. Yes.

15 Q. Is this exhibit true and correct, to the best
16 of your knowledge and belief?

17 A. Yes.

18 MR. CEDARBAUM: I'd offer Exhibits T-400,
19 401, 402, and T-407.

20 JUDGE SCHAER: Are there any objections?
21 Those documents are admitted.

22 MR. CEDARBAUM: Your Honor, I think the
23 agreement with Mr. Dahlke was that Mr. Elgin would
24 provide a response to Mr. Ely's testimony Friday about
25 the PGE transaction between Avista and PGE, so I don't

00492

1 know if you want to do that now or after the break.

2 JUDGE SCHAER: I'd prefer to do that after
3 the break, but what I will do before we go on break is
4 mark for identification two documents. Marking for
5 identification is Exhibit 408, a single-page document
6 which states at the top, PSE's Data Request No. 2 to
7 Staff, and I'm marking as Exhibit 409 for
8 identification a document entitled, Public Counsel Data
9 Request No. 1 to WUTC staff. That is a single-page
10 document. At this point, I would like to take our
11 afternoon recess, and I would ask everyone to be back
12 in the room at five minutes to 4:00 by the clock in
13 this room.

14 (Recess.)

15 JUDGE SCHAER: Go ahead, Mr. Cedarbaum.

16 MR. CEDARBAUM: Thank you.

17 Q. Mr. Elgin, Friday, Mr. Ely discussed on
18 behalf of Avista the transaction between Avista and PGE
19 with respect to the purchase of PGE's portion of
20 Centralia. Do you have any comments with respect to
21 that transaction on behalf of Staff?

22 A. Yes, I do.

23 Q. Why don't you go ahead and make those
24 comments.

25 A. The transaction between Portland General

00493

1 Electric and Avista rates, at least from Staff's
2 initial evaluation of the transaction, two substantive
3 issues. One is related to Avista Corporation's
4 decision to go into unregulated ventures, and many of
5 its unregulated ventures with respect to wholesale
6 power supply relate directly to the potential for it to
7 adversely impact its regulated business, so the
8 question becomes as Avista Corp pursues more and more
9 unregulated activities in this regard, there is just
10 this inherent competition between the regulated and
11 unregulated aspects of the business, and if look at the
12 Portland General Electric transaction, I think that
13 that's a manifestation of the problem, and the second
14 question then becomes as to whether or not that
15 acquisition of the PGE portion is jurisdictional or
16 not. I would look at some of the recent orders of the
17 Commission, particularly with respect to holding
18 Company mergers where the Commission has asserted that
19 at the holding company level, that where there are
20 exchanges of stock, that transaction is, in fact,
21 jurisdictional, and it would seem to me that the same
22 argument and logic could apply to Avista through one of
23 its subsidiaries when it acquires jurisdictional
24 property, so if one were to look at the transfer of
25 property statute, the disposition or the acquisition of

00494

1 that property for Avista would, in fact, be
2 jurisdictional, and then a corollary issue to that is
3 whether or not the transaction and the sale does raise
4 similar issues with respect to how should the gain be
5 treated for ratemaking purposes.

6 Q. This specific transaction wasn't discussed in
7 the Staff direct testimony explicitly; is that right?

8 A. That's correct.

9 Q. Why is that?

10 A. We were unsure as to whether or not that
11 transaction would go forward. It was Staff's
12 understanding that the Avista transaction was for the
13 acquisition of that property at book value, and I had
14 some doubts as to whether or not the Oregon Public
15 Utility Commission would allow Portland General
16 Electric to sell its interest at book value knowing the
17 proposal from TECWA to acquire Centralia for
18 approximately two-and-a-half times book, and then we
19 also knew there was a general rate case pending, and we
20 felt we could get to that issue in the context of a
21 general rate application.

22 Q. So the Staff intention will be to bring these
23 issues up to the Commission in the pending general rate
24 case.

25 A. Yes. It was our intention to raise those

00495

1 issues once the Oregon Public Utility Commission issued
2 a final order regarding PGE's sale of its interest to
3 Avista.

4 MR. CEDARBAUM: Thank you. Those are all my
5 questions. Mr. Elgin is available for
6 cross-examination.

7 JUDGE SCHAER: Mr. Harris, did you have
8 questions for Mr. Elgin?

9 MR. HARRIS: Yes, I do.

10

11

CROSS-EXAMINATION

12 BY MR. HARRIS:

13 Q. Would you agree that it's appropriate for the
14 Commission in this proceeding to consider not just
15 ratepayer interest but also shareholder interest.

16 A. I think it's even broader than that. I think
17 my testimony stand for the proposition that the
18 Commission should look out for the public interest,
19 which would include ratepayer and shareholder
20 interests.

21 Q. Is it your view that Staff's proposal -- I
22 want to ask you a few questions about Staff's proposal
23 specific to PSE. It's your view then that Staff's
24 proposal for PSE is fair to both ratepayers and
25 shareholder?

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1 A. Yes, I do.

2 Q. And your belief is based in part on your view
3 that shareholders will not be made worse off by the
4 sale under Staff's proposal.

5 A. That is correct.

6 Q. And part of Staff's proposal is that PSE be
7 required to defer projected power cost savings during
8 the remainder of the rate plan period, which is 2000,
9 2001; correct?

10 A. No I would not ascribe it as projected power
11 cost savings. Well, yes it would be projected power
12 cost savings in that sense.

13 Q. In fact, it's not to defer actual power cost
14 savings. It's to defer an estimate of power cost
15 savings that might be achieved during the rate plan
16 period.

17 A. That's correct.

18 Q. And those are to be deferred interest,
19 interest is to be accrued against those estimated
20 savings, and eventually, they would be flowed through
21 to ratepayers under Staff's plan?

22 A. Yes.

23 Q. If it turns out that, in fact, there are
24 power cost losses during the rate plan period, there is
25 no mechanism in Staff's proposal for PSE to recover

00497

1 those losses from ratepayers, is there?

2 A. Well, I would have you take up that issue
3 with Mr. Buckley, but it's Staff's position that there
4 will not be power cost losses but, in fact, that
5 Mr. Buckley has made a very conservative estimate of
6 what he thinks are reasonable power cost savings from
7 the sale of Centralia to TransAlta, and that the
8 Company should be able to achieve those.

9 Q. But that wasn't my question. My question is
10 if, in fact, it turns out there are power cost losses
11 during the rate plan period, there is no mechanism in
12 Staff's proposal for PSE to recover those losses;
13 correct?

14 A. I disagree with your hypothetical. I can't
15 accept the question.

16 Q. I'm not asking you what's actually going to
17 happen. I'm asking you to make a simple assumption
18 that there are, in fact, power cost losses instead of
19 savings during the rate plan period. Once you make
20 that assumption, I have a very simple question for you.
21 Assuming that happens, is there any mechanism under
22 Staff's proposal for PSE to recover those losses?

23 A. No.

24 Q. And, in fact, if it turns out there are power
25 cost losses during the rate plan period, PSE will not

00498

1 only have to absorb those losses, but in addition to
2 that, PSE will have to have set aside some deferred
3 amount, an estimate of what the power cost savings
4 should have been and still pass those estimated power
5 cost savings onto customers at some point in the
6 future.

7 A. Yes, that's correct, because Mr. Buckley
8 believes that his estimates are accurate and the
9 Company should be able to achieve those power supply
10 savings, but yes, under the very narrow constraints of
11 your hypothetical, that would be correct.

12 Q. So PSE will have to eat the power cost losses
13 and still pass on a deferred estimate of power cost
14 savings under that scenario.

15 A. Under that hypothetical scenario, yes.

16 Q. And Staff's proposal also requires that the
17 entire gain go to ratepayers; is that correct?

18 A. That's correct.

19 Q. But if we were talking about a loss instead
20 of a gain, you would not support passing the entire
21 loss through to ratepayers, would you?

