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1 BEFORE THE WASHINGTON STATE
2 UTILITIES AND TRANSPORTATION COMMISSION
3 WASHINGTON UTILITIES AND) DOCKET NO. UE-050684
4 TRANSPORTATION COMMISSION,)
5 Complainant,) Volume VIII
6 vs.) Pages 817 to 1039
7 PACIFICORP d/b/a PACIFIC)
8 POWER & LIGHT COMPANY,)
9 Respondent.)
10 _____)
11 In the Matter of) DOCKET NO. UE-050412
12 the Petition of) (Consolidated)
13 PACIFICORP d/b/a PACIFIC)
14 POWER & LIGHT COMPANY)
15 For an Order Approving)
16 Deferral of Costs Related to)
17 Declining Hydro Generation.)
18 _____)

15
16 A hearing in the above matter was held on
17 January 18, 2006, from 9:30 a.m to 5:00 p.m., at 1300
18 South Evergreen Park Drive Southwest, Room 206, Olympia,
19 Washington, before Administrative Law Judges ANN E.
20 RENDAHL AND THEODORA M. MACE and CHAIRMAN MARK H. SIDRAN
21 and COMMISSIONER PATRICK J. OSHIE and COMMISSIONER
22 PHILIP B. JONES.
23
24 Joan E. Kinn, CCR, RPR
25 Court Reporter

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1 PROCEEDINGS

2 JUDGE RENDAHL: We're back on the record this
3 morning, Wednesday, January the 18th, 2006, continuing
4 with the PacifiCorp rate case hearings. At the end of
5 the hearing yesterday while we were off the record
6 counsel for the company requested that we mark an
7 additional exhibit for Mr. Lott, and that is Exhibit
8 469. It was predistributed yesterday, and it's
9 identified as an August 22nd, 1989 letter from Utah
10 Commissioner James M. Byrne from the commissioners
11 concerning the PacifiCorp allocation process.

12 And Public Counsel distributed --

13 MR. FFITCH: Excuse me, Your Honor.

14 JUDGE RENDAHL: Yes.

15 MR. FFITCH: With respect to that exhibit.

16 JUDGE RENDAHL: Yes.

17 MR. FFITCH: Public Counsel has no objection
18 to that exhibit, but we did speak with Mr. Galloway this
19 morning, there is a marginal note in --

20 JUDGE RENDAHL: I noticed that, yes.

21 MR. FFITCH: -- on the exhibit which is not
22 original with the exhibit. I believe it comes from the
23 company itself. And Mr. Galloway has indicated that he
24 has no objection to having that be stricken. And I
25 think we talked a little bit about getting a clean copy

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1 into the record, I'm not sure how. We can certainly do
2 that or the company can do that officially.

3 JUDGE RENDAHL: Mr. Galloway.

4 MR. GALLOWAY: Yes, Your Honor, I acknowledge
5 that the marginal notes are not part of the original
6 document, they were made by the person in whose file the
7 document was found. We will endeavor as best we can to
8 blank out as much of those notes as we can and resubmit
9 the exhibit.

10 JUDGE RENDAHL: Okay, with that, I guess we
11 can take up the admission of it and discussion about it
12 at the time we take up exhibits for Mr. Lott.

13 Now I wanted to also turn to Public Counsel
14 exhibits. Mr. Ffitch, you had distributed yesterday
15 what are marked as Exhibits 686 through 688 for
16 Mr. Cavanagh I believe, and there were several exhibits,
17 682 through 688, that were to be distributed later, they
18 hadn't been received yet. And is it my understanding
19 you are withdrawing Exhibits 682 through 685?

20 MR. FFITCH: Your Honor, I haven't had an
21 opportunity to talk with my witnesses on that yet.

22 JUDGE RENDAHL: Okay.

23 MR. FFITCH: So I can advise you of that
24 tomorrow I believe.

25 JUDGE RENDAHL: Or Friday.

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1 MR. FFITCH: Or Friday morning when we begin.

2 JUDGE RENDAHL: That's fine.

3 All right, with that I think we finished the
4 housekeeping.

5 Good morning, Commissioners, and I think
6 we're ready to begin the cross-examination of Mr. Lott.

7 Mr. Lott, are you ready.

8 (Witness MERTON R. LOTT was sworn.)

9 JUDGE RENDAHL: Thank you.

10 Mr. Trotter.

11 MR. TROTTER: That would be Mr. ffitch, Your
12 Honor.

13 JUDGE RENDAHL: Thank you. Yes, Mr. Lott
14 used to work for the Commission, but now he's a witness
15 for Public Counsel, excuse me.

16 Go ahead, Mr. ffitch.

17 MR. FFITCH: Thank you, Your Honor.

18

19 Whereupon,

20 MERTON R. LOTT,
21 having been first duly sworn, was called as a witness
22 herein and was examined and testified as follows:

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1 D I R E C T E X A M I N A T I O N

2 BY MR. FFITCH:

3 Q. Mr. Lott, could you please state your name
4 for the record.

5 A. My name is Merton Lott.

6 Q. And by whom are you currently employed?

7 A. I'm self employed, and I'm contracted with
8 Public Counsel for this proceeding.

9 Q. And were you retained by Public Counsel to
10 examine the PacifiCorp rate case and provide expert
11 testimony on multistate allocation and the power cost
12 adjustment mechanism proposal?

13 A. Yes.

14 Q. And have you prepared direct testimony which
15 has been marked in this case as Exhibit 461-T?

16 A. Yes.

17 Q. Do you have any changes or corrections to the
18 testimony?

19 A. No.

20 Q. And is it true and correct to the best of
21 your knowledge?

22 A. Yes.

23 Q. If I were to ask you these questions today,
24 would your answers be the same?

25 A. Yes.

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1 MR. FFITCH: Your Honor, I would like to
2 offer Exhibit 461-T.

3 MR. GALLOWAY: No objection.

4 JUDGE RENDAHL: Okay, hearing no objection,
5 Exhibit 461-T will be admitted.

6 MR. FFITCH: Your Honor, Mr. Lott is
7 available for cross-examination.

8 JUDGE RENDAHL: Thank you.

9 Mr. Galloway.

10 MR. GALLOWAY: Thank you, Your Honor.

11

12 C R O S S - E X A M I N A T I O N

13 BY MR. GALLOWAY:

14 Q. Mr. Lott, is it the case that there are no --

15 JUDGE RENDAHL: I'm sorry, Mr. Galloway, is
16 your microphone on?

17 MR. GALLOWAY: It appears to be.

18 JUDGE RENDAHL: And if you could move it
19 closer to you, that would be helpful.

20 MR. GALLOWAY: Okay.

21 JUDGE RENDAHL: Thank you.

22 BY MR. GALLOWAY:

23 Q. Mr. Lott, it appears there are no exhibits
24 accompanying your testimony?

25 A. That's correct.

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1 Q. You have been involved in allocation issues
2 involving PacifiCorp and its predecessor for more than
3 20 years, haven't you?

4 A. I wouldn't say more than 20 years, because in
5 both the two general rate cases that I headed up,
6 allocations in the first case were -- I was told not to
7 deal with allocations, and in the U-86-02 case, as I
8 said in my testimony, Mr. Nicola handled allocations.
9 So other than working with Mr. Nicola to understand what
10 he was doing, I was not involved in allocations until
11 after U-86-02.

12 Q. Okay. And you had substantial history
13 thereafter on the issue?

14 A. Yes, starting with the merger.

15 Q. And you must have a thick file in respect to
16 these matters, don't you?

17 A. Well, the files that I had I sent to the
18 company in response to a data request, I don't know,
19 there were some.

20 Q. Were there no documents in your file that
21 were supportive of what you said in your testimony?

22 A. I sent documents.

23 Q. But none that you found sufficiently
24 significant that you thought it appropriate to attach
25 them to your testimony?

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1 A. Well, they stated -- most of my testimony is
2 a combination of summarizing those documents and my
3 memory of participating in numerous meetings with the
4 company.

5 Q. So your testimony is in substantial measure
6 based on your memory as opposed to your documents?

7 A. My memory and reviewing -- and which was --
8 my memory which was enhanced by reading through those
9 documents that I had saved since 1989 and prior to 1989,
10 the start of the PITA process.

11 Q. A lot of your testimony is devoted to the
12 history of the allocation issue with PacifiCorp, is it
13 not?

14 A. The history of basically the PITA process,
15 yes.

16 Q. And why is it that you think that the history
17 is important to the Commission's decisions in this case?

18 A. I think that the history is very important to
19 the Commission. When the merger first took place, this
20 Commission decided that the merger was okay and the --
21 this is explained actually in this letter that I did not
22 have in my file by the way, this Exhibit 469, this
23 explains what the Commission was doing when they agreed
24 to the merger. This is my memory, this letter supports
25 what my memory is. An attachment to this is also very

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1 strongly what my memory is, it agrees very strongly with
2 my testimony.

3 The history indicates that this Commission
4 approved this merger because they thought that the
5 combined companies would create the benefit that would
6 come to the Washington rate payers. This Commission put
7 an obligation on the company in that order, in the
8 second supplemental order of whatever the docket number
9 was, that the company before they rolled in resources
10 they were -- they were concerned that rolling in
11 resources would create a benefit passing away from the
12 Pacific states and to the Utah states, and they put a
13 requirement in there that this company demonstrate that
14 rolling in of resources -- and I'm not talking about the
15 new resources, I'm not talking about the addition of
16 Hermiston or the addition of a number of resources
17 talked to by Mr. Buckley, I'm talking about the
18 resources that existed at the time of the merger and
19 also any new resources -- and also the new resources
20 that come after that merger. This Commission wanted to
21 make sure that there were a continuation of the benefits
22 to the Washington rate payers and that at no point in
23 time that the Washington rate payers would be worse off
24 from that merger.

25 Q. So --

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1 A. I'm not finished, sorry.

2 Q. Well, I --

3 A. You asked me why I thought the history was
4 important, and that starts with the Commission.

5 When I attended the meetings, the PITA
6 meetings, it was not just this state's position that
7 that was what was happening, it was all the states'
8 positions that that's what's happening. And one of the
9 agreements that was made in those meetings, one of the
10 things that drove the meetings in the PITA process was
11 that the benefits should be shared between all states,
12 and we decided to go to a 50/50 allocation of those
13 benefits, not because we thought that the state of
14 Washington needed to get 50%, but because all the states
15 were concerned that the benefits that were being
16 demonstrated by the company were more than the actual
17 benefits that existed, in other words, from the merger.
18 In other words, they said, oh, our insurance rates went
19 down, that's a benefit of the merger, oh, this went down
20 or we got this combination of costs, things that could
21 have been done without the merger, we were concerned
22 that if you didn't allocate the benefits, you would run
23 into the situation where you might actually drive one
24 division or the other division to a position that that
25 division wouldn't get benefits from the merger. So we

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1 tried to put it in the center line, and that was one of
2 the reasons. Not only that, but it would be fair to
3 allocate the benefits 50/50.

4 What I have seen, what I see in this
5 proceeding is no demonstration of the company that there
6 are any benefits that are being allocated. The company
7 has not -- the company compares this to the Revised --
8 the Revised Protocol to rolled-in, which just read this,
9 Your Honor, this Commission's letter to Commissioner
10 Byrne talks about a rolled-in allocation and also
11 compares it to the Modified Accord, which that's eight
12 years later after the Modified Accord has already moved
13 away from the 50/50 sharing. So it's comparing it to
14 something first of all that should have been a 50/50
15 sharing, but it was only that until 1997, and to
16 rolled-in, which is not a fair allocator at any point in
17 time that has been demonstrated by anybody. So the
18 company has not demonstrated benefits, and that's why I
19 think that the history is important.

20 Q. Does that complete your answer?

21 A. For now.

22 Q. So are we to surmise that you believe that
23 this Commission should be influenced in part by the
24 views and perspectives of their predecessor
25 commissioners in 1989?

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1 A. I think they should be, yes, I do.

2 Q. Okay. Your history starts with the merger,
3 what was the situation with interjurisdictional
4 allocations before 1989, what policies had this
5 Commission adopted?

