

**In the Matter of the Petition of: PacifiCorp / 2022 Power
Cost Adjustment**

Docket No. UE-230482 - Vol. I

January 9, 2024



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Petition of)
)
PACIFICORP d/b/a PACIFIC POWER &)
LIGHT COMPANY,)
)
Petitioner,)
) DOCKET NO. UE-230482
)
)
2022 Power Cost Adjustment)
Mechanism Annual Report)
)
Respondent.)
)

PREHEARING CONFERENCE - VOLUME I
BEFORE ADMINISTRATIVE LAW JUDGE JAMES E. BROWN II
January 9, 2024

Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, Washington 98504

TRANSCRIBED BY: ELIZABETH PATTERSON HARVEY,
FAPR, RPR, WA CCR 2731

1 January 9, 2024 - 2:04 p.m.
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4 JUDGE BROWN: All right. Good afternoon.
5 We're here today for a prehearing conference in Docket
6 230482, which is captioned In the Matter of the Petition
7 of PacifiCorp, doing business as Pacific Power & Light
8 Company, and the 2022 Power Cost Adjustment Mechanism
9 Annual Report.

10 My name is James Brown II. I'm an
11 administrative law judge with the commission, and I'll be
12 presiding over this matter, or in this matter.

13 And let's start by taking appearances and
14 addressing the petition that was filed for intervention
15 on behalf of AWEC. So let's start with the entry of
16 appearances, starting with PacifiCorp.

17 ATTORNEY KUMAR: Thank you. My name is Ajay
18 Kumar, assistant general counsel, and I'm representing
19 PacifiCorp in this matter.

20 JUDGE BROWN: Okay. And for commission
21 staff?

22 ATTORNEY STRAUSS: Good afternoon, your
23 Honor. My name is Josephine Strauss. I'm an assistant
24 attorney general, and I'll be assisting staff in this
25 matter.

1 APPEARANCES

2 FOR THE PETITIONER:

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25 FOR ALLIANCE OF WESTERN ENERGY CONSUMERS:

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1 JUDGE BROWN: Okay. And for public
2 counsel?

3 ATTORNEY PAISNER: Good afternoon. This is
4 Ann Paisner. I'm assistant attorney general with the
5 Public Counsel Unit of the Washington State Attorney
6 General's Office.

7 JUDGE BROWN: Okay. And for AWEC?

8 ATTORNEY PEPPLE: Good afternoon. This is
9 Tyler Pepple with Davison Van Cleve, representing the
10 Alliance of Western Energy Consumers.

11 JUDGE BROWN: And that brings us to the
12 petition for intervention that was filed by AWEC. Are
13 there any petitions -- is there anyone that is objecting
14 to AWEC's intervention in this matter at this point?

15 ATTORNEY KUMAR: The company does not object.

16 JUDGE BROWN: Okay. Since as there are no
17 objections, and -- I will grant AWEC's petition to
18 intervene at this point. Well, not at this point. They
19 are -- I grant their petition to intervene.

20 All right. Now at this point, what we're
21 looking at is the procedural schedule. Would the parties
22 like to confer?

23 And we can go off the record, and the parties
24 can confer and come up with a schedule that may be
25 agreeable to all parties before there's any imposition of

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1 schedule, suggested schedule, from the commission. Is
 2 that agreeable to the parties, or no?
 3 ATTORNEY KUMAR: I think so. I think it
 4 would be helpful. I mean, I think we've been -- I think
 5 we're close. We've been emailing before the procedural
 6 conference, so I think we're close to coming up with a
 7 schedule.
 8 JUDGE BROWN: Okay.
 9 ATTORNEY KUMAR: Unless any other counsel has
 10 any objections.
 11 I think the one thing we would -- we are
 12 looking at, just to give you a heads up, I think we're
 13 looking at an evidentiary hearing the first week of June.
 14 And so if we could check the commission's availability at
 15 that time, that might be helpful.
 16 JUDGE BROWN: Right. And interesting you say
 17 that because I'm kind of anticipating it would be around
 18 the first week of June. Let me look at my calendar.
 19 First week of June. First week of June looks
 20 like it's open, as far as I can see. That's the 3rd
 21 through the 7th of June, 2024. So that week is available
 22 for an evidentiary hearing.
 23 ATTORNEY KUMAR: Thank you. That's helpful.
 24 I think we're pretty close. I think if we
 25 could have a few minutes off the record, we could