22 A. A loss in which context?

23 Q. A loss on a sale. I'm sorry.

24 A. It would depend upon the circumstances
25 surrounding the loss.

00499

1 Q. So there are circumstances under which Staff
2 would support having the ratepayers fund some or all of
3 the loss?

4 A. Of the sale?

5 Q. Yes.

6 A. There are circumstances, yes.

7 Q. What would those circumstances be?

8 A. I have not thought about that.

9 Q. Could you take a moment and look at what's
10 been marked for identification as Exhibit 408. Do you
11 recognize that as Staff's response to PSE's Data
12 Request No. 2?

13 A. Yes, I do.

14 Q. And were you aware of the design life of the
15 plant as 40 years?

16 A. Yes.

17 MR. HARRIS: Your Honor, we'd offer what's
18 been marked for identification as Exhibit 408.

19 JUDGE SCHAER: Any objection? Document is
20 admitted.

21 Q. (By Mr. Harris) As part of your analysis,
22 Mr. Elgin, that you nor anybody on Staff did any
23 analysis of the life of the plant or likely life of the
24 plant, did you?

25 A. No.

00500

1 Q. You didn't do any analysis of the likely life
2 of the boilers at the plant or whether the plant will
3 outlive its design life, for example, did you?

4 A. No.

5 Q. You didn't do any analysis of what costs
6 would have to be incurred to stretch out the life of
7 the plant beyond its design life, did you?

8 A. No.

9 Q. Did you do any analysis of the risks that
10 environmental regulation will either make the plant
11 uneconomic and force closure or just plain force
12 closure?

13 A. Not explicit. I have done some analysis
14 regarding environmental issues related to coal fire
15 generation as part of my ongoing work, but nothing
16 specific related to this transaction.

17 MR. HARRIS: Thank you. No further
18 questions.

19 JUDGE SCHAEER: Mr. Galloway, did you have
20 questions of Mr. Elgin?

21 MR. GALLOWAY: Yes, Your Honor.

22

23 CROSS-EXAMINATION

24 BY MR. GALLOWAY:

25 Q. Page 11 of your testimony, you indicate --

00501

1 and I'm referring to the statement that begins on Line
2 8 -- that based on the studies, the sale of the plant
3 is at best, a push.

4 A. I see that.

5 Q. If PacifiCorp or one of the other Washington
6 regulated applicants decides not to go forward with the
7 sale because of the regulatory treatment that is
8 afforded to it, would that cause any particular concern
9 for the Staff?

10 A. No.

11 Q. Does it follow from that that Staff would not
12 assert in some future regulatory proceeding, if things
13 turn out to be less than positive, that it was
14 imprudent not to go forward?

15 A. It depends on what the circumstances were
16 when those decisions were had to be made by the Company
17 to seek regulatory recovery of whatever costs might be
18 associated with Centralia.

19 Q. Mine was a narrower question. Would Staff at
20 some future time -- let's say the scrubbers cost twice
21 what they were supposed to. Would it be reasonable for
22 Staff to assert that had PacifiCorp only gone forward
23 with the sale, it would have passed that liability onto
24 TransAlta, and therefore, customers ought not be
25 responsible for that overrun just because of the

00502

1 decision not to go forward with the sale?

2 A. Under that hypothetical, I don't think that
3 the costs of the scrubbers will cost double. I think
4 that those costs are fairly well known and well
5 defined, so I would say I can't answer that question in
6 the sense of the hypothetical. I think I know where
7 you are getting at in the context that at some future
8 date if it turns out that Centralia becomes a high cost
9 resource and we have to deal with that, and we'll have
10 to look at the facts and circumstances surrounding the
11 decision to either abandon or shut down Centralia and
12 pursue another resource option.

13 Q. When we reach that time, do you think that
14 the Company's decision not to proceed with the sale
15 will be relevant to how those decisions should be dealt
16 with and how costs should be allocated?

17 A. I guess I'm having trouble with the question.
18 Could you try it again a little differently? My
19 testimony stands that it's at best a push. What we
20 know today surrounding the economic studies that the
21 applicants have presented is that the swapping
22 Centralia, which is a known cost resource, with what we
23 know today for alternate purchases is at best a push,
24 so what we know today, this is what my testimony stands
25 for.

00503

1 Q. But it's really not a known cost resource in
2 that there are uncertainties associated with its future
3 costs, just as there are uncertainties associated with
4 future power costs.

5 A. That's correct.

6 Q. And my question is that if it turns out that
7 the costs of operating the plant, for any reason, turn
8 out to be higher than you're assuming, will Staff take
9 the position that customers should not be responsible
10 for those costs because the Company had an opportunity
11 to sell the plant and it did not?

12 A. Mr. Galloway, your question presumes quite a
13 lot in the sense that you are wanting me to say today,
14 Will Staff never question what might be a cost related
15 to the ongoing operation of Centralia.

16 Q. That's not what I'm asking. I understand you
17 have a duty to analyze those costs. I'm asking whether
18 you will assert that had the Company sold the plant,
19 these costs wouldn't have been present, and therefore
20 they shouldn't be paid for by customers?

21 A. And I guess the problem I'm having with
22 question is I don't understand what "these costs" means
23 because I don't know.

24 Q. Any type of cost, and I tried to give you a
25 discreet example, which is the scrubbers cost twice

00504

1 what they were supposed to.

2 A. The decision related to keeping Centralia is
3 up to the management, and what we see now is that at
4 best it's a push, and that's all I can say. I can't
5 tell you what we would do in the future because I don't
6 know.

7 Q. So if the decision to keep Centralia turns
8 out to be an improvident one, Staff would retain its
9 right to suggest that there ought to be consequences
10 for that.

11 A. If Pacific and the other operators were
12 imprudent in some of the actions related to that
13 facility, I think we would reserve our right to say
14 that those actions were imprudent and not in the
15 ratepayer best interest, but as I state later in my
16 testimony -- if you turn to Page 24, Mr. Galloway, it
17 begins on Line 19. If the utility's actions are
18 prudent and something happens to turn out that in
19 hindsight it would have been best to sell Centralia, I
20 don't think Staff is going to go back and say, Because
21 you didn't sell it today, we're going to disallow
22 costs.

23 Q. That was my question. Thank you. Can the
24 three Washington applicants be assured that if the
25 plant isn't sold that Staff will support the recovery

00505

1 of reclamation costs, whatever they prove to be?

2 A. Again, it depends on what are the
3 circumstances that give rise to those obligations with
4 respect to closing the mine.

5 Q. It was a yes or no question. Is it not the
6 case that you can not assure me that the Staff will
7 support those costs because you don't know the
8 circumstances?

9 A. I don't know what those costs are.

10 Q. Whether staff will support the recovery.

11 A. No. To the extent that they are reasonable
12 costs related to the ongoing operation of the mine and
13 they are prudently incurred, then the Staff would
14 support those costs.

15 Q. And that same philosophy would apply to the
16 scrubber costs?

17 A. That's correct.

18 Q. Suppose the cost of the plant or mine proved
19 to be uneconomic such that it is economic to close the
20 plant before its plants life, will Staff support the
21 recovery of the applicant's investment?

22 A. Again, under the scenario that I laid out to
23 the extent that those are reasonable costs and it was
24 an unforeseen circumstance, or who knows what, what
25 gave rise to that decision, but again, the Staff

00506

1 probably would support some kind of cost recovery to
2 the extent that it's an abandoned facility, I think
3 that we can look to prior Commission decisions and look
4 at the kind of treatment utilities have been afforded
5 with abandoned facilities.

6 Q. Page 13 of your testimony, the sentence that
7 starts on Line 14, let me summarize what I think you
8 are saying there and see if I'm doing it fairly. It
9 seems to me it's Staff's position that there are risks,
10 particularly replacement power costs, associated with
11 the sale, and that customers are going to be required
12 to bear those risks, and that it is necessary if they
13 are going to bear those risks to give them all of the
14 gain as compensation for those risks.