6 A. Oh, as far as PacifiCorp?

7 Q. Yeah.

8 A. As indicated, I won't go to my testimony, but
9 as indicated in my testimony, we did go to -- we were
10 moving towards a new fully rolled-in allocation process
11 for the Pacific states as I identified in my testimony.
12 I could --

13 Q. And that was --

14 A. -- reidentify that, but that's what we were
15 doing.

16 Q. And that was as a result of the Commission's
17 order in U-86-02?

18 A. That was the first implementation of that
19 rolled-in, right.

20 Q. And was that rolled-in position supported by
21 the Staff?

22 A. As I indicated in my testimony, Mr. Nicola
23 ordered that, yes.

24 Q. Okay. And that was at a time that the
25 company operated two control areas?

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1 A. I wouldn't know.

2 Q. And it was a time that the company had
3 substantial generation assets in Wyoming?

4 A. Yes.

5 Q. Okay. And they were low cost generation
6 assets, were they not?

7 A. Some of them were low cost, some of them were
8 not as low.

9 Q. Would you turn, please, to page 8 of your
10 testimony starting at line 7, can you identify any
11 documents that support your statement that it was
12 suggested that the operating divisions would have their
13 own resources?

14 A. That the operating divisions would have their
15 own resources, give me the line that you're referring
16 to.

17 Q. Line 8.

18 A. Line 8 on page 8?

19 Q. Mm-hm.

20 A. In the Commission's order they indicated, and
21 in that letter that you're entering as 469, both the
22 order and the letter indicate that the -- this -- in the
23 order it says that rates will be made based on
24 PacifiCorp costs at the time.

25 Q. Okay.

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1 A. Pacific Power & Light costs.

2 Q. Okay.

3 A. I want to be careful, I just want to make
4 sure --

5 JUDGE RENDAHL: Both of you, Mr. Lott, if you
6 can avoid talking over one another and me, that would be
7 helpful. So if you can wait, Mr. Galloway, for Mr. Lott
8 to finish and vice versa, that would be useful. So
9 please go ahead, Mr. Lott.

10 A. I just wanted to clarify, when I say Pacific,
11 I'm talking about the old Pacific Power & Light Company
12 as opposed to PacifiCorp. In that answer I started to
13 say PacifiCorp, and I meant Pacific Power & Light.

14 Q. Mr. Lott, I want you to focus on the phrase,
15 each of the operating divisions would have its own
16 resources; can you point to any quote in any Commission
17 order or anything else that supports that assertion?

18 A. Yes, I testified to this throughout my
19 testimony. I've got to find a page here, I think it's
20 page 14.

21 JUDGE RENDAHL: Page 14 of?

22 A. An soon as I find it, then I'll go back to --
23 I'm looking at I believe at the second supplemental
24 order approving merger with requirements in Docket
25 U-87-1338-AT, it's the order approving the merger. On

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1 page 14 of that order, the Commission refers to
2 Mr. Folsom's testimony, and the Commission states that
3 the integration of the power supply function for the two
4 companies should be -- notice they're referring to the
5 two companies -- should be done in a manner consistent
6 with Pacific's, not PacifiCorp's, Pacific's, and if you
7 read the letter you will see that there's a distinction
8 between Pacific and PacifiCorp, least cost planning
9 process. And again, my understanding -- - my -- this
10 letter that you're talking about here, the document
11 that's behind that document when you read the --
12 Mr. Nicola's and my attachment to this letter of August
13 22nd, you will see the continual reference to the
14 difference between Pacific in trying to demonstrate the
15 benefits, the rolling in of the benefits are to be done
16 when they benefit the Pacific division. That's the
17 rolling in of the old benefits, the resources, and
18 that's the rolling in of any new resources that would
19 not have been in the Pacific division.

20 Q. So your testimony is your support for the
21 statement in your testimony that it was expected that
22 each division would maintain its own resources is this
23 quote from the Commission's order that you just read to
24 us?

25 A. You asked me for a written thing. I have

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1 also, as I said in my testimony, had many discussions
2 with Commissioner Casad in particular.

3 Q. But --

4 A. My viewpoint, you asked for written things,
5 you're now asking what my testimony is. My testimony is
6 based on my remembrance and the written documents.
7 Remember I discussed these orders with the commissioners
8 at that time. In the 1990 time frame, I became the
9 Commission's accounting advisor and continued to talk.
10 I was asked to participate in those meetings after I
11 left the Staff because Commissioner Casad wanted to get
12 his viewpoint injected in those meetings as opposed to
13 prior to that point in time. You know, it's not Staff's
14 representative, but I continued to attend those meetings
15 until Commissioner Casad's death because of that fact.

16 Q. But if we confine ourselves to written
17 documents as opposed to your recollection of
18 conversations, this sentence in the Commission's order
19 is the best you can come up with to support your
20 testimony?

21 A. Along with the other documents that I also
22 referred to, the letter the Commission put in here, the
23 attachments that I sent you before that you didn't enter
24 as exhibits.

25 Q. Okay, can you please, you have referred

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1 several times to the August 22, 1989, letter which has
2 been previously marked as Exhibit 469, can you point to
3 anything in that letter which supports the proposition
4 that it was expected that the two divisions would have
5 their own resources?

6 A. This might take some time.

7 Q. Well --

8 A. In the commissioners' letter, well, first of
9 all there's two documents here, there's the
10 commissioners' letter. The commissioners' letter
11 indicates that they're reviewing Staff's, and that was
12 Mr. Nicola and I, work at the time. This was very early
13 in the process of the PITA proceedings. In the
14 commissioners' letter they indicate that at least for
15 the short period of time the two companies will be
16 separate. Now I can go through and find the exact
17 wordings that they used, it's in that letter, you can go
18 through and find it.

19 Q. Okay, but in the second paragraph it says, in
20 our merger hearings, we were presented a total system
21 package.

22 A. That's correct, it's a total system package.
23 That did not mean that -- I mean we're not -- we're
24 talking about two companies that are now taking their
25 administrative costs and brought them together.

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1 Q. And they --

2 A. They have taken their numerous other
3 management costs and brought them together, insurance,
4 numerous other items. This is all part of a system,
5 yes, they brought the two systems together, and to the
6 extent that they could work the power supply together,
7 they would be bringing these two systems together.

8 Q. And in the fifth paragraph of the letter, the
9 Commission says:

10 We believe that many of the merger
11 benefits exist because of the
12 combination and are not attributable
13 directly to a single division.

14 A. That's what the commissioners stated.

15 Q. Okay. And then on the third paragraph of the
16 second page, the Commission says at this time they do
17 not have an answer to the question of whether a
18 divisional structure should be maintained; isn't that
19 right?

20 A. At that point in time, they do not, it was --
21 and that would be consistent with Mr. Nicola's and mine
22 responses and reports to the Commission at that time.
23 It was our hope that we could find an allocation process
24 that would resolve this. I don't believe that we ever
25 did.

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1 Q. And yet you read that order and you read this
2 letter and conclude that everybody's expectation was
3 that it was going to be separate divisions with separate
4 resources?

5 A. I'm saying that the separate resources of the
6 Pacific division would be allocated, separate resources
7 until the company could demonstrate that it was
8 beneficial to roll in those resources into the Pacific
9 division.

10 Q. Okay. I would like you to look, please, at
11 page 8, line 16, of your testimony.

12 A. Let me put this back together here.

13 Q. Okay.

14 A. Page 8, line 16?

15 Q. Yes. And this is a concept that flows
16 through your testimony several times where you say that:

17 The Commission indicated that the
18 integration of the power supply systems
19 should be done consistent with the
20 company's least cost plan.

21 A. Yes.

22 Q. That is --

23 A. Referring to Pacific Power & Light.

24 Q. Right. That isn't really what the Commission
25 order says, is it?

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1 A. That's what I think it says.

2 Q. Well, could you read that sentence again
3 that --

4 A. I just read that sentence a few minutes ago
5 into the record.

6 Q. Doesn't it refer to a least cost planning
7 process as opposed to a plan?

8 A. Yeah.

9 Q. Do you not recognize a distinction between
10 something done consistent with a plan and something done
11 consistent with a process?

12 A. My viewpoint they're referring to the process
13 of the plans that come out of that process, so the plans
14 are part of the process, and I believe -- I'm having a
15 hard time getting your distinction. Plans are part of
16 the total.

17 Q. Could the Commission simply have been saying
18 that if the system was being integrated, they wanted the
19 company to continue to follow a least cost planning
20 process?

21 A. If you read the paragraph, it's referring to
22 Mr. Folsom's testimony. Mr. Folsom's testimony was
23 concerned about the rolling in of allocation costs from
24 the Utah division and the higher costs, by the way which
25 I testified to and which Mr. Lambeth of Oregon wrote in

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1 the note which I believe I sent you, 40% higher costs
2 that were included in the Utah division, that was what
3 Mr. Folsom's testimony was about, and this is what the
4 Commission was responding to, this concern that if we
5 rolled in these resources, we would be picking up this
6 much higher cost, not just because we had hydro, but
7 because the Wyodak or Jim Bridger or Colstrip plants
8 were much cheaper than the coal plants that were in the
9 Utah division. Fuel costs today are still cheaper in
10 the coal plants that were owned by Pacific Power & Light
11 than those that were owned by Utah if you look at the
12 resources as I testified to.

13 Q. Okay. And then on page 17, line 12.

14 A. 17?

15 Q. Yes.

16 A. Okay, take me a second, I don't want to get
17 things out of order.

18 Line 12?

19 Q. It starts, partial sentence on line 11.

20 A. Line 11, okay.

21 Q. Okay, you refer there to the Commission's
22 original directive which was not to roll in costs except
23 through the least cost plan.

24 A. Yeah.

25 Q. Is the source of that directive the same --

0844

1 A. Yes.

2 Q. -- sentence?

3 A. Sorry. Yes is the answer.

4 Q. And but the statement about the least cost
5 plan doesn't say anything about rolling in costs or
6 doesn't say anything about costs generally. It just
7 says that as they add resources, the least cost planning
8 process should be followed, doesn't it?

9 A. I don't agree with what you just said I
10 believe, but would you please restate that.

11 Q. Well, your testimony on line 17 reaches the
12 point of saying that there was a Commission original
13 directive that costs not be rolled in except through the
14 least cost plan, and is this sentence in the order the
15 source of your assertion there was a Commission
16 directive to that effect?

17 A. I already agreed to that, yes.

18 Q. And that sentence in the order is what you're
19 basing that on?

20 A. That and my understanding of my discussion
21 with the commissioners about that order.

22 Q. Okay. And similarly where you say -- would
23 you turn to line 18.

24 MR. FFITCH: I'm sorry, Your Honor --

25 Q. Page 18, line 5.

0845

1 A. Line 5, okay, above.

2 Q. And there you refer to an original
3 anticipation of the Washington Commission that the two
4 divisions would remain separate on a power supply basis?

5 A. Yes. I have to tell you, I mean there is no
6 documents that -- I don't have those documents in my
7 support. When the company testified, when the company
8 brought their case to the Washington Commission, the,
9 first of all, the, what do you call it, press release
10 that was sent out indicated that the Pacific Power &
11 Light Company and the Utah Power & Light Company would
12 remain separate. Number two, when the company discussed
13 these issues on the record, they discussed transfer
14 pricing as opposed to rolled-in allocations or this type
15 of allocations that were presented in the Bold Course.

16 Q. Now in the August 22 letter --

17 A. Yes.

18 Q. -- which was written approximately a year
19 after merger approval, which is Exhibit 469, the
20 Commission says, the merger benefits exist because of
21 the combination of the two systems. You're saying this
22 is the same Commission that anticipated that the two
23 divisions would be kept separate on a power supply
24 basis?

25 A. If you read that letter and you read

0846

1 everything attached to that letter, you will see that
2 the commissioners believe that there are benefits by
3 combining these two companies. That does not mean in
4 any fashion that the rolling in of costs from the Utah
5 division into the Pacific division represent those
6 benefits.