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1 probably confer and nail down the rest of the schedule.
 2 JUDGE BROWN: Okay. Good. Does everyone
 3 have my e-mail address, or do you have my e-mail
 4 address? If not, I can provide it.
 5 I'm asking so when you're finished
 6 conferring, you can e-mail me and I will jump back on the
 7 zoom call.
 8 ATTORNEY KUMAR: I'm not sure I do have your
 9 e-mail address.
 10 RYAN SMITH: This is Ryan Smith at the
 11 records center. If you like, I can go ahead and send you
 12 a teams message when they're ready for you to come back.
 13 JUDGE BROWN: That's fine. That will work.
 14 I will go out, then, and come back in when you give me
 15 the heads up, Ryan.
 16 All right. We're going off the record, and
 17 I'm stepping off this call and you can proceed. Thank
 18 you.
 19 (Recess.)
 20 JUDGE BROWN: And the parties have agreed on
 21 a procedural schedule?
 22 ATTORNEY KUMAR: We have, yes, your Honor.
 23 JUDGE BROWN: Great. Would you like to read
 24 that into the record now?
 25 ATTORNEY KUMAR: Sure. So the next date is

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1 staff, public counsel, and intervenor response testimony
 2 and exhibits on March 28, 2024.
 3 JUDGE BROWN: Okay.
 4 ATTORNEY KUMAR: And then a settlement
 5 conference on April 17, 2024.
 6 I think there's usually a note in the
 7 prehearing conference order that the date of the
 8 settlement conference can be kind of changed based on
 9 parties' agreement and without changing the prehearing
 10 conference order. So I just wanted to note that there.
 11 The next date we have is company rebuttal
 12 testimony and exhibits, along with staff and intervenor
 13 cross-answering testimony and exhibits on May 2, 2024.
 14 And after May 2, 2024, it would -- the
 15 discovery timeline would shorten to seven calendar days,
 16 best efforts.
 17 JUDGE BROWN: Okay. Real quick question
 18 before you go further: Just for the response testimony,
 19 you had March 20, or 24th?
 20 ATTORNEY KUMAR: 28th.
 21 JUDGE BROWN: 28th.
 22 ATTORNEY KUMAR: Sorry.
 23 JUDGE BROWN: No, that's my error.
 24 ATTORNEY KUMAR: Yeah, staff, public counsel,
 25 and intervenor response testimony on March 28.

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1 JUDGE BROWN: Okay.
 2 ATTORNEY KUMAR: And then the discovery
 3 cutoff on May 21, 2024.
 4 Cross-examination exhibits, witness lists,
 5 and cross-examination time estimates on May 28, 2024.
 6 The evidentiary hearing for -- would be
 7 scheduled for June 4, 2024.
 8 And then simultaneous post-hearing briefs on
 9 July 3, 2024.
 10 ATTORNEY STRAUSS: Your Honor, staff would
 11 just request that the evidentiary hearing be a hybrid
 12 format. We have a consultant who does not reside in the
 13 state, would be unable to travel to the state that week
 14 for in-person testimony. So he would need to appear
 15 virtually.
 16 JUDGE BROWN: Okay. That's definitely
 17 something he can do.
 18 ATTORNEY STRAUSS: Thank you.
 19 JUDGE BROWN: No problem. And if we can back
 20 up for a second, after the hearing -- I'm sorry,
 21 Mr. Kumar, can you repeat those last two dates for me,
 22 please?
 23 ATTORNEY KUMAR: Yeah, so the last two dates
 24 I have are the evidentiary hearing on June 4.
 25 JUDGE BROWN: Mm-hm.