15 A. That's correct.

16 Q. And so in some way in your mind, there is an
17 equilibrium between the amount of the gain and the
18 insurance premium that's appropriate for those risks.

19 A. Again, this is yes because I analyzed this
20 part of the testimony in the context of the
21 Commission's decision in Colstrip where it did that
22 kind of analysis, and so all the company's
23 presentations do show short-term benefits of reduced
24 power supply expenses and exposure to ratepayers out in
25 the future of higher costs for market replacement

00507

1 purchases.

2 Q. But you've used "all" and you've underlined
3 it twice, and that suggests there is some mathematical
4 relationship between the quantum of risk and the
5 quantum of gain and that somehow if even a dollar less
6 than all of the gain went to customers that the
7 insurance premium wouldn't be high enough.

8 A. No. What I'm saying in this testimony is
9 that my analysis of the economics underlying the
10 Centralia transaction are very similar to what happened
11 in the Colstrip case, so in order to balance those --
12 and there isn't a dollar for dollar equation, but it
13 appeared to Staff and my estimation of the economic
14 analysis underlie a similar decision to which the
15 Commission reached in Colstrip that for ratepayers to
16 accept the risk of higher future energy costs; in other
17 words, swapping today what is a fixed known cost
18 resource Centralia for substitute purchases that the
19 gain and near term benefits should accrue to
20 ratepayers.

21 Q. Did you calculate the risk in any fashion?

22 A. Well, all you have to do is look at the
23 underlying analyses presented by PSE, Pacific, and
24 Avista and the exhibits that we've discussed in the
25 hearings up to date, and it's fairly clear what those

00508

1 analyses show.

2 Q. But you didn't quantify the uncertainty in
3 any way.

4 A. No.

5 Q. It's easier for me to talk about PacifiCorp's
6 case because I know those numbers, but the gist of this
7 is that in your mind, if Washington consumers get the
8 Washington allocated portion of 83 million dollars that
9 that will be appropriate compensation for the risks
10 they are being asked to undertake.

11 A. That's correct, and part of that though is if
12 you look at what I tried to do is apply one of the
13 tests that the Commission adopted in Colstrip with
14 respect to evaluating this transaction is what are the
15 risks and what are the costs and the benefits, so it
16 seemed to me that the transactions were strikingly
17 similar in that regard.

18 Q. But in your analysis, if the Washington
19 allocated share of the 83 million dollars goes to
20 customers, than this is a balanced deal in the public
21 interest?

22 A. That's correct.

23 Q. You heard earlier, I think, today testimony
24 to the effect that when this gain is passed through in
25 the form of a rate credit, there will be a gross-up for

00509

1 tax purposes such that more than the 83 million dollars
2 will be available to customers.

3 A. That's not the testimony I heard today.

4 Q. Do you not understand that if the Company's
5 revenues are reduced by virtue of a rate credit that is
6 part of the ratemaking process that there will be an
7 additional reduction in the Company's tax expense for
8 ratemaking purposes which will also customers?

9 A. The Staff proposal is not a rate credit. As
10 I understand the testimony I heard today is the Wyoming
11 Commission specified a rate credit to customers, and
12 the Staff proposal is to take the gain and use it to
13 offset any other costs that may arise out of the rate
14 application, and it may very well be in that context of
15 setting rates for Pacific, the amortization or the
16 somewhat amortization of a regulatory asset may be the
17 appropriate regulatory treatment for that gain, but
18 we're not proposing a specific rate credit. In fact,
19 that's the essence of the Staff proposal is that we
20 don't have enough information today to know what's the
21 best way to transfer that gain and provide those
22 benefits to ratepayers, and further compounding the
23 point fact is that how should the gain be allocated
24 between the various different customers that the
25 Company serves.

00510

1 Q. I believe you testified that you had
2 concluded the Washington allocated share of 83 million
3 dollars was adequate compensation for this risk.
4 Suppose for some reason there is additional money that
5 comes available from whatever source. Would you be
6 comfortable with that increment going to shareholders
7 since the 83 million dollars is sufficient?

8 A. I didn't say the 83 million was sufficient.
9 I said that I did not do a calculation, but I said that
10 it was an analysis similar to what the Commission
11 reached in Colstrip is that the gain and the power
12 supply savings were adequate compensation for
13 ratepayers accepting that risk. I did not say it's
14 83.2 million dollars or an 83.4 million was enough.

15 Q. But you said 83 million dollars was adequate
16 because that's what you believe is coming, isn't it?

17 A. No. I was answering your question. My
18 testimony says that the gain and the short-term power
19 supply benefits should go to ratepayers. Now, to what
20 extent should there be an additional gain, I think my
21 testimony later describes the policy reasons as to why
22 the gain should go to ratepayers.

23 Q. So it's your testimony that whatever the
24 amount of the gain turned out to be, you would decide
25 that was the amount necessary to compensate customers

00511

1 for their risks.

2 A. I don't have to say whatever. I know what
3 the amount of the gain is in this context.

4 Q. But I deposited a case, say, for some reason
5 TransAlta states a willingness to renegotiate the deal
6 and pay 50 million dollars more. Would it be your
7 position that that 50 million dollars suddenly becomes
8 required in order to make the payment to customers
9 adequate to cover the risks?

10 MR. CEDARBAUM: Your Honor, I'll object.
11 It's been asked in a number of different ways but it
12 still has been answered in a single way, and it has
13 been answered the same way to each of those.

14 MR. GALLOWAY: I have not heard it answered
15 once.

16 JUDGE SCHAEER: I think I have heard it asked
17 and answered, so please proceed. Can you restate the
18 question?

19 Q. (By Mr. Galloway) My question is, if for
20 some reason we found that there was more money
21 available to spread around, more than the 83 million
22 dollars, would Staff take the position that that
23 increment also needed to be paid over to customers in
24 order to properly compensate them for the risk that
25 they are taking?

00512

1 A. And my testimony is that if that amount that
2 we find is related to the gain on the transaction, that
3 should go to ratepayers. Otherwise, Pacific would
4 receive excessive compensation, independent of my
5 testimony.

6 Q. So your view is that all the gain should go
7 to customers independent of the relationship between
8 the magnitude of the risk and the magnitude of the
9 gain.

10 A. Yes.

11 Q. Do you know if PacifiCorp is reflecting the
12 power cost savings from the Centralia sale in its
13 pending Washington rate case?

14 A. I believe it is.

15 Q. Let me ask you sort of the reverse of the
16 questions that I asked you early on. If the sale goes
17 forward, and all of the gain is allocated to customers
18 as you've suggested, will the Staff support the
19 recovery of replacement power costs?

20 A. If they are reasonable.

21 Q. Will it support the recovery of environmental
22 remediation costs?

23 A. It's my understanding from environmental that
24 remediation costs -- it's the question of whether or
25 not they were from prior ownership of the facility, and

00513

1 to the extent that there is some extraordinary costs or
2 to the extent they are not something that's already
3 been provided for previously in rates, you would have
4 to look at that. So I would say that if something
5 unforeseen happened and they weren't already imbedded
6 to some extent in current rates that we would look at
7 that and provide for that.

8 Q. Suppose, to use the super fund word, it turns
9 out there is a major environmental problem underlying
10 the plant that can be traced to the current ownership.
11 Is that something that the Staff would support seeing
12 recovered through prices?

13 A. I think the Staff would support, and I think
14 the Commission in previous proceedings has supported
15 the companies in those efforts.

16 Q. Would the same be true if TransAlta filed for
17 bankruptcy and defaulted on its reclamation
18 responsibilities and they were visited upon PacifiCorp?

19 A. I don't know.

20 Q. Page 16 of your testimony, you describe how
21 the depreciation on plants under tends to be front
22 loaded so that as compared to a levelized cost stream?

23 A. Yes.

24 Q. Doesn't the Company's proposed depreciation
25 reserve method for allocating the gain properly capture

00514

1 this front-loaded depreciation as opposed to a
2 levelized treatment?