7 Q. But --

8 A. They believed there were benefits, and they
9 believed that the company could act as one and possibly
10 reduce costs.

11 Q. Okay. So your statement page 18, line 7,
12 that the Commission anticipated that divisions would be
13 separate on a power supply basis is not correct, is it?

14 A. I think it is correct, I think that's exactly
15 what the Commission thought.

16 Q. You refer to the San Diego method, could you
17 briefly describe what was envisioned by the San Diego
18 method during the PITA process?

19 A. Yeah, it's discussed in my testimony, that's
20 probably a better place to look at it. But my
21 remembrance of the San Diego method was a proposal by
22 Utah staff members from the three commissions that
23 represented them that a lump sum representing the
24 endowment at the time of the merger be calculated and
25 treated as a rate base addition to the Utah people and

0847

1 as a rate based subtracted from the Pacific people,
2 states, sorry, and that that be amortized over time (+)
3 if you read that, and that was their proposal.

4 Q. So if I understand your testimony, in the
5 first instance you would do a rolled-in allocation, and
6 then you would have transfer payments --

7 A. I'm sorry, I didn't say that they would start
8 with a rolled-in allocation.

9 Q. Start with --

10 A. And then they would calculate this endowment,
11 a lump sum transfer or whatever you wanted to refer to
12 it as.

13 Q. Right. And as I read the documents, the
14 concern that both Staff and the Commission had about the
15 San Diego method was that it was proposed that this
16 payment would be amortized and reduced over time, right?

17 A. That was one of the concerns. Other concerns
18 that you don't refer to there is that the methodology by
19 which the Utah people thought that it should be
20 calculated were based on endowment -- the difference in
21 rates at the time of the merger as opposed to looking at
22 the endowments that existed that would exist over a
23 period of time. It was our concern that both growth
24 surplus in the Pacific division and faster growth rates
25 in the Utah division may create endowments that would

0848

1 actually increase that. So I mean there -- it's more
2 than just the one point.

3 Q. Okay, but you were willing to live with a
4 basic construct that had a single rolled-in system and
5 side payments to Washington, were you not, if they could
6 figure out how to do that?

7 A. We were attempting to find a methodology that
8 would do that. We did not believe, and I think you will
9 see that in one of the documents there, we did not
10 believe that the Utah people would accept our viewpoint
11 that that number should be growing.

12 Q. Okay. But you had no problem with a fully
13 rolled-in method as long as there were side payments to
14 Washington that you considered to be equitable, did you
15 not?

16 A. Again, we were looking for an allocation
17 method that shared the benefits, and we hoped to find a
18 methodology. And you keep saying I had no problem, yes,
19 I had a problem unless we could find a method that would
20 guarantee the benefit so that the Washington rate payers
21 would not become worse off and would not have to pay for
22 the Utah system. Again, we're talking about an
23 allocation method. We were attempting to, rather than
24 keeping the companies separate the way that we thought
25 when we started the allocation process, because when we

0849

1 went to San Diego we fully anticipated to discuss
2 transfer pricing and the company decided not to discuss
3 transfer pricing, and so we were trying to find a
4 methodology, and we agreed and we discussed with our
5 commissioners, if we could find a methodology that would
6 share the benefits, we could live with that, and we
7 never did.

8 Q. Okay.

9 A. Not for a permanent basis.

10 Q. And I wanted, and I'm sorry for whatever
11 reason these pages aren't numbered in the originals it
12 appears.

13 A. Yeah.

14 Q. There is attached to the Commission letter of
15 August 22, 1989, Exhibit 469, what is described as I
16 think a Staff white paper?

17 A. Yes.

18 Q. And I believe you have earlier testified that
19 you were one of the authors of this white paper?

20 A. I assume, yeah, yeah, I know I am, I can tell
21 by reading it that I wrote some portions of it.

22 Q. Okay.

23 A. I do believe Mr. Nicola, who was my
24 supervisor at the time who was in charge of the
25 accounting division, was probably in charge of this

0850

1 document.

2 Q. Okay. And I want you to look at the next to
3 last page in the document, the first word on the page is
4 the word further, make sure we're on the same page
5 literally.

6 JUDGE RENDAHL: Which page are you referring
7 to, Mr. Galloway?

8 MR. GALLOWAY: It's the next to the last
9 page, and as I said, for whatever reason --

10 THE WITNESS: What is the first word on the
11 page?

12 MR. GALLOWAY: Further.

13 THE WITNESS: Okay, I'm on the wrong page.
14 Oh, there's further, further the depreciable --

15 MR. GALLOWAY: We're on the same page.

16 THE WITNESS: Okay, I don't have mine in
17 order apparently.

18 BY MR. GALLOWAY:

19 Q. Now I want you to look at the last two lines
20 on that page.

21 A. Under allocation method?

22 Q. Yeah. And I will -- and that reads, the
23 system is and should be operated as one, right, it says
24 that and that was your view?

25 And it goes on to say, the direct --

0851

1 A. I have not agreed to your statement yet, sir.

2 Q. Well, you wrote this, didn't you?

3 A. Well, wait a minute, I'm reading the
4 document.

5 Q. Okay.

6 A. I got this last night.

7 Q. Okay.

8 A. (Reading.)

9 Okay, I see what you are saying. Now ask
10 your question, please.

11 Q. Okay. You are expressing the view that the
12 system should be operating as one, that direct
13 assignment should only be considered as a last resort,
14 and express a Staff preference for a method like the San
15 Diego method; is that a fair characterization of the
16 conclusion of this report?

17 A. No, I mean most of that was except for the
18 preference to the San Diego approach.

19 Q. Okay, I will read it to you, it says --

20 A. I see what it says, but I don't believe that
21 that's what this document states.

22 Q. Are you suggesting I put words in the
23 document that weren't there originally?

24 A. You're reading the next paragraph.

25 Q. Well, I will just read it for the record. It

0852

1 says:

2 As a result, Staff believes that an
3 allocation method such as Reno or San
4 Diego should be established, more likely
5 San Diego, then an endowment should be
6 determined.

7 A. Referring just to this one, you're talking
8 about a full conclusion on everything, this is a
9 discussion of one, about one item in this. This is a
10 position on various points.

11 Q. Okay.

12 A. We're talking about this one method. We were
13 having a severe problem with the Bold Course approach.

14 Q. Okay.

15 A. And this is a discussion of that fact. I
16 mean you have to read the full document, you can't just
17 read this one sentence. Yes, we thought that the San
18 Diego approach might be workable if we could come up
19 with the proper amount, and I'm not disagreeing. The
20 Bold Course approach, we had severe problems with it as
21 it worked.

22 Q. Now in this case, both you and Staff are
23 proposing an allocation method that involves direct
24 assignment of resources, do you not?

25 A. Again, I don't really think of it as -- no, I

0853

1 don't think it's direct assignment of resources in the
2 state of Washington. My position is that the allocation
3 should be based on the Pacific division, and then when
4 the company can demonstrate that rolling in of either
5 the fixed, the existing resources or new resources is to
6 the benefit of the Pacific division that those resources
7 should be allocated to Washington. My allocation is not
8 to say Washington gets 10% permanently of Yale or 10% of
9 Merwin or any of these particular resources. I'm not
10 proposing a specific portfolio for the state of
11 Washington.

12 Q. But you are proposing a direct assignment of
13 resources to the western division, are you not?

14 A. Yes, I believe that the western division
15 until it can be demonstrated that the rolling in is a
16 benefit, which I don't believe the company has done in
17 this case.

18 Q. So you're proposing that notwithstanding the
19 fact that in 1989 you opined that this should only be
20 considered as a last resort?

21 A. Again, I went through 14 years, and I am
22 calling this a last resort. I think every allocation
23 method that we come up with continues to suffer from the
24 same flaws and that that flaw comes from the fact that
25 we don't deal with cost causation.

0854

1 Q. Okay. Well, isn't the, in terms of theory, I
2 don't mean detail, but in terms of theoretical approach,
3 isn't the Revised Protocol with the manner in which it
4 treats hydro resources a version of the San Diego
5 approach?

6 A. The Revised Protocol could have been a
7 breakoff of the San Diego approach. It looks -- I guess
8 you could say it's more of a combination of the process,
9 the Revised, the Modified Accord and the Bold Course
10 approach and the San Diego approach, because I
11 understand what you're trying to say is that because
12 here's this endowment, it's not the same as the San
13 Diego approach in the fact that it comes up with a lump
14 sum number and then amortizes that lump sum number, but
15 I can understand your viewpoint.

16 Q. But it starts with a fully rolled-in
17 allocation method and then provides for --

18 A. An endowment.

19 Q. -- permanent endowment payments, right?

20 A. Well, if you want to call them permanent,
21 okay.

22 Q. Well, there's no -- you have no reason to
23 believe they're other than permanent as presented in the
24 Revised Protocol?

25 A. Again, that's just for the hydro, you're just

0855

1 doing a hydro endowment as opposed to a full endowment.

2 Q. And there's an endowment that represents some
3 of the value on qualifying facilities, is there not?

4 A. I don't think there is an endowment related
5 to qualifying facilities.

6 Q. But there is a payment --

7 A. There is an adjustment for it.

8 Q. There is an adjustment --

9 JUDGE RENDAHL: If you all could avoid
10 talking over one another again.

11 A. There is an adjustment for numerous items
12 included in the Revised Protocol. But again, they do
13 not -- this is not the same type of -- this is not a
14 final answer. The Revised Protocol indicates that we
15 could make adjustments for growth, I mean we're going to
16 have this committee get together, we're going to do this
17 -- the San Diego approach was intended to be the end.
18 It was intended that we will come up with a number, \$1
19 Billion, and we're going to transfer the \$1 Billion, and
20 then that's going to be the end. The Revised Protocol,
21 no, the Revised Protocol's got a committee, and you seem
22 to indicate this committee is integral to it and that
23 every time you got a problem with it, the committee is
24 going to get back together and they're going to fix it.
25 Well, that means that the allocation tomorrow is going

0856

1 to be different than the allocation today, is the hydro
2 going to be the same next year as it is this year, I
3 mean it's not the San Diego approach. I mean I
4 understand how you're trying to say you start with
5 rolled-in, yeah, okay, to that extent yes, but not to
6 the extent that you're trying to imply.

7 Q. Well, in fact, the one way methodologically
8 that the Revised Protocol differs from the San Diego
9 approach is it responds to the principal concern that
10 the Commission and the Staff had about the San Diego
11 approach, which was that the endowment needed to be
12 permanent?

13 A. Some of our concerns.

14 Q. Okay.

15 A. But we also thought it should be growing
16 possibly. In fact, I submitted a paper, which I also
17 couldn't find, to the group that the endowment in fact
18 had grown and should grow.

19 Q. Okay. With the hydro endowment that is built
20 into the Revised Protocol, does it not grow as market
21 prices increase?

22 A. The number would become greater if there was
23 -- if the embedded costs were higher.

24 Q. So what we have here is a system and a
25 Revised Protocol that starts with a fully rolled-in

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1 cost, has a permanent endowment with a potential for
2 that endowment to grow as the value of the hydro
3 electric resources grows?

4 A. Yes, but that was not the full issue that we
5 were discussing when we talked about the -- that has
6 nothing to do with the growth factor, the surplus factor
7 we included in our memos, which was the issue of the
8 growth that we were talking about. The hydro endowment
9 would always be that, yes.

10 Q. Okay, the last issue I wanted to chat with
11 you about I think is this load growth issue, and in
12 particular if you would look at page 16 of your
13 testimony, the second half.

14 A. Okay, I'm on page 16.

15 Q. Yeah, and I want you to focus down toward
16 line 21.

17 A. Okay.

18 Q. Okay, you have -- nobody disputes, I don't
19 think, that as new resources are added under the Revised
20 Protocol approach, every state pays a portion of those
21 resources, right?

22 A. Every state is allocated a portion of those
23 resources.

24 Q. Okay, it wasn't a trick question.

25 A. No, I'm just trying to make sure that I agree

0858

1 with that statement.