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1 ATTORNEY KUMAR: And then simultaneous
2 post-hearing briefs on July 3.
3 JUDGE BROWN: Okay. Simultaneous.
4 ATTORNEY KUMAR: Yes. Post-hearing briefs on
5 July 3.
6 JUDGE BROWN: Is there any room for a reply
7 by a period of any sort among the parties, or you guys
8 didn't deem that that was necessary?
9 ATTORNEY KUMAR: We didn't discuss that. You
10 know, if that's something that you'd like, we can
11 definitely consider that, talk about that.
12 JUDGE BROWN: My -- if I'm looking at the
13 date -- let's see. For simultaneous briefs it would just
14 be an additional seven days for replies?
15 I'm -- that would be the normal case from
16 what I've seen.
17 ATTORNEY KUMAR: Oh, for reply briefs?
18 JUDGE BROWN: Right.
19 ATTORNEY KUMAR: So would be due --
20 JUDGE BROWN: Like 7/10. But then there's
21 the Fourth of July. 7/11?
22 ATTORNEY KUMAR: Yeah, I think --
23 JUDGE BROWN: I don't know what day that
24 falls on.
25 I'm sorry. I didn't mean to interrupt. Go

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1 ahead. What were you going to say, please?
2 ATTORNEY KUMAR: I think probably because of
3 the Fourth of July weekend, if we do, you know, two
4 rounds of briefing, you know, simultaneous initial briefs
5 on July 3 -- and I haven't discussed this with the
6 parties, but we could probably -- I think we'd want to
7 maybe move that to either the 12th to have reply briefs,
8 just to --
9 JUDGE BROWN: Are there any objections from
10 the parties on that date?
11 ATTORNEY PAISNER: No, your Honor.
12 ATTORNEY PEPPLER: No objection from AWEC.
13 ATTORNEY STRAUSS: No objection.
14 JUDGE BROWN: All right. Then we can enter
15 7/12 for reply briefs.
16 The request for a final -- a date by which a
17 final order?
18 ATTORNEY KUMAR: I think we usually would be
19 about four to six weeks after that, is my general
20 experience.
21 JUDGE BROWN: That's correct.
22 I'm just looking at the schedule real quick.
23 Okay. Okay. We're already at the 12th.
24 Let me look at my calendar one more time. So
25 the 7th of July --

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1 ATTORNEY PAISNER: Your Honor?
2 JUDGE BROWN: Go ahead, Counsel.
3 ATTORNEY PAISNER: Your Honor, this is Ann
4 Paisner. I'm realizing I forgot to discuss the
5 possibility of a public comment hearing for this docket.
6 And I'm wondering if that's something -- I mean,
7 previously it's been put into the schedule as a date to
8 be determined. But since this is --
9 JUDGE BROWN: Public comment?
10 ATTORNEY PAISNER: -- is happening -- right,
11 a date for a public comment hearing.
12 ATTORNEY KUMAR: I think we've already had --
13 we may have already had a public comment hearing for
14 this. There may have been -- I have to check with --
15 ATTORNEY PAISNER: I don't think there was
16 for the PCAM. I mean --
17 ATTORNEY KUMAR: I think --
18 ATTORNEY PAISNER: There was open meeting.
19 Are you talking about the open meeting, or?
20 ATTORNEY KUMAR: No. Hold on. I thought it
21 may have been noticed along with our GRC public comment
22 hearing.
23 And we don't usually do public hearing
24 comment hearings for PCAM's because they're automatic
25 kind of adjustment mechanisms. At least in the past,