3 A. No. It does not.

4 Q. Why not?

5 A. Precisely because what ratepayers have paid
6 for in current rates, and rates heretofore since
7 Centralia went into rate base have not been captured.
8 In fact, the gain on this transaction is precisely
9 because the Commission's depreciation rates that they
10 have provided the applicants have not accurately
11 measured the costs and benefits of the facility, have
12 not accurately measured revenues and expenses so that
13 you have a gain, so for example, under depreciating
14 accounting for other type assets, a gain like this
15 would go to the depreciation reserve, and you would
16 reflect that in the ongoing depreciation rates for
17 other similar facilities.

18 Q. Maybe I misunderstand your testimony. I
19 thought I read your testimony at Page 16, Line 14, to
20 say that the depreciation of plants tends -- the actual
21 depreciation tends to be front loaded.

22 A. That's not the actual depreciation.

23 Q. I'm sorry. It references to early year
24 capital costs.

25 A. That's correct.

00515

1 Q. And among those are depreciation, are they
2 not?

3 A. Right.

4 Q. And isn't that the amount that the plant has
5 been depreciated at this point in time compared to the
6 remaining depreciation reflected in the sharing
7 mechanism of the depreciation reserve method?

8 A. No, it does not.

9 MR. GALLOWAY: I have nothing further.

10 MR. DAHLKE: I have no questions for this
11 witness.

12 JUDGE SCHAEER: Mr. Adams, did you have
13 questions for Mr. Elgin?

14

15 CROSS-EXAMINATION

16 BY MR. ADAMS:

17 Q. Mr. Elgin, in the discussion that was just
18 held and other times in this proceeding, the term
19 "Washington allocated share" has been used. If I'm
20 correct, as I understand it, the Staff is proposing
21 that 100 percent of the gain be deferred and considered
22 in the next rate case; is that correct?

23 A. Yes.

24 Q. At this point, I don't see anything in the
25 Staff case addressing which portion of the gain should

00516

1 be ascribed to Washington operations. Am I missing
2 something?

3 A. No. It's not there.

4 Q. Is there anything in PacifiCorp's
5 presentation that shows us how to allocate their
6 suggested allocation of the gain between Washington and
7 other states?

8 A. Imbedded in Mr. Weaver's analysis for the
9 Company's proposal to amortize approximately two-thirds
10 for the Yampa acquisition to offset the acquisition
11 adjustment for inquiring those properties, imbedded in
12 that calculation for -- no; excuse me. That is a
13 system revenue requirement number, so I don't think
14 there is anything in there.

15 Q. So at this point, what is your opinion as to
16 whether there is evidence in the record to establish
17 what Washington share is?

18 A. I don't believe there are sufficient numbers
19 so that we could ascertain what that would be.

20 Q. And refer earlier that at least some other
21 states that the allocation is a substantial issue.

22 A. It's a substantial issue with Utah primarily
23 because of Utah's decision to move to full rolled-in
24 pricing away from the modified accord of methodology
25 for establishing Utah revenue requirements, and the

00517

1 essence of that decision is to say that the prior
2 merger resource bases are part of the Utah operations,
3 which could have an adverse impact to Washington
4 ratepayers.

5 Q. If you would refer to what's been marked for
6 identification as Exhibit 409, which is Staff's Request
7 No. 1 to Public Counsel; do you have that?

8 A. Yes, I have that.

9 Q. Does this basically state then Staff's
10 position on the allocation issue; that is, that it
11 should not be addressed here but in a general rate
12 case?

13 A. That's correct.

14 Q. And I'm assuming that the general rate case
15 would be the one that has been currently filed?

16 A. Yes.

17 MR. ADAMS: I would move the admission of
18 Exhibit 409.

19 JUDGE SCHAER: Any objection? The document
20 is admitted.

21 Q. (By Mr. Adams) Again, it's my understanding,
22 that PacifiCorp proposes to offset the gain that is, if
23 you will, assignable to ratepayers to be used to write
24 down generation related regulatory assets, specifically
25 Yampa?

00518

1 A. Yes, that's correct.

2 Q. Where is Yampa?

3 A. I believe it's in Colorado.

4 Q. Earlier this afternoon, Staff through
5 Mr. Wright introduced Exhibit 231, which is an order
6 granting petition as amended; do you recall that
7 document?

8 A. Yes.

9 Q. There they refer to the Colorado-Ute. Is
10 that basically Yampa?

11 A. Yes. The Yampa facilities are a generation
12 that the Company acquired out of a bankruptcy
13 proceeding, and when they acquired those properties,
14 they paid more than book value, so there was an
15 acquisition premium associated with that, and that's
16 what Pacific's proposal is to do to write down that
17 acquisition premium.

18 Q. You're far more familiar with this than I.
19 Is there an exhibit that Staff has presented that will
20 show how to deal with the Yampa investment?

21 A. No. In fact, Exhibit 231, it was my
22 understanding that the Company had agreed to reserve
23 that issue for its next general rate case, which is
24 before us now, so the amount of that and the
25 circumstances that gave rise and the prudence of the

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1 Company's decision to enter into that decision to
2 acquire that resource would all be evaluated in this
3 rate case that's before the Commission right now.

4 Q. I may have missed it, but is there any
5 exhibit in the record from PacifiCorp that supports
6 these issues for Yampa; that is, the amount of
7 acquisition adjustment and how to spread it and how to
8 offset it?

9 A. I have not seen anything. I believe
10 Dr. Weaver's work paper show the magnitude of that
11 total adjustment. I don't know the specifics. You
12 would have to ask Mr. Martin that. He could probably
13 provide that for you.

14 Q. But again, Staff's position is that issue
15 should be determined in the general rate case?

16 A. That's correct.

17 Q. You've identified and it was admitted,
18 Exhibit 408 relating to the 30-year expected life of
19 Centralia. I just had a question. In looking at the
20 response, you make reference to the pollution control
21 equipment being installed with an estimated life of at
22 least 30 years.

23 What I don't see addressed in your response
24 was any kind of mention of the generator rewind and the
25 other substantial work that also will be done. Did you

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1 consider that in your response to Exhibit 408?

2 A. No. I guess why I responded in this way, it
3 seemed that the question was asking whether or not I
4 proposed that Centralia would be an additional -- once
5 this scrubbers were installed, would have an expected
6 30-year life, and the purpose of this was to clarify
7 that that's not what my testimony stood for, and
8 basically, what we are doing is looking at the fact
9 that the companies have decided to install those
10 scrubbers, which have 30-year life, and it makes sense
11 to look at this point in time whether or not the
12 decision were to go ahead and keep Centralia and invest
13 in these kind of facilities what other things would go
14 along with extending the life of the project on an
15 ongoing basis, so it seemed reasonable that a 30-year
16 analysis for evaluating the sale at this point would be
17 appropriate.

18 Q. Is the extension of the life of a plant
19 different from the original estimated life or design
20 life of a plant?

21 A. Yes.

22 Q. What is the difference?

23 A. Well, those issues relate to incremental
24 investment and the likelihood of those incremental
25 investments and whether Centralia would be an ongoing

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1 cost-effective resource. So the analysis that the
2 applicants have prepared to date indicate that with the
3 addition of the scrubbers, Centralia becomes
4 approximately a 30-mill resource, which based on their
5 economic study seems to be a reasonable cost for
6 Centralia on an ongoing basis and justified the
7 addition of the scrubbers.

8 Q. But again, if you assume a 40-year design
9 life for a plant, am I correct that you, by renewing
10 certain portions of that plant you can extend the life
11 of the plant beyond the 40-year design period?