2 Q. Okay. And that at least in a broad sense is
3 the basis for your statement that as a division grows
4 faster than the slower growing states, the other states
5 end up paying for expense of new capacity?

6 A. Again, we're talking about an allocation.

7 Q. Okay.

8 A. We're talking about allocating, and in my
9 testimony and I spent time on this, is that sometimes
10 when you have a new resource, the cost goes down. So
11 when you say pay for, yes, it's included in the rates.

12 Q. Okay, well, paying for is your language.

13 A. Okay.

14 Q. But that's not the only thing that goes on
15 when a state grows in terms of cost allocation, is it?

16 A. I'm not sure what you're referring to.

17 Q. Well, what I'm --

18 A. I mean I think I know what you're referring
19 to.

20 Q. What I'm referring to is that a faster
21 growing state causes the company to have to build new
22 resources, but because it is growing faster, it also
23 supports through the allocation process a larger share
24 of existing resources, doesn't it?

25 A. I mean yes, it would.

0859

1 Q. Okay. And that's how a rolled-in allocation
2 method works?

3 A. That's correct.

4 Q. And it not only pays a larger share of the
5 existing generating resources, it is also pays a larger
6 share of the company's overheads, does it not?

7 A. It pays a larger percentage of the overheads.

8 Q. Okay.

9 A. Which would -- yes.

10 Q. Okay. Now I just want to ask you sort of an
11 arithmetic question. If the costs for existing
12 resources, the additional costs, the larger allocation
13 for existing resources and existing overheads is greater
14 than the, that the fast growing jurisdiction imposes, is
15 greater than the increased costs to the other
16 jurisdictions that come from the new resource, are you
17 still able to say that the fast growing state is somehow
18 being subsidized?

19 A. To determine whether the fast growing state
20 is being subsidized is more arithmetic question than
21 what you just presented, because you talk about cost.
22 And as I discussed in my testimony, total revenue
23 requirement costs are costs. I mean as the rates go up,
24 your revenue requirement is going to go up because
25 you're growing and you have this additional revenue

0860

1 requirement, but rates -- this is why I keep having
2 problems with some of the questions, because rates are
3 different. Do rates go up and whose rates go up, and I
4 don't think the Revised Protocol makes sure that the
5 rates go up in the states that caused the cost increase,
6 and that's what I tried to demonstrate in my testimony.
7 And the interesting thing is in the one example that
8 Mr. Duvall represents in his case, the rates go down in
9 the state that caused the growth, every other state gets
10 a rate increase. And that was one of my problems when
11 you keep talking about --

12 Q. Well, I just want to talk about -- I will
13 give you a very simple example. New resource is built
14 in Utah, and Washington's allocated share of that is
15 \$10. At the same time the allocation factors have
16 changed such that because of Utah's faster growth
17 Washington is relieved of \$11 of existing cost because
18 of the change in the allocation factors.

19 A. If that's what happened, then Washington
20 would get a rate decrease.

21 Q. Right. Now if that were the circumstance,
22 would that situation trouble you or cause you to believe
23 that somehow Washington was subsidizing Utah?

24 A. Under that particular circumstance that
25 you're discussing, Washington would not be subsidizing

0861

1 Utah I do not believe.

2 Q. Okay.

3 A. But -- I take that back. Overheads, first of
4 all one of my problems is that you never increase
5 overheads in your studies, overheads stay constant, you
6 add 45,000 customers but no new overheads. But the
7 point is that cost reduction related to -- let's assume
8 the overheads didn't increase, as the company grows,
9 then each individual customer should be paying less for
10 overheads, and you're not giving the state of Washington
11 the rate reduction for the reduction in those overheads
12 per customer, okay, you're giving it to them as an
13 offset against the cost increase. The cost increase was
14 caused by one state, and you're not giving those
15 Washington customers the reduction.

16 Maybe Washington went out and did a
17 conservation program to hold their load down, and they
18 by the way had to pay for that conservation under the
19 Revised Protocol, and maybe Utah didn't do that same
20 conservation program, maybe that's why the resources are
21 different. So Washington ends up paying for the
22 conservation, Washington ends up paying for the
23 incremental cost of this new resource embedded in its
24 total, and Washington doesn't -- and therefore doesn't
25 get the full benefit of the spread out administrative

0862

1 and general costs, which probably also are increasing
2 but aren't included in your study.

3 Q. Well, I'm not clear what your ultimate answer
4 was to my --

5 A. My ultimate answer was I don't agree with
6 your question.

7 Q. Are you distressed by the situation that I
8 described and opposed to it if it could be demonstrated
9 that Utah imposes \$10 of new costs on Washington but at
10 the same time is saving Utah or saving Washington \$11 by
11 virtue of the changed overheads?

12 A. Utah isn't saving Washington \$11 worth of
13 costs. Remember those overheads that are being
14 allocated, those overheads that exist, if you go out and
15 watch companies and you see a company that's growing,
16 you will discover that a company that's growing has more
17 overheads because they have to deal with the growth,
18 they have numerous employees that have to deal with this
19 question, they have bigger planning problems to spend
20 more money. Washington is also suffering the fact that
21 they're getting an allocated share of all the costs that
22 deal with this growth, not the production costs. So
23 your example, maybe the administrative costs are too
24 high. Yes, I am still distressed.

25 Q. I'm not asking -- I'm just assuming that

0863

1 those factors are correct, you still would believe that
2 is --

3 A. You're assuming too much.

4 Q. Okay. Now a lot of the discussion in your
5 testimony and Mr. Duvall's testimony is over a series of
6 studies that appear to demonstrate that the phenomenon I
7 have described, which is that the faster load growth in
8 Utah does not impose on balance a significant additional
9 cost in the other states, you're aware of those studies,
10 aren't you?

11 A. I'm aware that Mr. Duvall testifies to the
12 studies. I requested those studies, and other than the
13 one, I did not receive any information, therefore I did
14 not testify to studies, I testified to one study.

15 Q. Okay, but you're aware that he did those
16 studies and that they were an integral part of the MSP
17 process?

18 A. I just answered that question, I said
19 Mr. Duvall testified to studies, I requested those
20 studies and did not receive those studies, so I don't --
21 I mean --

22 Q. So are you saying --

23 A. Mr. Duvall has never lied to me before, so
24 I'm assuming Mr. Duvall is not lying in his testimony.

25 Q. So you agree those studies were done?

0864

1 A. No, I can't agree to something I haven't
2 seen. I was not provided them when I requested them.

3 Q. And you don't know whether those studies were
4 an integral part of the MSP process?

5 A. I was not provided the studies when I
6 requested them.

7 Q. So you don't know whether they were an
8 integral part of the --

9 A. I did not participate in the MSP process.

10 Q. How was this "load growth" issue resolved in
11 the Revised Protocol?

12 A. The load growth issue?

13 Q. Yeah, the concern about faster growing states
14 burdening slower growing states.

15 A. My understanding is that there is an ongoing
16 committee that's looking at the load growth issue.

17 Q. Okay. Given these studies and given the
18 complexity of the subject, why isn't it sensible for the
19 Washington Staff to participate with all other of
20 Pacific regulators in a continuing study of the load
21 growth issue as is proposed in the Revised Protocol?

22 A. Sorry, I'm not a part of the Washington
23 Staff.

24 Q. But why isn't that a sensible response to
25 what is a complex and concerning issue?

0865

1 MR. FFITCH: Your Honor, I'm going to object
2 to --

3 A. I'm not disagreeing with you --

4 JUDGE RENDAHL: There is an objection.

5 MR. FFITCH: I'm going to object to Mr. Lott
6 being asked to testify on behalf of the preferences or
7 intentions of the Washington Staff. He is not being
8 tendered as a witness for the Washington Staff at this
9 time.

10 Q. Okay, I won't ask that, I will ask why that
11 isn't a good response to the load growth issue to have
12 the staffs of the various commissions continue to study
13 it to see if, in fact, there is a subsidy and to deal
14 with it if there needs to be?

15 A. My only answer to that, sir, is that I mean I
16 don't have a great answer for that because I'm not
17 Staff, I don't know what the Staff knows. The Staff may
18 have -- I haven't -- I talked to Mr. Buckley for, you
19 know, a few hours, we never discussed this issue. I
20 haven't talked to Mr. Blackmon, I haven't talked to
21 Roger about this prior to Mr. Blackmon taking over,
22 Mr. Braden, sorry, I have no idea what reasons Staff
23 might have why they don't want to participate in this,
24 and there may be legitimate reasons that I'm not ready
25 to contemplate what they are. I didn't try and figure

0866

1 out why Staff didn't want to participate.

2 Q. But as I understand your earlier testimony
3 and much of your written testimony, one of your
4 principal concerns about the Revised Protocol is its
5 lack of durability.

6 A. Right.

7 Q. And in your testimony here today, you pointed
8 to the fact that all these studies are going to go on
9 and there's a potential for change, and you seem to
10 suggest that's a bad thing.

11 A. I seem to suggest, right. I think that it is
12 a bad thing. I think that what we're ending up with is
13 no allocation, I think what we end up with in each rate
14 case, do we have an allocation method that's close
15 enough for reasonableness, that's my problem.

16 Q. So your testimony is you don't believe that
17 there should be continued study of the load growth
18 issue?

19 A. If you're going to do the Revised Protocol, I
20 definitely think there should be continual study of the
21 load growth issue.

22 Q. And if that study indicates that, in fact,
23 there is a subsidy issue, you would support making
24 changes to eliminate that subsidy, wouldn't you?

25 A. If this Commission was going to adopt the

0867

1 Revised Protocol, which again it would be necessary for
2 this Commission then to adjust the Revised Protocol as
3 necessary and continually to adapt those type of
4 changes, correct.

5 MR. GALLOWAY: Okay, I have nothing further.

6 JUDGE RENDAHL: Thank you, Mr. Galloway.

7 Mr. ffitch, any redirect?

8 MR. FFITCH: Just a couple questions, Your
9 Honor.

10

11 R E D I R E C T E X A M I N A T I O N

12 BY MR. FFITCH:

13 Q. Mr. Lott, at the beginning of your
14 cross-examination you were asked about documents
15 supporting your testimony, and were you or was Public
16 Counsel served with data requests asking that same
17 question asking you to produce documents supporting your
18 testimony?

19 A. Yes.

20 Q. And did you have documents in your
21 possession, memoranda and white papers regarding the
22 history of the allocation process in Washington?

23 A. I had a substantial portion of the memos that
24 I have submitted to the Commission and white papers from
25 various people, yes.

0868

1 Q. All right.

2 A. But not all.

3 Q. And those were produced to PacifiCorp in
4 response to their data request, were they not?

5 A. Yes.

6 Q. And none of those documents have been
7 identified as cross-examination exhibits for you in this
8 proceeding or attached to any PacifiCorp rebuttal
9 testimony, have they?

10 A. No.

11 Q. Let's take a look at Exhibit 469, and you
12 were asked a number of questions about the portion of
13 the exhibit on the next to the last page, paragraph
14 starting allocation method.

15 A. Okay.

16 Q. Do you believe that the statements that are
17 contained there are inconsistent with your testimony in
18 this case?

19 A. The statements in that particular document,
20 no, I mean that paragraph.

21 Q. Right.

22 A. Or the following paragraph, no, I don't
23 believe that any of this is inconsistent. I think that
24 there was a hope by Staff, both Mr. Nicola, more
25 Mr. Nicola than myself, but both of us, that we could

0869

1 come up with an allocation method that would work and
2 that would be sustainable. And I guess, you know, so
3 some of the documents that we wrote indicated that hope,
4 and I don't think we succeeded very well.

5 MR. FFITCH: May I just have a moment, Your
6 Honor?

7 JUDGE RENDAHL: Yes, you may.

8 BY MR. FFITCH:

9 Q. Do you have Exhibit 469 there?

10 A. Yes.

11 Q. That's the August 22nd letter. Throughout
12 this exhibit there's reference to the term endowment.
13 For example, we can look at the bottom of the first
14 page, paragraph starting the second item relates to what
15 the Pacific division brought to the merger (endowment),
16 correct?