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1 we've never really done one. We did (inaudible) customer
2 notice, so.
3 ATTORNEY PAISNER: Okay. And --
4 JUDGE BROWN: There was a customer notice on
5 July 18 --
6 ATTORNEY PAISNER: Okay.
7 JUDGE BROWN: -- of the rate change.
8 And of course this was suspended pending
9 looking into the matter of hedging and hedging practice
10 by PacifiCorp in its -- so you're requesting a public
11 comment hearing?
12 ATTORNEY PAISNER: Right. And so typically,
13 with the PCAM proceedings, they're not adjudicated. And
14 so there's really not precedent for that.
15 ATTORNEY KUMAR: We've had adjudicated PCAM
16 proceedings, I believe. UE-170717, which we settled but
17 was a contested (inaudible) proceeding along with the
18 Colstrip outage -- I'm sorry; that's the way I think
19 about it in my head -- PCAM hearing in 2019 and 2020.
20 And I believe both of those were adjudicated PCAM
21 hearings, and neither of them had public comment
22 hearings.
23 JUDGE BROWN: Okay. Here's what I will do:
24 Are you in opposition, Counsel, to a public comment
25 hearing?

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1 ATTORNEY KUMAR: You know, if that's the
2 route the commission wants to go, I don't think we'd have
3 a concern with that. I just don't think that -- it's
4 something that we have never done in the past, so I think
5 we're just surprised by it.
6 JUDGE BROWN: It's nothing that we've done in
7 a PCAM proceeding?
8 ATTORNEY KUMAR: Yeah. And I think that's
9 just our concern. It's just we've never done it in a
10 PCAM proceeding before. But I wouldn't necessarily say
11 we were opposed to it.
12 ATTORNEY PAISNER: I would just say --
13 JUDGE BROWN: What are -- I'm sorry. What
14 are your thoughts, Ms. Paisner?
15 What were you going to say?
16 I want to hear what your point of view on
17 this is.
18 ATTORNEY PAISNER: I apologize for speaking
19 over you.
20 JUDGE BROWN: No, it's fine.
21 ATTORNEY PAISNER: Our concern is the extent
22 of the rate impact that would be affected by this docket.
23 And that is the reason we are requesting it.
24 I believe this is discretionary. And the
25 commission can decide not to do it. But we believe it's

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1 in the public interest hold a -- to set a date.
2 JUDGE BROWN: Right. And here's how I look
3 at it: My understanding is -- and I haven't seen one in
4 my time here at the commission (inaudible). I haven't
5 seen where there's been a public comment hearing for a
6 PCAM.
7 And the issue -- and I get it from the
8 standpoint that you're looking at it from the rate
9 increase.
10 But we're also looking at the type of
11 information that's going to be reviewed. You know, at
12 the end of the day, we're looking at a bottom line figure
13 as a result, resulting from exploration into how the
14 hedging -- how PacifiCorp practices its -- engages in its
15 hedging practice.
16 Let me give it some consideration, and I will
17 issue a decision on this particular issue in the
18 prehearing conference order.
19 ATTORNEY PAISNER: Thank you, your Honor.
20 JUDGE BROWN: Because I think that there are
21 points -- I understand -- I think both points, both sides
22 made valid points.
23 At the end of the day, I'm balancing the
24 interests of is this the kind of issue that would be
25 considered. Because of the complexity of the issue, and

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1 it is really informationally driven, is this the kind of
2 matter that would be put forward before the public for
3 its -- in this instance.
4 But I also appreciate what you're saying,
5 your point, Ms. Paisner, with regard to the impact on
6 rates once we get past the minutiae of the hedging
7 practice.
8 So I'm just looking at balancing the
9 interests, and also looking at the time involved with
10 regard to the administrative calendar as it is currently
11 set and agreed upon. So I'm looking at all the
12 interests.
13 But I will issue a determination within the
14 prehearing conference order. Is that satisfactory to the
15 parties?
16 Because right now, I'll be honest with you, I
17 can't on the spot make a decision on that.
18 ATTORNEY PAISNER: Yes, thank you.
19 ATTORNEY KUMAR: That's fine. Thank you.
20 JUDGE BROWN: All right. Let me -- and
21 everyone, just so I'm clear, the parties do -- I'm
22 tongue-tied. The parties do wish to keep the language
23 based on best efforts; there's no concerns about that,
24 about that language with regard to the turnaround time
25 and language best efforts, which --