12 A. That's correct.

13 Q. That's what's being done here with Centralia.

14 A. That's my understanding of what's happening
15 with Centralia.

16 MR. ADAMS: Thank you. That's all I have.

17 JUDGE SCHAER: Ms. Hirsh, did you have
18 questions?

19 MS. HIRSH: No questions.

20 JUDGE SCHAER: Mr. Lavitt?

21 MR. LAVITT: No questions.

22 JUDGE SCHAER: Commissioners, do you have
23 questions for Mr. Elgin?

24

25

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1 EXAMINATION

2 BY MR. CHAIRWOMAN SHOWALTER:

3 Q. On the last point that you were on -- I guess
4 it's on Page 8 of your testimony. You suggest that
5 PacifiCorp should explain why it used 23-year time
6 frame but otherwise supported a 30-year analysis. Do
7 you have an independent judgment of your own of whether
8 23 or 30 is actually a more reasonable number?

9 A. No, I don't.

10 Q. I think I am clear about your testimony, but
11 I just want to make sure. You think that we should, in
12 this proceeding, decide how the gain will be treated,
13 just reserve the methodology for allocating it to the
14 rate case; is that right?

15 A. Yes.

16 Q. Does that actually square with
17 Mr. Wolverton's testimony as well?

18 A. Yes.

19 Q. I think I misunderstood his originally.
20 There was another point at which I think you say that
21 it's at best a push because you are looking at in the
22 low to medium forecast scenarios, but with a medium
23 forecast scenario, is it a push, in your opinion?

24 A. Yes. Assuming that with what we know today
25 about the ongoing costs of Centralia. In terms of a

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1 qualitative assessment, one of the uncertainties, and I
2 agree with the applicants that there are some risks
3 associated with ongoing environmental concerns with the
4 coal, and particularly the type of coal that's used for
5 that facility, but under a medium forecast, if you get
6 to a point where customers eventually have access to
7 competitively priced power supply, and you have some
8 movement towards open access, I think selling Centralia
9 and returning to shareholders the book value so that
10 they eliminate that risk from their resource portfolios
11 of keeping and operating Centralia, providing
12 ratepayers with the gain, and then eventually moving
13 towards some open access, I think under medium price
14 forecasts, I think it's a reasonable risk for
15 ratepayers to accept, given the fact that the gain is
16 used to offset other costs.

17 Q. Then supposing we take low forecast. Doesn't
18 that mean that it's better than a push, that it should
19 be done?

20 A. Right. This is one of the problems I have
21 with these analyses, and the reason why I have a
22 problem with these types of analyses is that they are
23 the same type of analyses that I think got the
24 utilities in a lot of trouble earlier with respect to,
25 let's build some nuclear plants and some coal plants

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1 and buy PURPA resources, is that at some point, those
2 models are only as good as the data you put into them,
3 and if we can assume low purchase power costs and a
4 robust wholesale competitively priced power supply
5 market, then there might be more benefits, but my
6 thinking in this is right now with the technology that
7 the long-term marginal costs of resources right now
8 with best available technology and with what might be
9 out there in terms of improvements and technology would
10 be to the 30- to 35-mill resource at the margin, unless
11 something with fuel cells or something dramatic
12 changes, heat rates.

13 Q. If you are looking at 20 years, is it
14 unreasonable to think that something dramatic like fuel
15 cells may very well occur?

16 A. It not unreasonable. It's possible.

17 Q. I'm back on this low forecast, and I
18 recognize all these are forecasts. All of it is some
19 form of speculation?

20 A. That's correct.

21 Q. But in the low scenario, isn't it better than
22 a push?

23 A. Yes.

24 Q. So whether you say it's at best a push,
25 actually, at best, it's better than a push if you are

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1 in the low scenario.

2 A. That's correct. That's what my testimony
3 says is that the relative economics are a function of
4 two critical variable: how far out you go and how
5 aggressive you are with respect to what is best
6 available technology and what is market price forecast,
7 so if you look at Avista's presentation, it's a little
8 more aggressive. If you look at the Puget Sound
9 Energy's and the recent Aurora, there is a difference,
10 so those have tremendous impact on what you determine
11 is your best guess about what might happen.

12 Q. So I'm still in the low scenario. In that
13 particular scenario, if it's better than a push, then
14 in that scenario, do you still feel that the ratepayers
15 need to get all of the gain as a matter of, I think,
16 regulatory philosophy, or if they didn't get all the
17 gain for some other regulatory philosophy, I suppose,
18 wouldn't there still be a range in which the ratepayers
19 were still better off?

20 In other words, if we were in this lower
21 scenario, and the ratepayers didn't get all the gain,
22 but they were still better off then if the plant were
23 not sold, wouldn't that first threshold question of is
24 this in the general public interest be passed with a
25 second consideration about what is right or wrong on

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1 the allocation of gain?

2 A. Right, and again, I try to address this in
3 the context of what I thought was your kind of
4 overriding policy kind of evaluation in the Colstrip
5 case about selling a major thermal facility, but in
6 general, then I took another shot at providing the
7 arguments as to, first off, the utilities have an
8 affirmative obligation to do what's in ratepayers' and
9 shareholders' best interests, and I think all this
10 discussion that we've had surrounding the amount of the
11 gain and what could be there for shareholders, we're
12 missing the critical impact of what is management's
13 responsibility and what are they getting paid for with
14 respect to the overall rate levels that consumers pay,
15 and I think that the managements of these utilities
16 have an affirmative obligation to do everything they
17 can to keep their prices down. That's the first thing.

18 The second thing is for an ongoing utility
19 that for getting a return on equity and a depreciation
20 on these assets is sufficient compensation; that once
21 the utility sells this and gets its book value, it's no
22 worse off, and so this incentive thing I think has, as
23 I've heard the testimony today, we forgot about the
24 incentive to keep rates down, and that these utilities,
25 if we move to competitive environments, that's

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1 something very real, that if they can eliminate
2 Centralia and remove that risk from their balance sheet
3 and also reduce prices, I think they are better off,
4 and I think that in the broad sense of what's in the
5 public interest, I think that in terms of Staff's
6 recommendation to sell this plant, we think that this
7 is the right way to go. Reduce your prices and
8 eliminate the regulatory risks for shareholders and
9 ratepayers of Centralia and all the environmental
10 things surrounding Centralia, and let's move forward.

11 Q. But if we were in a situation where there was
12 extra gain to be passed around, then you would say that
13 even to share that gain would leave the ratepayers
14 better off than without the sale. Despite that, it
15 wouldn't be right to do, because as a matter of the
16 regulatory compact, the ratepayers shouldn't get all
17 the gain, and also as a matter of the Company's
18 obligation to keep the rates as low as possible. That
19 would not have been honored if some of the gain went
20 for the companies.

21 A. Right, because once you provide the gain to
22 the Company, you have not -- you have not then, in my
23 mind, been -- I guess I was trying to say in the terms
24 of the Holton Bluefield standard that these utilities
25 are provided to earn a fair rate of return, and as I

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1 agree with Mr. Wolverton, imbedded in that
2 determination of return on equities and overall rate of
3 return is the risk of these facilities, of managing and
4 operating and being in the utility business, and once
5 you provide the gain, you are providing excess
6 compensation, because our process is not set up to deal
7 with the fact that particularly large central
8 generating stations and the big impacts that these have
9 on utility operations, so in fairness, by giving back
10 book value, you are making them no worse off. The
11 utilities are better off with this transaction, even if
12 we are at the low scenario, because their prices stay
13 low and they remain competitive, and they've eliminated
14 that regulatory risk.

15 We can hypothesize about how much extra gain
16 and what would be enough to now say, Okay, this much
17 should go to shareholders, but the overriding thing is
18 the shareholders have been adequately compensated by
19 our regulatory processes, and to give them the gain is,
20 in my mind, excessive compensation, and I don't know
21 where that threshold would cross. I just don't know
22 how you would make return on equity determinations if
23 by some chance you said, Now we're going to go about
24 and start rewarding the utilities for selling their
25 generation. I just can't understand how we now

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1 rebalance the equation that we have had over the years
2 with these regulated companies.