17 A. Yes.

18 Q. And there's also been discussion of
19 allocation of specific resources to specific divisions,
20 other terminology of that type during your examination.
21 Could you please explain the distinction between
22 endowment and assignment of specific resources to
23 particular divisions, if there is a difference.

24 A. An endowment tries to identify where a system
25 is, at least the way we discussed it in the PITA

0870

1 meetings, and I assume this is what most people refer
2 to. But an endowment was something where there was a
3 benefit that kept your costs lower than the other
4 division. I mean it was the transmission endowment for
5 example in the Utah division was discussed quite
6 substantially, although the dollars were not quite as
7 heavily identified. That's what the term endowment was
8 intended to mean, what type of benefits did the existing
9 conditions, what the stand-alone company would be able
10 to have absent the merger. In other words, what does
11 PacifiCorp have, Pacific Power & Light, I said
12 PacifiCorp, what Pacific Power & Light would have absent
13 the merger that keeps its costs lower than would -- than
14 the lower -- than the rolled-in process. And that's
15 what we were looking for when we were looking for
16 endowments, I mean from the state of Washington's view.

17 Did I answer your question, Mr. ffitch?

18 Q. Well, I guess in part, and what I wanted you
19 to address was whether there is a distinction between
20 the endowment concept and --

21 A. Oh, yeah.

22 Q. -- the notion you were asked about as far as
23 assignment of -- direct assignment of resources to
24 particular divisions?

25 A. Right, yeah, I knew that I had missed the

0871

1 second half of the question. Allocations is an, okay,
2 in an allocation process you try to allocate resources.
3 That could be good, that could be bad. For example,
4 when we first started the process, and I tried to refer
5 to this in my testimony and I may be a little outdated,
6 but Oregon, for example, has, I just want to show the
7 difference between allocations and endowments, Oregon
8 has some very high cost QF resources, and in Oregon they
9 just happen to have signed contracts in the late '80's,
10 and they just happen to be very expensive, and the state
11 of Washington happened to have the same avoided costs
12 for PacifiCorp, and they didn't sign a QF in the state
13 of Washington at the time. We got, I guess as I would
14 say we got lucky. Under the Revised Protocol we got
15 lucky because we didn't have those resources, nobody
16 came to the Commission to try to bring in these new
17 resources.

18 An allocation would allocate costs, and it
19 allocates both the high costs of those QF's, it
20 allocates the low cost of the hydro plant. And an
21 allocation process, and I'm not trying to calculate the
22 endowment, my suggestion is we calculate the cost the
23 Pacific division created. The Pacific division created
24 what it brought to the merger, the Pacific division
25 created what its growth has required it to have, and the

0872

1 Pacific division has created, you know, other things
2 related to what's happened on a basically -- what would
3 have happened on a stand-alone basis. That's what a
4 cost allocation does is it allocates those costs.

5 Now those costs happen to be rolling in the
6 resources of the Utah division because that is better
7 for the total cost for the Pacific division, then that
8 would be the proper allocation. If that happened to be
9 rolled-in or Revised Protocol, then that would be the
10 result. I'm not saying that the Revised Protocol could
11 never or a method similar to the Revised Protocol could
12 never be adopted. What I'm saying is there's no
13 demonstration that the rolling in not just of these new
14 plants that Mr. Buckley talked about but all the other
15 large coal plants Utah had prior to the merger, the
16 rolling in of these things is a cost allocation -- those
17 aren't proper cost allocations without a demonstration
18 that those are what the Pacific states should have
19 allocated to it.

20 So an endowment is trying to figure out where
21 your costs are lower than rolled-in, and allocation is
22 allocating costs that you caused and trying to pick out
23 those costs and allocating them to the states in my
24 viewpoint in the Pacific Division. I hope that was --

25 Q. Would you please look at page 2.

0873

1 A. Of what?

2 Q. Pardon me, could you please look at page 2 of
3 Exhibit 469.

4 A. Yes.

5 Q. And let's if we could take a look at the
6 third and fourth paragraphs on that page and then answer
7 my question. Does the Commission in this letter agree
8 with either the fully rolled-in or any rolled-in method
9 or the San Diego methodology?

10 A. I mean right off the bat in the third
11 paragraph it says, you know.

12 Q. Do you take --

13 A. The answer is no. I mean the commissioners,
14 they want to resolve this, but their answer is no, they
15 don't. So they're saying that the divisional structure
16 should be maintained because at that point in time they
17 don't have answers, they don't have an opinion at that
18 point in time.

19 Q. And could you please look at paragraph 5 on
20 page 2.

21 A. 5.

22 Q. It starts, what we may have to do, and can
23 you look at the second line.

24 A. Yeah, the permanent separation of the assets.

25 Q. Does that indicate to you that the Commission

0874

1 is continuing to consider a permanent separation of
2 assets between divisions as a possible approach at that
3 time?

4 A. Yes, I believe so. The letter also indicates
5 that they agree with those concerns included in the
6 attachment. If you look at the third page of the letter
7 just before they thank you for the, you know, it says,
8 we agree with those concerns, they're referring to the
9 things there and in the document prepared by Mr. Nicola
10 and I, same type of concerns were there.

11 MR. FFITCH: Thank you, Your Honor, I don't
12 have any further questions on redirect.

13 JUDGE RENDAHL: Mr. Galloway, any recross
14 based on that?

15 MR. GALLOWAY: Yes, Your Honor, and before I
16 forget, may I offer Exhibit 469.

17 JUDGE RENDAHL: Mr. ffitch, is there any
18 objection to admitting 469, understanding as we have
19 discussed on the record earlier that Mr. Galloway is
20 going to attempt to find a clean copy or to redact the
21 notations on this copy?

22 MR. FFITCH: With that understanding, no
23 objection, Your Honor.

24 JUDGE RENDAHL: Right. And, Mr. Galloway,
25 your intent is to either look for one that doesn't have

0875

1 any marks on it or to remove the marks on I guess it's
2 the second page of this exhibit?

3 MR. GALLOWAY: Yeah, that is my intent. I
4 should note, and perhaps Mr. Lott can confirm, there are
5 on his white paper some markings that appear to be
6 editorial changes in the original.

7 THE WITNESS: It is my understanding and my
8 remembrance once I read this that the Jim on the front
9 page and those little editorials, those little
10 corrections or the plurals or the non-plurals or
11 whatever they were, those were all made by Staff or in
12 the case of writing Jim by the Commission.

13 MR. GALLOWAY: Okay, so we wouldn't intend to
14 redact those?

15 THE WITNESS: No, just that I would only
16 suggest the thing that's circled on page, well, circled
17 on my copy.

18 JUDGE RENDAHL: Yes, there's a circling on
19 page 1 and an underlining and circling and notes on the
20 bottom of page 2.

21 MR. GALLOWAY: Okay, we'll do what we can.

22 JUDGE RENDAHL: Okay, thank you.

23 With that, it's admitted, Exhibit 469.

24

25

0876

1 R E C R O S S - E X A M I N A T I O N

2 BY MR. GALLOWAY:

3 Q. Mr. Lott, you referred in response to
4 redirect to the high cost qualifying facilities that are
5 in Oregon?

6 A. At the time of the merger, there were high
7 cost qualifying facilities in Oregon, yes.

8 Q. And they are still high cost qualifying
9 facilities, right?

10 A. If they're there, I imagine they're still up
11 in the 80 Mil neighborhood, yeah.

12 Q. And under the Revised Protocol, Washington is
13 paid an endowment that reflects those high cost Oregon
14 qualifying facilities, does it not?

15 A. What you mean by an endowment is Oregon is
16 required to pay for them, yeah.

17 Q. Yeah, there is a --

18 A. Well, Washington doesn't have to pay, right,
19 those are directly assigned to Oregon.

20 Q. No, actually there's the ECD adjustment,
21 isn't there, for the qualifying facilities, so an
22 endowment is paid to Washington that represents the
23 difference between embedded costs and the cost of those
24 QF's?

25 A. Right, because Oregon pays for them, right.

0877

1 Q. But they're not -- they're allocated
2 systemwide, and then there's an endowment payment.

3 A. I agree with you, sir.

4 JUDGE RENDAHL: Let's not talk over one
5 another, please.

6 Q. And that endowment is one of the major
7 reasons that Washington benefits more from the Revised
8 Protocol than any other state, isn't it?

9 A. That was one of the large items, yes.

10 Q. Okay.

11 A. Well, now you keep -- okay, sorry, I'm going
12 to answer that question. As identified you call it
13 benefit, compared to rolled-in benefit, yes.

14 Q. Well, compared to --

15 A. Rolled-in.

16 Q. And compared to Modified Accord and Accord?

17 A. I will stick with my answer.

18 Q. Well, you have suggested the only comparator
19 that the company has offered is to rolled-in, it's also
20 offered a comparator to Modified Accord, has it not?

21 A. Yes.

22 Q. And Washington benefits more than any other
23 state compared to Modified Accord, doesn't it?

24 A. I can accept that subject to check.

25 Q. Okay.

0878

1 A. I didn't know that offhand, sorry.

2 MR. GALLOWAY: I have nothing further, thank
3 you.

4 JUDGE RENDAHL: Is there anything further for
5 this witness?

6 Any questions from the Bench for this
7 witness?

8 JUDGE RENDAHL: Commissioner Jones.

9 COMMISSIONER JONES: I just have one or two
10 for Mr. Lott.

11

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

13 BY COMMISSIONER JONES:

14 Q. I would just like to get a better
15 understanding of your understanding of the commissioners
16 since you worked closely with Commissioner Casad in that
17 period of time after the merger in trying to implement
18 -- come up with Bold Course or San Diego or -- and I do
19 think history is important, this is a preface to my
20 statement, that history has to have a meaning going
21 forward, all this has to mean something in my view as we
22 go forward.

23 So my questions are on the merger, besides
24 the obvious advantages of the combination of seasonal
25 resources, the summer and the winter in the Northwest

0879

1 that are quoted in the letters from the commissioners to
2 Commissioner Byrne, what do you think were the major
3 benefits of the merger? There are some references to
4 other operational savings, things like that.

5 A. Well, Staff -- yes. I was not a witness by
6 the way that testified that there were great benefits in
7 the merger, I just -- but I will just try to state them
8 as identified by the company. There were substantial
9 merger benefits identified by the company in
10 administrative and general. They also filed reports to
11 this Commission per your order, per the Commission's
12 order, you know, trying to identify those benefits.
13 Those did not last I don't think as long as we
14 originally intended those reports to be filed to the
15 Commission, but some of those were insurance benefits, I
16 referred to that before, they -- a lot of those by the
17 way -- and there was Pacific Power & Light had better
18 insurance plans, and by combining the two companies they
19 were able to reduce some of those costs. There were
20 numerous things in some of those reports, and, I'm
21 sorry, I don't have them memorized, but there were a lot
22 of costs that they identified, just combining their
23 payroll so that they, you know, they would have one
24 manager in charge of rates, because two rate sections --
25 now their rate section was a lot bigger than the PP&L

0880

1 rate sections, but combination probably smaller than the
2 two. I mean there was a lot of things like that.

3 The company, this filling in the dip I guess,
4 you know, kind of merging these two things where you
5 kind of had the lumps at different times of the year was
6 something that was discussed, and quite a bit of the
7 discussion was that somehow they would figure out a
8 method to, you know, that they didn't have it right
9 then, that there was a limited ability to transfer power
10 at the time, but over a period of time they would figure
11 out a way to transfer more of the power between the two
12 divisions was one of the long-term goals.

13 And, I'm sorry, I don't see that much of
14 that. I'm sure there has been some addition to that
15 ability, but the big dips are in, not in Wyoming, the
16 big dips were, you know, in the summer, were in Oregon,
17 Washington, and California, and the ability to move more
18 power to those three states during the off season and
19 away from those three states during the on season or
20 during the right time of the year I don't think has been
21 increased as much as we had anticipated.