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1 ATTORNEY KUMAR: Yeah. I think that the
2 company has insisted on that language.
3 JUDGE BROWN: Okay. As long as the parties
4 don't object to it, I don't have any problem with it. I
5 just wanted to make sure it's all parties are aware of
6 the possible outcome and ramifications. But it's fine.
7 I don't have any problem with it.
8 All right. So with regard to data
9 requests, and -- is there going to be an exchange of data
10 requests as well?
11 ATTORNEY STRAUSS: Yes, your Honor --
12 JUDGE BROWN: -- just looking at data
13 requests.
14 ATTORNEY STRAUSS: Apologies.
15 JUDGE BROWN: Go ahead. What were you
16 saying?
17 ATTORNEY STRAUSS: Staff anticipates issuing
18 data requests.
19 JUDGE BROWN: Okay.
20 ATTORNEY KUMAR: And we've already been
21 receiving and responding to data requests in this
22 proceeding.
23 The one thing that I would request, your
24 Honor, is when we filed this proceeding last year, we did
25 include a motion for a protective order.

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1 JUDGE BROWN: Okay.
2 ATTORNEY KUMAR: And so while we do have, you
3 know, confidentiality agreements with the parties, I
4 think now that we're moving to a contested case, we would
5 request that the commission sort of make a determination
6 on our motion for protective order so that that could
7 help with discovery.
8 JUDGE BROWN: Okay. All right. Let me check
9 one thing.
10 Has there been a motion with regard to a
11 protective order, or did you just --
12 ATTORNEY KUMAR: We filed with it our
13 original filing.
14 JUDGE BROWN: Oh, okay. All right. All
15 right. Got it. All right.
16 Well, back in your original petition filed on
17 June 15?
18 ATTORNEY KUMAR: Yeah. There should be --
19 one of the documents there should be a --
20 (Overlapping speech)
21 ATTORNEY KUMAR: -- protective order. I see
22 it. It's in the docket online.
23 JUDGE BROWN: Yeah, I have it open. That was
24 part of the initial filing, correct?
25 ATTORNEY KUMAR: Yes.

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1 JUDGE BROWN: Okay. For extended protective
2 order by the UTC, Number 420, so the (reading sotto
3 voce.)
4 Okay. All right. I will grant this
5 motion now. Are there any objections?
6 ATTORNEY PEPPLER: No objection.
7 JUDGE BROWN: Okay.
8 ATTORNEY STRAUSS: No objection, your Honor.
9 JUDGE BROWN: All right. Well, the motion --
10 PacifiCorp's motion for standard protective order is
11 granted. And -- okay.
12 And so is that -- with regard to data
13 requests, is that also going to have best efforts
14 language in that as well?
15 ATTORNEY KUMAR: I guess --
16 JUDGE BROWN: Or no?
17 ATTORNEY PEPPLER: Maybe I can clarify. So
18 yeah, I think what the parties discussed was that data
19 requests that were issued after PacifiCorp files its
20 rebuttal testimony, those would have a best efforts of
21 turnaround of seven days.
22 But all other data requests before that would
23 be a 14-day standard turnaround.
24 JUDGE BROWN: Okay. All right. As long as
25 the parties are agreeable with that.

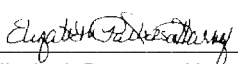
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1 Is there any objection to inclusion of that
2 language in the order, prehearing conference order with
3 regard to data requests?
4 ATTORNEY KUMAR: No.
5 ATTORNEY PEPPLER: No objection.
6 JUDGE BROWN: And that is -- was it 10 days
7 and 14 days?
8 ATTORNEY KUMAR: Fourteen days -- 14 calendar
9 days prior to the company's rebuttal testimony, and seven
10 calendar days after the company's rebuttal testimony.
11 ATTORNEY PEPPLER: And this is Tyler Pepple.
12 Just to make sure it's clear, the best efforts language
13 would only apply to the seven calendar day period, not
14 the 14-day period.
15 JUDGE BROWN: Okay. So it's 14 calendar days
16 before rebuttal, and seven calendar days after rebuttal?
17 ATTORNEY PEPPLER: Correct.
18 JUDGE BROWN: And then best efforts goes with
19 the seven calendar days?
20 ATTORNEY STRAUSS: Yes, your Honor.
21 JUDGE BROWN: Best efforts language?
22 ATTORNEY PEPPLER: That's correct.
23 JUDGE BROWN: Okay. I'll include that
24 requirement language inside of the prehearing conference
25 order.