3 Q. Let me go into the other territory where it's
4 a higher forecast so that it's worse than a push, so
5 that if you say, No, this isn't a good idea to sell
6 this plants; however, there is some qualitative issues.
7 Supposing your market forecast showed you would lose a
8 little money, but you avoid the risk of several things-
9 carbon tax and closure and restructuring, maybe,
10 something like that. How do you weigh those against
11 one another? How do you decide when some of those
12 negative risks outweigh the extra costs that you might
13 incur from the sale?

14 A. You just have to do the best you can with the
15 factors that you know at the time and the circumstance,
16 and I think that the Public Counsel's case is premised
17 on the fact that those risks are there and their
18 calculus says, Well, these economic benefits and these
19 costs and the power of the plant is worth so much. We
20 are not getting fair value.

21 How you go about weighing those, is, in my
22 mind, each individual brings their own kind of baggage
23 to the equation, and particularly once you start
24 evaluating qualitative factors, you have to make some
25 judgment about what's important to you, and I don't see

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1 anything in this transaction that gets you to the point
2 where you say that this high forecast and the value of
3 the power outweighs these environmental risks. I'm
4 having real trouble with that hypothetical and how we
5 get there.

6 Q. I asked that hypothetical not because it
7 especially applies to this case, but I think it points
8 out some of the different elements in this case, which
9 are you have a market forecast numbers, which are
10 really just speculations on numbers. They aren't
11 necessarily more objective than the prediction of
12 whether there will or won't be a carbon tax, for
13 example, so I was using the hypothetical in order to
14 try to isolate some of these, but do you think it
15 should be our posture that we look first to the
16 calculation on numbers and say it's a push or not a
17 push, and know we will add on or consider some of these
18 other risks, maybe some environmental factors. Is
19 there a primacy about market forecasts versus the
20 prediction that some major qualitative events may
21 occur?

22 A. No. In fact, if you look at my testimony,
23 that's precisely what I didn't do. I did not, and the
24 Staff case doesn't have anything at all like Public
25 Counsel's case or the Company's cases. I looked at it

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1 as a range, and what you basically have is you sell
2 Centralia. It's a known cost resource. It's about 25
3 mills today. You add the scrubbers and you do some
4 things, the rebinds and the generator, and you can
5 extend the life of the facility, and it becomes a
6 30-mill resource for fairly long period of time, and
7 then now within a range, we know in short term it's
8 likely that there are some cost savings, but out there,
9 we don't know.

10 Somewhere between 2004 and 2008, that's why I
11 gave myself a wide latitude in there because I didn't
12 get to that point. I said it's fuzzy, but given that
13 and the environmental risks that Centralia presents, I
14 think it's a good bet to sell, and that providing the
15 gain in the near term benefits kind of balances all the
16 equities that I see.

17 Q. Your estimate that somewhere between 2004 and
18 2008 is the break-even point was based on a 30-year
19 projection; is that right?

20 A. No. It was based on estimates of looking at
21 the internal forecasts that Avista's witness, looking
22 at the Aurora Model and then looking at Pacific's net
23 present value revenue requirements, so I did not
24 project out 30 years. The whole purpose of that
25 testimony was to say, Well, it looks to me like

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1 Centralia is going to spend all this money on it. It's
2 going to be likely a 30-year facility, so what happens
3 in 30 years? But I'm saying 2004 and 2008 is the
4 crossover point where our best guess today is where
5 market and the costs of Centralia converge, somewhere
6 in that time frame.

7 Q. If that's true, wherever the crossover point
8 is in that range, the longer you think the life is the
9 worse a deal a sale is, because after that point,
10 market costs are rising.

11 A. But at the same time too I recognize that
12 after 2008 and out there, there are other uncertainties
13 with respect to environmental mediation, other
14 uncertainties with respect to ongoing costs of
15 Centralia, but the analysis that are presented assume
16 -- in fact, if you look at Dr. Weaver's, one of his
17 exhibits talks about an analysis with -- he calls it
18 "aggressive cost containment," so he's saying we are
19 aggressively going to control costs. Well, that's the
20 best case scenario for keeping Centralia, but I do
21 recognize that out there at some point in time there
22 will be things you need to do with Centralia, and as I
23 testified in Colstrip that the likelihood of a carbon
24 tax is probably a low probability event and how that
25 would apply to Centralia because of its strategic

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1 location in the grid, there will be a lot of political
2 pressure to keep that facility operating.

3 Q. Is it fair to say that everything that we
4 are speculating on gets more speculative the longer out
5 you go; is that correct?

6 A. That's correct.

7 Q. But the market forecasts themselves make
8 Centralia look like a better deal the longer out you
9 go. On the other hand, some of these other events -
10 fuel cells, restructuring, carbon tax, et cetera, they
11 tend to make keeping the plant a less of a good deal
12 over time, in that long return.

13 A. That's correct.

14 Q. So do you have any observations about how we
15 treat the long-run versus the short-run? Maybe for the
16 next five, 10, 20, 30 years. Does any discount
17 factor -- are we already taking that into account in
18 some form, or do we, the Commission, need to, in
19 essence, segment these terms -- near-term meaning
20 medium-term, long-term, and discount certain
21 possibilities but possibly increase other possibilities
22 over that long-term?

23 A. I think that what Staff is proposing here is
24 kind of the best snapshot I would recommend that you
25 take is that between now and 2004 to 2008, there is

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1 some near-term benefits. And there are some risks, and
2 one of the big things about Centralia that seems to be
3 an overriding problem is the inability of eight
4 figures, and even with the potential of reducing that
5 number to six, you've got eight people coming together
6 trying to make decisions about Centralia which -- my
7 reading of the testimony, all the applicants say there
8 has been an ongoing problem.

9 So if you sell Centralia and provide the
10 shareholders with book value, they are no worse off,
11 and they have eliminated what they are saying is a
12 significant risk, if what I've heard of this testimony
13 today is that, Gosh, what happened to the hypotheticals
14 from Pacific's counsel about, Well, in the future, what
15 if this cost or that cost. Well, if you sell
16 Centralia, you eliminate it for both ratepayers and
17 shareholders. Shareholders are no worse off. They get
18 book value. Ratepayers receive the benefit of the fact
19 they paid up front in capital costs for the facility,
20 and then I think its a reasonable risk to expose
21 ratepayers to market forces and future diversified
22 resource portfolios that this would enable some of
23 these companies to pursue, new resource options, and as
24 I testified, I think that competition will provide
25 benefits to consumers, and selling Centralia and moving

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1 these utilities to more market-oriented purchases is
2 probably in the best interest of both the utilities and
3 their consumers, so let's focus on short-term. Let's
4 do what we can to keep rates down. Let's make
5 shareholders no worse off and let's move on.

6 Q. So that discussion we just had, I take it, is
7 more about whether the underlying transaction is or
8 isn't in the public interest. It wasn't directly
9 related to where the gain should go; although you can't
10 totally separate the two, but the discussion about
11 where the gains should go has more to do with rate of
12 return and regulatory compact and undertaking risk, et
13 cetera.

14 A. I believe it does, yes.

15 CHAIRWOMAN SHOWALTER: Thanks.

16

17 E X A M I N A T I O N

18 BY COMMISSIONER HEMSTAD:

19 Q. Staff didn't do its own independent economic
20 analysis here, did it?

21 A. No.

22 Q. And did you not do one for the same kinds of
23 reasons that Mr. Wolverton gave that the auction
24 process is the best way to determine value?

25 A. There is two points to that: We did not want

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1 to get into an argument with the utilities about did
2 you get enough and did you not get enough, but the
3 second thing is that you had three utilities that had
4 an analysis in terms of the economics, although
5 different weren't -- like one is way here and 180
6 degrees. They were within fairly narrow bounds, so the
7 economic analysis supporting were pretty similar.