22 Therefore, you know, there must have been
23 some look at the cost of the transmission to determine
24 whether that was a viable option and whether there was
25 really a need for it. When you look at the Pacific

0881

1 division, it hasn't grown. If the Pacific division had
2 grown more, I suppose more would have been done, but the
3 Pacific division hasn't grown, as you can see in my
4 testimony. But there was a hope that that -- there
5 could be some more combination of the actual physical
6 resources, and I'm talking about production resources,
7 to fill, you know, to use the Pacific during the summer,
8 of a better use of the Pacific resources during the
9 summer and a better use of the Utah resources during the
10 winter.

11 And I thought that that was, for on a
12 long-term basis, was one of the big goals of the
13 long-term benefits that were going to be created. The
14 short-term, the first five years, I think most of the
15 benefits actually, really realizable ones, were those
16 things that they could do quickly which would be the
17 administrative, general, and the transfer of power to
18 the ability that they had.

19 Q. On page 9 of your testimony you quote the
20 Oregon Commission order, and I think the point you're
21 trying to make, Mr. Lott, is that the Oregon Commission
22 order was more explicit than the Washington Commission
23 order, UTU-871338-AT; is that what you're trying to say
24 with this quote of the Oregon Commission order on page
25 9?

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1 A. That's what I said, yes, and some people
2 think that that's more explicit. I happen to have
3 thought that the Washington order was quite explicit in
4 the meetings that we had on PITA, so I agree that that's
5 what this testimony says, and I think for some people
6 that it is more explicit.

7 But going back to the PITA meetings I
8 attended, I, you know, I was going to say Mr. Nicola but
9 I think more myself, brought up this Commission's order
10 in defense of this issue more than Oregon would bring up
11 this issue, and that might just have been that the
12 Oregon representative at the time, which was Mr. Lambeth
13 as opposed to Commissioner Katz, who was very strongly
14 devoted to what's in this order, I think it was
15 Commissioner Katz, but whoever Oregon's commissioner was
16 was very strongly in support of this, and in the
17 meetings I think we used our order more often than
18 Oregon used this order, but.

19 Q. Well, my question is, if you could go to that
20 last line where it says, or subsidize the Utah power
21 division, I assume by Utah power division they're
22 referring to what we could call today the Eastern
23 Control Area?

24 A. No, I think they mean Utah. That wouldn't
25 include Wyoming.

0883

1 Q. It would not include --

2 A. Well, except -- a majority of Wyoming is
3 Pacific.

4 Q. Does this word subsidize the Utah power
5 division in your view refer to the difference in the
6 endowments, if you will, the hydro, thermal, the
7 different endowments of power resource supply that each
8 division brought to the merger?

9 A. Right, it's this 40% difference between --
10 that the Oregon representative, Mr. Lambeth, did
11 represent there was a 40% difference in the cost between
12 the two divisions, and right off hand I'm not sure
13 whether that's 40% lower or 40% higher, I would have to
14 go back and look. But it was this concern that our
15 rates would go up and bring the Utah rates down. At the
16 time of the merger, Utah was guaranteed various price
17 reductions. This Commission has kind of forced the
18 company to give us a rate reduction, I believe about \$5
19 Million, by allocating us some benefits of the merger,
20 but that was -- but Utah actually there were
21 requirements that they were going to have to file rate
22 reductions. And so there was this concern that we would
23 -- our rates would go up in order to bring those Utah
24 rates down, and that's what -- I mean that's what I take
25 by the subsidy, this concern that our rates would be

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1 higher than a stand-alone, in other words absent the
2 merger.

3 Q. My last question is later in your testimony
4 you talk about eight factors we should consider when the
5 Commission designs or approves, if we do approve,
6 interstate interjurisdictional cost allocation
7 methodology, and your third one relates to cost. I
8 think this is on page 18 of your testimony that says:

9 The Commission adopts should take a cost
10 causative approach that is sustainable.

11 This gets into the issue of the durability of
12 any approach, and I look back on this history, we have
13 had Bold Course, Consensus, PITA, Accord, Modified
14 Accord, Rolled-in, Protocol, Revised Protocol, it just
15 seems to me that about every two years we have the six
16 different state commissions come up with a different
17 approach that more or less satisfies and accommodates
18 the majority of state commissions. So my question to
19 you on the record is, do you really think that any
20 company or this company working with the state
21 commissions can come up with a "sustainable" approach
22 that lasts more than a year or two?

23 A. If you continue to look at methods that try
24 to balance the benefits, then that answer would be no,
25 and that's why I have a problem with the Revised

0885

1 Protocol. That's why I propose that we go back to a
2 method that doesn't try to balance the benefits, a
3 method that says here's what the Pacific states were and
4 here's what the Pacific states have become, and this
5 combination of the two companies, try to work that, you
6 know, where in the new resource mix, where in the need
7 for in the Pacific states does a rolling in of the
8 requirements from the Utah division benefit the Pacific
9 states, then we'll allocate those costs to the Pacific
10 states. And by doing that, I mean my hope is that you
11 can come up with a method that will continue to look at
12 where we should be and where the benefits are on a power
13 supply basis.

14 Again, there's a difference between power
15 supply and the rest of the system where -- I mean they
16 keep trying to say that you're going to offset, you
17 know, your power supply increases with the
18 administrative decreases, and as an accountant I never
19 discovered that larger is necessarily cheaper. But so I
20 get very concerned about those other benefits really
21 existing, and so I want to look at power supply by
22 itself, and are we really getting a benefit from that,
23 and I think that if we keep it the Pacific division and
24 work forward from that, then we wouldn't have to worry
25 about that issue as much.

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1 COMMISSIONER JONES: That's all I have, thank
2 you.

3 JUDGE RENDAHL: Thank you.
4 Chairman Sidran.

5

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

7 BY CHAIRMAN SIDRAN:

8 Q. Mr. Lott, I would like to ask you one
9 question related to your testimony in Exhibit 461 at
10 page 2. You are asked at line 14, do you have any
11 recommendations on how the Commission should set rates
12 in this proceeding; do you see that?

13 A. Yes.

14 Q. And then you respond, no, not directly, then
15 you go on to say, the Revised Protocol represents an
16 unacceptable allocation methodology as currently
17 proposed, and further add:

18 The Commission could set rates that
19 would sunset at a date certain based on
20 the Revised Protocol or a hybrid model
21 unless an agreed upon allocation
22 methodology is approved which supports
23 this rate finding.

24 Now we have heard testimony in this
25 proceeding that the company anticipates filing another

0887

1 general rate case perhaps within the next six months,
2 and we have also heard testimony that the Oregon
3 Commission has tentatively I suppose one could say
4 adopted the Revised Protocol but asked that a hybrid
5 type model be used as a comparator. So in the absence
6 of an alternative presented to this Commission and in
7 light of an impending general rate case that would allow
8 us to revisit this issue not long after the ink is dry
9 on the current rate case, would you view it as
10 reasonable for us to, as I think you're suggesting here,
11 in effect use the Revised Protocol in this proceeding,
12 perhaps follow Oregon's example by requiring a hybrid
13 comparator of some kind, and view it in the context of
14 17 years of history that we have reviewed so far in the
15 course of your testimony that suggests that there may
16 not be an answer that will provide a long-term solution
17 to the allocation conundrum?

18 A. I can answer that in part, sorry. My answer
19 is partially yes. But number one, I don't agree with
20 your final conclusion. I think that there is -- I think
21 that we can come up with a process that will result in
22 an answer. I don't want to use the hybrid method as a
23 comparator. There is an alternative of course in this
24 case, but you said absent another approach and absent
25 another approach for a temporary basis, I think, you

0888

1 know, and if you really feel that you can't just refuse
2 to give them rates -- I mean you have one option to say
3 that they haven't proved their case, okay, so you don't
4 want to do that. So you could in my opinion use the
5 Revised Protocol and say maybe temporary rates for 12
6 months based on that. At the end of 12 months, if you
7 haven't come up with a process, rates go away. I mean
8 you could do something -- and that's what I'm proposing,
9 and that's what my suggestion would be. Again, you do
10 have another option. Staff has proposed, you know,
11 corrections, temporary corrections again, temporary
12 corrections to the Revised Protocol, so there is a
13 second alternative too, a third alternative other than
14 just refusing to give any rates.

15 CHAIRMAN SIDRAN: Thank you.

16 JUDGE RENDAHL: All right, is there anything
17 further for this witness?

18 MR. FFITCH: Your Honor, if I may just ask a
19 follow-up.

20 JUDGE RENDAHL: Very briefly.

21

22 R E D I R E C T E X A M I N A T I O N

23 BY MR. FFITCH:

24 Q. Mr. Lott, you were just asked about the
25 various alternatives by Chairman Sidran, do you have a

0889

1 preference to recommend as between the Revised Protocol
2 and the Staff's recommendation in this case if the
3 Commission were to adopt one of those on a temporary
4 basis for establishing rates?

5 A. My belief is that the Revised Protocol
6 allocates too much cost to the state of Washington, that
7 the comparisons to both the rolled-in, which I don't
8 believe is a reasonable comparison to at all, but it's a
9 comparison to the modified Accord is to a Modified
10 Accord as it is today, and Modified Accord continues to
11 allocate less and less benefits to the state, to the
12 Pacific states, and that would be true if one looks at
13 -- I mean, you know, that's the logical theoretical
14 conclusion when one looks at the growth in the Pacific
15 states versus the growth in the Utah states, that more
16 and more costs under the Revised -- under the Modified
17 Accord the way it worked.

18 And one of the problems with its
19 sustainability is that more and more costs would be
20 allocated to the Pacific states even though they weren't
21 growing. I mean we're talking about more and more,
22 forget about the dollars, physical plant, more and more
23 physical plant would be allocated to the state of
24 Washington, so the Modified Accord has just an in-built
25 error if the two divisions don't grow at a similar pace,

0890

1 and the actual, forgetting about the dollars, the actual
2 physical plant being allocated to the state, because we
3 would be allocated, the Pacific states would be
4 allocated 55% or 50% of the total new resources plus
5 100% of the old resources.

6 That's one thing the Revised Protocol did do
7 is it did take away, as Mr. Galloway went through with
8 me, there is this reduction under the Revised Protocol,
9 it did correct that inherent error in the Modified
10 Accord, but it's compared to the Modified Accord in this
11 case. But that's 7 years after I said that it was a
12 50/50 sharing, 7 more years of this fast growth.

13 I believe the Modified Accord overstates cost
14 for the Pacific states today, therefore I think that
15 there needs to be a rate reduction, so I mean I think
16 that the cost allocation should be lowered in the
17 Revised Protocol. And therefore Staff is moving in the
18 right direction, I can't support the Staff's case, you
19 know, because I, you know, any more than I can support
20 any of these methods. It's simply not a cost causation
21 allocation process, but it does move in the right
22 direction, which is a lower allocation than the Revised
23 Protocol, so the Staff's method would be somewhat
24 favorable to the Revised Protocol for a temporary basis.

25 MR. FFITCH: No further questions.

0891

1 Thank you, Your Honor.

2 JUDGE RENDAHL: Okay, thank you.

3 I have one thing further, Mr. Galloway, did
4 you intend to offer Exhibits 462 through 468?

5 MR. GALLOWAY: I did not.

6 JUDGE RENDAHL: So did you want to withdraw
7 those?

8 MR. GALLOWAY: I do.

9 JUDGE RENDAHL: So Exhibits 462 through 468
10 will be withdrawn.

11 And with that we're going to take our morning
12 recess, we will be back on the record at 10 after 11:00,
13 let's be off the record.

14 (Recess taken.)

15 JUDGE RENDAHL: All right, let's be back on
16 the record after our mid-morning break. We're going to
17 start in with the cross-examination of Mr. Black.

18 (Witness CHARLES J. BLACK was sworn.)