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1 Okay. So at this point, we do, meaning the
2 commission, require electronic filing documents for all
3 form of filings.
4 And we will also, meaning the commission,
5 serve the parties electronically, and the parties will
6 serve each other electronically. And do we have a
7 designated person for service, or lead representative for
8 service for the parties?
9 ATTORNEY KUMAR: Yes, I believe we've already
10 identified those people, the appropriate places in our
11 initial filing. The company has, at least.
12 JUDGE BROWN: Is that clear to everyone
13 here?
14 Is that clear to all the parties that that's
15 the case? Okay. I just wanted to make sure.
16 If anyone would like to add names or e-mail
17 addresses or any other representatives or support staff
18 who should receive electronic courtesy copies of all
19 documents in this proceeding, please e-mail the
20 commission as well. And keep us aware. And also so that
21 everyone is aware of who's getting which documents or
22 receiving documents.
23 ATTORNEY STRAUSS: Your Honor?
24 JUDGE BROWN: Yes?
25 ATTORNEY STRAUSS: Clarification: Would you

1 like us to e-mail you the names of support staff or
 2 anyone who we wish to be included just after this so it's
 3 included in the order, or how would you like to receive
 4 that information?
 5 JUDGE BROWN: You can e-mail me. And then
 6 I'll make sure that it is updated within -- inside the
 7 commission in terms of records.
 8 ATTORNEY PEPPLER: I'm sorry, your Honor. If
 9 our petition for intervention has other contact names on
 10 it already, do you need me to e-mail you those names
 11 again, or if those are in the petition is that
 12 sufficient?
 13 JUDGE BROWN: If they're in the petition,
 14 that should be sufficient.
 15 ATTORNEY PEPPLER: Okay.
 16 JUDGE BROWN: Okay. With regard to errata
 17 sheets, the deadline, according to WAC 480-7-461, the
 18 deadline for errata sheets to exhibits may be established
 19 in the hearing conference. Does anyone have an objection
 20 to setting a deadline a week prior to the evidentiary
 21 hearing for errata sheets?
 22 ATTORNEY KUMAR: No objection.
 23 ATTORNEY STRAUSS: No objection, your Honor.
 24 JUDGE BROWN: Okay. We'll incorporate that
 25 date into the prehearing conference order.

1 CERTIFICATE
 2
 3
 4 STATE OF WASHINGTON)
 5) ss
 6 COUNTY OF KING)
 7 I, Elizabeth Patterson Harvey, a Certified
 8 Court Reporter and Registered Professional Reporter
 9 within and for the State of Washington, do hereby certify
 10 under penalty of perjury that the foregoing recordings
 11 were transcribed under my direction; that I received the
 12 electronic recording in the proprietary format; that I am
 13 not a relative or employee of any attorney or counsel
 14 employed by the parties hereto, nor financially
 15 interested in its outcome.
 16
 17 IN WITNESS WHEREOF, I have hereunto set my
 18 hand this 25th day of January, 2024.
 19
 20
 21
 22 
 23 Elizabeth Patterson Harvey, CCR 27321
 24
 25

1 And is there anything else we need to address
 2 today at this point, or have we covered everything?
 3 All right.
 4 ATTORNEY KUMAR: No, your Honor.
 5 JUDGE BROWN: Nothing else? Okay.
 6 All right. At this point, we are adjourned
 7 unless anyone has any questions, unless there are no
 8 questions from anyone at this point.
 9 No questions? All right. We are adjourned
 10 and off the record.
 11 (Proceedings concluded at 2:51 p.m.)
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