8 Q. But Public Counsel's is quite different.

9 A. Public Counsel's is very different, and they
10 have their own ideas about what the plant is worth.

11 Q. What factors would, in your opinion, cause
12 the successful bid here to be substantially above book?

13 A. What factors? The strategic location of
14 Centralia. The fact that it is situated between the
15 two biggest markets in the Pacific Northwest; the fact
16 that it provides transmission and voltage support for
17 the east, west and transactions across the mountains;
18 the fuel supply and the opportunity to in the future,
19 were there uncertainties about fuel that there are
20 alternatives to fuel Centralia, and some flexibility in
21 terms of that.

22 It's also very close to natural gas and
23 natural gas storage, and the likelihood that it could
24 build and bypass BPA's transmission; that it could
25 service these markets and eventually serve these

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1 markets with transmission and outside of paying BPA's
2 network transmission rates, so all of those factors.

3 Q. If this plant were owned by a single owner,
4 wouldn't all those value factors be present and
5 attractive to that owner?

6 A. Yes, very much so.

7 Q. So is it the multiple ownership issue that
8 makes a significant difference here?

9 A. But it's the multiple ownership in the
10 context of what market they are trying to serve as
11 well; for example, if PSE owned the facility and could
12 bill transmission directly into its loads center like
13 Olympia, the plant would have a lot of value, and it
14 owned it and operated it.

15 The other thing is -- this is something that
16 you would have to -- I have to agree with Mr. Wolverton
17 is that this is on the cost side. I think a single
18 owner operator and somebody like TECWA, at least my
19 understanding of that company is that one of the things
20 it can do is operate the coal mine and the plant more
21 efficiently, so that could be some of the value that it
22 would hope to extract, and so that's part of it as
23 well. Whether a single owner could that do that as
24 well as an independent power plant owner with a profit
25 motive to sell in the wholesale market, that's part of

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1 the value as well.

2 Q. So the independent owner at least is making
3 an assessment that it can operate the plant more
4 efficiently than the current arrangements.

5 A. That is correct.

6 Q. Back to this question of incentives, in a
7 conceptual sense, it certainly is true that the utility
8 has a duty to look out for the interests of the
9 ratepayers, but in a certain sense, wouldn't you agree
10 that there is a human nature factor, isn't there, that
11 if a person has a direct opportunity for personal gain
12 in this instance, it will be probably more aggressive
13 in attempting to get the last possible benefit from a
14 sale than if you don't have.

15 A. That's correct.

16 Q. How do you factor that into this conceptual
17 discussion about whether there should be any sharing of
18 the gain?

19 A. Well, I would just hope that these public
20 service companies were given the fact that they have
21 franchise service territories and long-standing
22 business relationships with their consumers would do
23 everything they can, but if what the utilities are
24 telling you is that if we don't have the right
25 incentives to do the right thing and we're not going to

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1 do the right thing because the incentives aren't right,
2 then I think that's something we can deal with on a
3 perspective basis and try to set up the right
4 incentives, but my understanding is that we are not
5 there yet, and the incentives that are set up are an
6 opportunity to earn a fair rate of return and the
7 obligation to have safe, efficient, reliable and
8 least-cost resources attached to its system, and
9 whatever it takes for the utility to accomplish that is
10 what ratepayers are paying managements to do, so it's
11 kind of like -- I'm not adverse to incentives, but I
12 think if they are up front and we know what they are
13 and we've laid them out, but we can probably come to
14 some agreement as to what's a reasonable way to do
15 this, but our traditional regulatory response has been
16 a fair rate of return and reasonable costs, and we
17 don't have the kind of things that the utilities would
18 like us to have in terms of incentives for selling
19 major power plants, and I just want to emphasize too
20 that the importance of the fact that ratepayers pay
21 these high costs of these facilities when they first
22 went into rate base can't be overlooked, and we've
23 always looked at the impact of these major thermal
24 additions on utility rates that the history of this
25 Commission has been -- you look through the history of

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1 major rate cases on the electric side, and they are all
2 tied to these major power plants and these major
3 facilities that come into rate base, and the impacts
4 they have on consumers, and I think in terms of
5 incentives, let's look to the ratepayer and see, Okay,
6 over the years, what has the ratepayer paid for
7 Centralia, and if we were somehow to use -- we're not
8 trying to confiscate anything by our proposal. We're
9 just saying you are getting fairly treated by having
10 the net book value returned, because you may take that
11 money, invest in new projects and new capital
12 facilities that will provide a fair rate of return and
13 you are no worse off.

14 COMMISSIONER HEMSTAD: That's all I have.

15

16 E X A M I N A T I O N

17 BY CHAIRWOMAN SHOWALTER:

18 Q. It seems true that if all the Company gets is
19 that fair rate of return, they are being fairly
20 treated, but does that end the question? Because I
21 guess I'm interested in what I'll call the "windfall
22 zone," meaning isn't the book value set at the outset
23 of the plants; that is, there is some calculations done
24 and there is depreciation schedule, and from that
25 results a book value when a plant is sold, and one

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1 could say, and you do say, that whatever happens after
2 that, if it's good or bad, that's one of those risks
3 that the company is already being compensated for, one
4 way or the other, but let's say the plant is run out;
5 that is, it's fully depreciated, so the ratepayers have
6 gotten what they thought they were going to get at the
7 outset. They paid a little high in the beginning and
8 they got a good deal at the end, and meanwhile, the
9 Company has been tooling along collecting its rate of
10 return, and then you arrive at the end.

11 A. But there isn't an end.

12 Q. But you arrive at the end of the original
13 depreciation term, and forget about scrubbers. I'm in
14 a hypothetical. So you arrive at the end of what
15 everyone thought would be the end, and low and behold,
16 it's not the end, and maybe times have changed. Maybe
17 five cities sprung up around the plant. Various things
18 happened. Your position is if the Company gets no more
19 than a rate of return, it's been fairly treated, but
20 the next question is, why is it unfair to share what
21 I'll call the windfall effect? If both Company and
22 ratepayers have gotten the full benefit of the deal
23 they set out to have, then why at the end shouldn't
24 there be some sharing of that? And I'm not saying
25 this is the example. I'm trying to get at that factor

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1 though.

2 A. Because, in effect, there is no end. When we
3 set out to set up this depreciation schedule and this
4 matching of revenues and expenses, we don't know
5 whether the facility is going to last for 20 years, 40
6 years, 70 years. On an ongoing basis, there is a
7 constant assessment; in fact, that's exactly what's
8 happening with Centralia. It's not ending.

9 There is an exhibit that Public Counsel
10 introduced that talked about the five-year capital
11 budget for Centralia. So it's an ongoing consideration
12 is what is the value of that resource, so I guess with
13 your hypothetical, it's kind of like you are making it
14 almost as if it's a contract that at the end there is a
15 finite time, and I'll contract with you to do this in
16 consideration for this consideration, but the
17 regulatory process is not like that. There is no
18 finite contract with respect to the obligation of the
19 utility to provide ongoing least-cost resources for its
20 ratepayers, and I think that's what I'm having trouble
21 with your question is that it doesn't end, and if you
22 had perfect knowledge and if we had way back perfect
23 knowledge about Centralia, we may have depreciated it
24 differently because we would have known the economic
25 life would have been different, but that's just a

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1 fiction of the fact that you are booking it a certain
2 way and providing for cost recovery, but it really
3 doesn't end.

4 Q. So I think I get two answers from you
5 possibly. One is that the depreciation schedule itself
6 is artificial and it just happens to be whatever it is.
7 It's not the underlying dynamic of the plant, but the
8 second is that to whatever extent you give any of the
9 gain to the Company, it hasn't been the least-cost
10 plan, in essence, because you are saying anything that
11 costs extra to the ratepayers after the Company gets
12 its fair rate of return is a least cost. You could do
13 it at less cost if they got less of a gain.