19 JUDGE RENDAHL: Okay, thank you.

20 Mr. ffitch.

21 MR. FFITCH: Thank you, Your Honor.

22

23

24

25

0892

1 Whereupon,

2 CHARLES J. BLACK,

3 having been first duly sworn, was called as a witness

4 herein and was examined and testified as follows:

5

6 DIRECT EXAMINATION

7 BY MR. FFITCH:

8 Q. Good morning, Mr. Black.

9 A. Good morning.

10 Q. Could you please state your full name for the
11 record.

12 A. Yes, my name is Charles J. Black.

13 Q. And by whom are you employed?

14 A. I am an independent consultant.

15 Q. And were you retained by Public Counsel in
16 this proceeding to examine the PacifiCorp general rate
17 case and provide expert testimony on PacifiCorp's power
18 supply resource acquisition and the relationship of
19 those to the multistate allocation?

20 A. Yes, I was.

21 Q. Have you prepared direct testimony in this
22 case that has been marked as Exhibit 471-T in this case?

23 A. Yes, I have.

24 Q. Do you have any changes or corrections to
25 your testimony?

0893

1 A. No, I do not.

2 Q. And is it true and correct to the best of
3 your knowledge?

4 A. Yes.

5 Q. If I were to ask you the questions contained
6 in your testimony, would your answers be the same today?

7 A. Yes, they would.

8 MR. FFITCH: Your Honor, I offer Exhibit
9 471-T.

10 MR. GALLOWAY: Your Honor, may I ask some
11 questions in aid of objection?

12 JUDGE RENDAHL: Please go ahead.

13

14 C R O S S - E X A M I N A T I O N

15 MR. GALLOWAY:

16 Q. Mr. Black, have you ever been employed by a
17 utility that works in more than one state, provides
18 service in more than one state?

19 A. That provides retail service in more than one
20 state?

21 Q. Yes.

22 A. I can answer that with some degree of
23 certainty. When I was at -- I worked for the Pacific
24 Gas & Electric Company from 1982 until early 1991, and
25 they serve primarily the Northern California area, but I

0894

1 believe or I have a vague recollection that they may
2 have provided some service in the Lake Tahoe area, you
3 know, in a portion of Nevada, but that would be the
4 extent of it.

5 Q. Have you had any experience developing an
6 interjurisdictional allocation model?

7 A. By interjurisdictional allocation model, you
8 mean for retail rates of a utility that serves multiple
9 states?

10 Q. Yes.

11 A. No, I have not.

12 Q. Have you ever offered testimony regarding
13 such a model?

14 A. No.

15 Q. Did you have any direct experience with the
16 MSP process?

17 A. No.

18 MR. GALLOWAY: Your Honor, I don't believe
19 this witness has the requisite expertise to afford
20 expert testimony in regard to an interjurisdictional
21 allocation model, and therefore I would propose to
22 strike from his prefiled testimony pages 28 to 45, which
23 concern that subject.

24 JUDGE RENDAHL: Mr. ffitch.

25 MR. FFITCH: Well, Your Honor, first of all I

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1 would note that Mr. Galloway's objection is not timely.
2 As the Bench is aware, these proceedings are organized
3 in such a fashion so that objections of this type are to
4 be brought forward typically at a prehearing conference
5 between the parties so that we can determine whether
6 there are substantive objections to any particular
7 exhibit, and PacifiCorp has chosen not to do that,
8 apparently rather to wait until our witness is on the
9 stand to raise that objection, so my first response is
10 that it's not timely.

11 Secondly, it's without merit, Your Honor.
12 This witness's qualifications speak for themselves.
13 While he may not have had particular experience with the
14 matters that Mr. Galloway mentions, his extensive
15 experience with power supply matters, with resource
16 acquisition matters, with Pacific Northwest utility
17 companies, I think is sufficient for him to form the
18 opinions that are contained in his testimony.

19 JUDGE RENDAHL: Mr. Galloway.

20 MR. GALLOWAY: As to the first point, I don't
21 understand what the point is of offering exhibits at
22 this point in the proceedings if it somehow has already
23 been determined that everything is admissible.

24 Second of all, and I think this is exactly
25 the time that one would expect to question the

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1 admissibility of a portion of an exhibit, I don't by any
2 means, and as evidenced by the limited nature of my
3 objection, dispute Mr. Black's expertise in regard to
4 resource planning, but he simply has no demonstrated
5 expertise in regard to setting retail rates or
6 developing interjurisdictional allocation matters, and I
7 don't know how he can hold himself out as an expert on
8 something he has never done, never testified to, and
9 never been involved in.

10 JUDGE RENDAHL: Thank you, we will be off the
11 record for a moment.

12 (Discussion on the Bench.)

13 JUDGE RENDAHL: First as to the timeliness
14 issue, the Commission's rules do provide for motions to
15 strike testimony, including prefiled testimony, but that
16 does not necessarily require that such a motion be made.
17 I will note that the company did estimate cross for this
18 witness, so that did indicate that there was no motion
19 at that point.

20 On the other hand, as to the merits,
21 Mr. Black in his qualifications, he has experience in
22 planning and forecasting analysis, he has degrees in
23 mathematics and economics, he has experience working for
24 regulated utilities and vertically integrated utilities
25 that deal with allocation issues. Whether or not he has

0897

1 testified as to those issues previously doesn't mean he
2 has not the ability to form professional opinions on
3 those topics, so we deny the motion to strike pages 28
4 through 45 of Mr. Black's testimony at this time.

5 MR. GALLOWAY: Very well, Your Honor, thank
6 you.

7 JUDGE RENDAHL: So at this point, Mr. ffitch,
8 you had moved to admit Exhibit 471-T into the record; is
9 that correct?

10 MR. FFITCH: Yes, Your Honor.

11 JUDGE RENDAHL: And with the objections
12 denied, Mr. Galloway, do you have any further objections
13 to admitting Exhibit 471-T into the record?

14 MR. GALLOWAY: I have no further objections.

15 JUDGE RENDAHL: All right, Exhibit 471-T will
16 be admitted into the record.

17 Is the witness available for cross?

18 MR. FFITCH: Yes, Your Honor.

19 JUDGE RENDAHL: Mr. Galloway.

20 MR. GALLOWAY: Thank you, Your Honor.

21 BY MR. GALLOWAY:

22 Q. Mr. Black, will you turn please to page 4 of
23 your testimony, line 17?

24 A. Sure.

25 Q. And will you read the sentence that appears

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1 starting at line 17.

2 A. Okay, line 17 begins:

3 In Washington state, a regulated cost of
4 service utility such as PacifiCorp uses
5 an integrated portfolio of electric
6 resources to provide service to its
7 retail electric customers.

8 Q. And why don't you read the next sentence too,
9 please.

10 A. Sure. The next sentence reads:

11 Individual resources are not planned,
12 acquired, or operated on a separate
13 basis to serve specific retail electric
14 customers.

15 Q. Okay. Can you elaborate on what you mean by
16 that?

17 A. Well, I think the words pretty much speak for
18 themselves. Is there a particular aspect of that that
19 you would like me to elaborate upon?

20 Q. Well, do you have in mind when you, in
21 reference to PacifiCorp, when you mention electric
22 resources all of its portfolio of electric resources?

23 A. I guess my opinion on that is and the context
24 for this is a portfolio that a utility in fact uses to
25 serve, portfolio of resources that it in fact uses to

0899

1 serve retail customers, yes.

2 Q. So I think that as I understand your
3 testimony, your concern about the resource acquisition
4 process of PacifiCorp is you believe that once
5 PacifiCorp has gotten proposals back from developers, it
6 should run the attributes of those candidate resources
7 back through its production cost model to determine
8 their overall system effect?

9 A. Yes, along with other components of that
10 model, for example including transmission constraints.

11 Q. Okay. And are you now suggesting that in
12 making this recommendation you believe that the company
13 should test the resource based on a subset of its total
14 resources?

15 A. Excuse me, I'm distracted by the audience
16 here, I missed your question.

17 Q. Oh, what are they doing?

18 A. I don't know, something seems humorous.

19 Q. Oh.

20 Are you suggesting that in doing this second
21 test or test of candidate resources that the production
22 cost model should be run with less than all of
23 PacifiCorp's generation and transmission resources?

24 A. I'm confused by what you mean by second test,
25 what was the first test?

0900

1 Q. Well, I amended my question to say that as I
2 understand it, you're saying that the acquisition
3 process is flawed because the company should go back and
4 test the attributes of these resources in the context of
5 its whole system; you have agreed to that?

6 A. Yes.

7 Q. Okay. Are you now suggesting that when that
8 test is done, it should be based on less than all of
9 PacifiCorp's generation and transmission resources?

10 A. No, that's not what I'm saying.

11 Q. Okay. So you should take PacifiCorp's entire
12 portfolio and test them against that?

13 A. For the purposes of selecting a resource to
14 add to the utility's portfolio that it in fact uses to
15 serve retail load, yes.

16 Q. Okay.

17 Question on page 23 of your testimony, if you
18 could turn there, please.

19 A. Okay, I'm there.

20 Q. And let me try and summarize what I think the
21 point you're making here is and see if you agree. You
22 suggest the utility is faced with two -- a utility that
23 has just a seasonal need for resources is faced with a
24 choice between two acquisition alternatives, one that
25 provides just the seasonal power, and the other one that

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1 provides power all year around but assumes that you can
2 sell off the power for the balance of the year. Is that
3 a fair summary of the dilemma you're describing here?

4 A. In other words the two choices are --

5 Q. Yeah.

6 A. -- one resource that's a year round resource
7 and the other is a seasonal resource?

8 Q. Right.

9 A. Yes.

10 Q. And you point out appropriately that when you
11 buy the year round resource, you're undertaking a risk
12 that you can sell off the surplus at an appropriate
13 price?

14 A. Well, by appropriate price, I guess --

15 Q. One that justifies that acquisition as
16 compared to the seasonal resource.

17 A. Yes.

18 Q. Okay.

19 A. The year round resource has uncertainty
20 associated with the revenues from the sales during the
21 period when it's not needed to serve load.

22 Q. And at least generally this is a real world
23 situation in the procurement business, isn't it, or
24 things like this?

25 A. That challenge of seasonally matching loads

0902

1 and resources is one of the fundamental activities of a
2 utility in planning and acquiring resources, yes.

3 Q. And there is a need somehow in the evaluation
4 process to balance price and risk?

5 A. Yes.

6 Q. And you in line 10 starting at about, the
7 sentence starts on line 8, or actually the sentence
8 starts on line 10 of page 23, you say that, mark to
9 market value doesn't capture the risk; is that a fair
10 characterization of your testimony?

11 A. That's correct.

12 Q. That said, is it your testimony that the
13 company should not consider in your hypothetical the
14 year round resource?

15 A. No, that's not in my testimony.

16 Q. How would you propose to quantify the risk
17 associated with the all year round resource as compared
18 to the seasonal resource given the fact that the mark to
19 market values don't capture it?

20 A. Well, there's one method that comes
21 immediately to mind, and that is to apply an uncertainty
22 analysis to the revenues from the sales of the surplus
23 power during the season when its not needed to serve the
24 utility retail load. So, for example, in doing a mark
25 to market analysis, that requires use of a forward price

0903

1 forecast, and so, for example, let's make this a little
2 more tangible, suppose a utility is looking at a
3 resource that it needs to serve its retail load during
4 the summer, but that power is surplus during the winter,
5 okay. Then the utility is at risk of how much revenue
6 it would receive from the sales of the surplus power
7 during the winter. Under a straight mark to market
8 valuation, there's a forecast of, a point forecast of
9 what those revenues would be during the winter periods
10 for the life of that resource, say it's a 20 year or 30
11 year resource. When the utility commits to that
12 resource, it commits to having to dispose of that
13 surplus during the winter. So one approach that a
14 utility can use in evaluating that is to say, well, what
15 if our forward price forecast for those winter periods
16 over the next 20 or 30 years is incorrect, what if
17 market prices turn out to be lower than we currently
18 expect, what if they turn out to be higher, and what
19 does that volatility do to the amount of revenue
20 requirement the utility would then have. You know, if
21 prices are lower, it would receive less revenue and its
22 net revenue requirement would increase.

23 Q. I'm struggling to understand the point of
24 your testimony. Is it your -- was it your understanding
25 that all the company does in evaluating resources is to

0904

1 look at mark to market value?