14 A. I don't think that's what I'm saying. I
15 think what I'm saying is that on an ongoing basis, the
16 utility is compensated for a return on equity for
17 whatever the risk is at any one point in time with
18 respect to the ownership, so now the utilities are
19 thinking about scrubbers and turbine rewinds and these
20 things to extend the life. Well again, those are new
21 incremental investments to extend the life of
22 Centralia, and those have added risks, but imbedded in
23 every time the utility comes in for cost recovery and
24 rates, we will make an assessment on an ongoing basis
25 perspectively, what have they spent; is this a

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1 least-cost decision, and what are the imbedded risks,
2 and then what are investors in similar investments
3 requiring for compensation for the ownership of those
4 facilities, and that's what I'm suggesting. It never
5 ends. There is always a reassessment and a
6 recalculation of the ongoing costs and what are
7 reasonable decisions with respect to resource
8 acquisition for this regulated business.

9 Q. And then you may have this in your testimony,
10 but while I'm thinking of it, what is your position
11 then with respect to stranded costs, if prudently
12 incurred?

13 A. To the extent they are prudent and properly
14 mitigated, I think that they should be recovered, and I
15 would say that Staff would support stranded costs
16 recovery for all prudently incurred mitigated stranded
17 costs, and particularly for these utilities. This is
18 what I raised in Colstrip was the issue with respect
19 specifically to PSE because they are the utility in my
20 mind that has stranded cost exposure. I think that
21 Pacific and Avista do not.

22 CHAIRWOMAN SHOWALTER: Thanks.

23

24 E X A M I N A T I O N

25 BY JUDGE SCHAER:

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1 Q. Mr. Elgin, I'd like to ask you first about
2 some testimony you gave about Page 16 of your testimony
3 at Line 15. Looking there, you discussed depreciation
4 and you discussed capital costs, and my understanding
5 of what you're trying to say here is the depreciation
6 in a simple example where you buy something once and
7 you pay for it and you are done, and you don't add
8 scrubbers and rewinds, and that's taken over in a
9 straight line over time; is that correct?

10 A. That's correct.

11 Q. And then the capital costs, as I understand
12 them, are applied to the undepreciated amount that's
13 still in rate base?

14 A. That's correct.

15 Q. So in the first year, you would have capital
16 costs on 100 percent of the plant. At the end of the
17 depreciation, you would have no capital costs remaining
18 for the plant; is that a correct understanding?

19 A. Yes.

20 Q. So that looking at those two things, they
21 really are not proportional to each other. If you get
22 24 years into a plants, you've got a straight line 24
23 years of depreciation, but your capital costs would
24 probably be all other things remaining equal; is that
25 correct?

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1 A. That's correct. In fact, that's the issue
2 with any major plant addition for an electric company.
3 Those were the issues when in the '70's and '80s, there
4 were all these plans about do you phase in or do you
5 levelize costs or other ways to mitigate the impact of
6 the front-loading that these major projects have and
7 the impact they have on rates, because in the very
8 first year, particularly a facility like Centralia or a
9 nuclear power plant, they were all built on the premise
10 that these are high capital cost low fuel facilities,
11 so all the costs are what we call front-loaded, and
12 they decline over time, and this is the impact that I'm
13 discussing at Page 16 of my testimony.

14 Q. So if one were to look at a proportional
15 share, one means of doing that would be that proposed
16 by PacifiCorp where you say, Okay, we've got this much
17 depreciation. This is how much ratepayers have paid,
18 and this is what we have left, but another proportion
19 might be to say, Let's look at capital costs and this
20 much ratepayers have paid and a different amount
21 shareholders have paid. Would that be a correct
22 understanding?

23 A. That would be another way to do it. Let's
24 say for example under the hypothetical you accept the
25 proposition that there should be a sharing. One way

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1 to do it would be to say, Over the life of the
2 facility, what were the total capital costs, and so you
3 would probably look at this and you would figure
4 between -- when Centralia first went into rate base and
5 where it is today in terms of total capital costs,
6 ratepayers are probably paid 80 to 85 percent of the
7 total costs, maybe even 90 percent, so it's not as you
8 said, straight line and proportional if you look at
9 what was the cost of capital for the ownership of that
10 and what did ratepayers pay, so that would be another
11 way to calculate the relative sharing.

12 Q. And then talking in this hypothetical, let's
13 say that you had a break-even point or a push and then
14 you had, I think, what we were calling a windfall above
15 that, and asking you to assume that there was going to
16 be some kind of a sharing theory applied, would you
17 apply that to the entire amount, or would you apply
18 that to the amount above the break-even line?

19 A. You could do either. You could say once you
20 break even, now we're into a possibility of a gain, and
21 so now could you say perspective, now we are past
22 this break-even point. What is the proportion that is
23 left and undepreciated in terms of capital costs, so
24 again, that would drive the percentage of sharing, and
25 all those calculations are all severely weighted by

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1 this effect that I'm talking about on Page 16 because
2 of first year capital costs, so anything that you would
3 do in that regard is heavily weighted by what I'd call
4 first year capital costs, and to be honest with you,
5 also the fact of you have a complicating problem of the
6 fact that cost of capital changes over time, so for
7 example, the utilities were getting 16 and a quarter
8 ROE's in these early years and now ROE's of -- much to
9 the chagrin of utilities are looking to be at single
10 digits. You have that complicating factor in an
11 analysis that you are describing there if one were to
12 do it that way.

13 Q. Part of that drop is related to overall drop
14 in inflation in the customer; is that correct?

15 A. That is correct.

16 Q. Is part of that drop related to the fact that
17 these companies are not out building nuclear plants and
18 other huge capital intensive plants?

19 A. That's the big thing is that none of these
20 utilities have that kind of exposure because they are
21 not accruing AFUDC, and so much of their earnings is
22 AFUDC, so when they accrue that kind of earnings, they
23 have that risk of what happens when they bring not only
24 the high cost facility into rate base but the fact that
25 so much of that facility is AFUDC.

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1 Q. Looking at your testimony, you base your
2 judgment that the sale is in the public interest on
3 certain qualitative factors; is that correct?

4 A. That's correct.

5 Q. Your testimony does little beyond listing
6 these factors to shed light on your view of how we
7 should weigh such factors against an economic analysis.
8 Could you clarify for me the decision criteria you use
9 to judge these qualitative factors to be sufficient in
10 the public interest?

11 A. The first factor was the applicant's
12 testimony regarding the multi-headed ownership group.
13 Their testimony impressed me that this was unworkable,
14 and not only that, but discussions that I've heard in
15 the energy community about how difficult it is for
16 things regarding Centralia to go on because of not just
17 multi-headed but you have private and public power
18 kinds of interests commingled there.

19 The second thing was -- which was very
20 critical not just to me but to Staff as a group -- was
21 the likelihood of a single owner continuing to have
22 Centralia operated in a strategic position in the grid,
23 and the third likelihood was -- I can't tell you how
24 much I want to emphasize my testimony regarding the
25 fact that I think that moving towards open access will

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1 provide benefits to consumers; that selling Centralia
2 and having competitors in the market providing and
3 owning resources and competing in wholesale markets and
4 having utilities able to buy energy supply in wholesale
5 markets, I felt very strongly that that was a public
6 interest benefit.

7 I think it's time for the region,
8 particularly Washington, to decide what we are going to
9 do; whether we are going to remain vertically
10 integrated and not have competition, or are we going to
11 have some wholesale power supply competition, so those
12 are the three critical factors in terms of qualitative
13 assessment that I relied on.

14 JUDGE SCHAER: Let's go off the record at
15 this moment to discuss scheduling.

16 (Discussion off the record.)

17 JUDGE SCHAER: I think the Commission has
18 decided that we will quit for the day now and come
19 back. I'd like to come back at 8:30 tomorrow morning.
20 Then we will begin with redirect of Mr. Elgin, if there
21 is anyway, at 8:30 tomorrow morning. Is there anything
22 further before we adjourn for today? Hearing nothing,
23 we are off the record.

24 (Hearing recessed at 5:30 p.m.)

25