2 A. No, and that was not my testimony either.

3 Q. And it isn't your testimony that mark to
4 market is not a factor in evaluating resources, is it?

5 A. It is my testimony that mark to market is not
6 the best primary measure to use for evaluating long-term
7 resource acquisitions.

8 Q. But it is a reasonable measure?

9 A. I'm not sure what you mean by reasonable.

10 Q. Well, you say it's not the primary, you
11 wouldn't suggest it shouldn't be considered, would you?

12 A. No, it could be considered as part of the
13 evaluation.

14 Q. And the risk factor that you talk about in
15 this example, aren't some of the modern conceptual and
16 statistical tools and options and such exactly the sorts
17 of things that you need to evaluate the risk associated
18 with a long-term investment of the sort you have
19 described?

20 A. Yes, I'm glad you asked me that question,
21 because I think I can help illustrate this for you.
22 Risk is, as we all have learned in the last five years
23 here, risk is a major issue for a utility in planning
24 and acquiring its resources. And there was a period
25 which came to a crash in 2001 where many people

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1 believed, I guess I wouldn't put myself as one of the
2 group of many people, but many people believed that
3 there would always be a liquid and viable spot market
4 that would efficiently price and serve as a source of
5 market purchases to serve a utility's load or if the
6 utility was surplus a place to dispose of surplus power
7 at reliable and efficient prices. What utilities have
8 found though is that exposing the utility and its
9 customers ultimately to market prices, especially in the
10 spot market, creates risk.

11 And so what utilities have moved back to now
12 in this what I would call the post Enron era is trying
13 to balance their loads and their resources with firm
14 long-term resources in their portfolio so that they
15 limit the amount of exposure to the short-term market,
16 either as a purchaser or as a seller. And so what
17 utilities do in integrated resource planning and
18 hopefully also in resource acquisition is look to
19 acquire long-term resources and minimize the cost of
20 those resources to serve customers, and in doing that
21 limit the amount of short-term market purchase and
22 sales.

23 Now that's not entirely possible to do,
24 because you have good hydro years, you have bad hydro
25 years, fuel prices vary for different resources, and so

0906

1 there's a discipline that's become prevalent in the
2 utility industry called energy risk management. And
3 energy risk management, what it does is it attempts to
4 limit, once the portfolio is configured with resources,
5 long-term resources, it attempts to limit the impacts of
6 things like higher spot prices in the wholesale market,
7 higher fuel prices, lower fuel prices, and variability
8 in hydro electricity. Those are some of the factors for
9 a retail utility, it's also variability in the retail
10 load.

11 And so energy risk management techniques,
12 which I believe you're referring to here, are applied
13 most specifically in that near term balancing and
14 management of the portfolio, and that's where I agree
15 techniques like mark to market and option valuation are
16 effective and are appropriate, but I do not believe that
17 those techniques are effective or appropriate for making
18 long-term resource acquisitions.

19 Q. But are you aware of any other analytical
20 tools that are available for measuring the risk
21 associated with the long-term seasonal resource versus
22 the long-term baseload resource?

23 A. Yes, I believe a number of utilities and
24 PacifiCorp have these analytical tools, and they are the
25 portfolio modeling tools that utilities use in their

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1 integrated resource plans, or modified versions of those
2 tools.

3 Q. And your testimony is that PacifiCorp make
4 use of those tools?

5 A. In its integrated resource plan in my review
6 of the direct testimony and exhibits filed by the
7 company in this case, I saw no evidence that the company
8 had run those models to evaluate the specific resource
9 acquisition opportunities that it was reviewing.

10 Q. Okay, I will skip ahead because you started
11 the subject of the short-term purchases. Turning to
12 page 47 of your testimony, at line 7 you say:

13 Limiting variability in PacifiCorp's net
14 power cost is a key component of the
15 objective of management of risk of its
16 resource portfolio.

17 And this testimony, to put it in context, is
18 your observations on the company's power cost adjustment
19 mechanism?

20 A. Yes.

21 Q. And as I understand, the intent of this
22 testimony is that it's important for a utility, any
23 utility, to manage its long-term position to minimize
24 its exposure to short-term market purchases?

25 A. Yes.

0908

1 Q. Now what do you understand to be included in
2 PacifiCorp's net power costs?

3 A. Well, different utilities account for their
4 power costs differently. Some utilities include
5 primarily their variable costs, which I believe is more
6 the case with PacifiCorp. It's things like fuel costs
7 for its generating facilities, operating and maintenance
8 costs for those facilities, expenses for long-term power
9 purchase contracts, revenue from long-term power
10 purchase contracts, and then also a major component of
11 this is the short-term purchase and sales expenses and
12 revenues in the spot market.

13 Q. And what is the source of your conclusion
14 that a major component of this is short-term purchases
15 in the market?

16 A. I'm sorry, can you repeat the question?

17 Q. You just testified that a major component of
18 the net power costs for PacifiCorp is short-term
19 purchases.

20 A. Did I testify that it's a major component?

21 Q. I believe you used that word.

22 A. Well, it's a component.

23 Q. Okay.

24 A. And actually, the statement here on page 47
25 of my testimony, and as I mentioned a few minutes ago,

0909

1 one of the things a utility tries to do is limit the
2 amount of its exposure to those short-term purchases and
3 sales.

4 Q. Now is --

5 A. So I may have misspoken earlier.

6 Q. Now is it your view that short-term purchases
7 are a material component of PacifiCorp's net power
8 costs?

9 A. That depends in part on how effectively it
10 configures its portfolio with long-term resources. It
11 also can vary from year to year based on hydro electric
12 conditions, fuel prices --

13 Q. So am I to assume --

14 A. -- those kinds of factors.

15 Q. -- you don't know --

16 MR. FFITCH: Your Honor, the witness was
17 interrupted.

18 MR. GALLOWAY: I'm sorry, I thought he was
19 done.

20 JUDGE RENDAHL: Mr. Galloway, if you can
21 avoid speaking over counsel and witnesses, I would
22 appreciate it.

23 MR. GALLOWAY: I apologize, I honestly
24 thought he was done.

25 A. So those -- I guess the conclusion here is

0910

1 that those costs may or may not be a major component of
2 net power costs.

3 BY MR. GALLOWAY:

4 Q. And does it follow that if they're not a
5 material or major component of net power costs that your
6 testimony in these next two or three pages wouldn't have
7 much import?

8 A. Well, I believe Mr. Furman's testimony, one
9 of the major points made in it is that a large portion
10 of PacifiCorp's net power costs are volatile and
11 uncontrollable due to these types of factors, so I
12 believe even the company has suggested that they are a
13 significant and material component of the company's net
14 power costs.

15 Q. Let me --

16 A. What I'm saying is that it's a fundamental
17 responsibility of the company to try to limit the amount
18 of those costs, both through its planning and
19 acquisition of resources, long-term resources, and
20 through shorter term measures such as energy risk
21 management.

22 Q. My question, sir, was if they're not a
23 material component, does your testimony have much
24 relevance to these proceedings?

25 A. We're talking about the section of my

0911

1 testimony about the power cost adjustment mechanism?

2 Q. Yes, and the energy management, risk
3 management, and such.

4 MR. FFITCH: Your Honor, could we have, can I
5 ask if counsel could identify the specific portions of
6 the testimony which he is asking about just for the
7 assistance of --

8 Q. Starting on page 47 and going through page
9 50.

10 I won't prolong this, are you aware of
11 Mr. Widmer's testimony that suggests that in 2004 the
12 company had 200,000 megawatt hours of short-term firm
13 purchases out of a total system load of 80.9 million,
14 which by my rough arithmetic is about 1/4 of 1% of its
15 load being made from short-term firm purchases?

16 MR. FFITCH: Your Honor, I would object to
17 the question, because the witness has not been directed
18 to Mr. Widmer's testimony.

19 Q. Page 10, do you have Mr. Widmer's testimony?

20 A. Not with me, no.

21 JUDGE RENDAHL: And which exhibit are you
22 referring to?

23 MR. GALLOWAY: I can figure all that out.

24 JUDGE RENDAHL: Let's be off the record for a
25 moment while we find the exhibit and provide it to the

0912

1 witness.

2 (Discussion off the record.)

3 JUDGE RENDAHL: Mr. Galloway.

4 BY MR. GALLOWAY:

5 Q. Have you had an opportunity to review
6 Mr. Widmer's testimony?

7 A. I had an opportunity to review the question
8 at the top of page 10 of Exhibit MTW-8T.

9 JUDGE RENDAHL: And for the record, that's
10 been admitted as 398-T.

11 Q. And do you have any reason to doubt
12 Mr. Widmer's testimony in this regard?

13 A. No, I do not.

14 Q. Okay. So it would appear that the company
15 already has very little reliance on short-term firm
16 transactions?

17 A. I would not necessarily agree with that.
18 Based on my experience in these types of situations, if
19 a utility is making very little short-term purchases
20 during a particular year, I would suspect and would
21 actually be interested to see in this case in 2004 if
22 PacifiCorp was making large amounts of secondary, or
23 excuse me, spot market sales during 2004, which has a
24 counter-effect risk of revenue from those sales, which
25 as I mentioned earlier, if those revenues turn out to be

0913

1 lower than the utility expected, for example in a good
2 hydro year, then the utility is at risk of volatility in
3 its net power costs. The other thing I would say about
4 this is this is a snapshot of one year, and I believe
5 there are other years, for example 2001, that PacifiCorp
6 had very large spot market purchase activity and large
7 expenses for those short-term costs.

8 Q. Do you dispute Mr. Widmer's point that even
9 in the face of what he describes as small quantities of
10 short-term market purchases that factors such as fuel
11 cost and hydro variability and forced outages can still
12 produce substantial variation in net power costs as
13 PacifiCorp defines them?

14 A. I would agree that those factors can cause
15 large variability in net power costs, yes.

16 Q. So there's more going on here than short-term
17 activity?

18 A. Yes, I would agree with that.

19 Q. Okay. And on page 47 of your testimony,
20 starting on line 15, you stress the importance of
21 integrated resource planning, long-term resource
22 acquisition, and energy risk management in the context
23 of a PCAM or a power cost adjustment mechanism?

24 A. That's correct.

25 Q. And Puget Energy does all these things,

0914

1 doesn't it?

2 A. That's correct.

3 Q. And --

4 A. I'm familiar with a number of those
5 activities based on prior work I have done for that
6 company.

7 Q. And in your view does them well?

8 A. I believe so, yes.

9 Q. And they have a power cost adjustment
10 mechanism, don't they?

11 A. They have a balancing account mechanism for
12 power costs, that's correct.

13 Q. So your testimony is that doing all these
14 things and doing them well doesn't obviate the need for
15 a power cost adjustment mechanism, does it?

16 A. No.

17 Q. Okay.

18 If the testimony had been stricken, I would
19 be done.

20 JUDGE RENDAHL: Sorry not to oblige you in
21 that way.

22 Q. In your observations on PacifiCorp's
23 interjurisdictional allocation issues, is it fair to say
24 that the principal metric you look at in evaluating how
25 PacifiCorp operates its system is its firm transfer

0915

1 capability between the eastern and western parts of its
2 system?

3 A. I'm sorry, I heard part of that question to
4 be relatively broad. In terms of metric for evaluating
5 PacifiCorp system, is this --

6 Q. Yeah, isn't that what your testimony is
7 largely based on when you conclude that it's not as
8 integrated as PacifiCorp might suggest?

9 A. Well, a brief summary of my testimony is that
10 for practical purposes PacifiCorp has and uses two
11 portfolios of resources, two distinct portfolios of
12 resources located in separate geographic regions, in
13 separate electric control areas, to serve loads in two
14 separate geographic regions that have fundamentally
15 different characteristics, and that there is a limited
16 electrical connection between those, transmission
17 connection between those two systems.

18 Q. How much do you know about how PacifiCorp
19 operates its system?

20 A. I have been experienced with electrical
21 utility systems in the Western United States since 1982,
22 so I'm familiar with how utilities dispatch their
23 resources, I'm familiar with major utility systems in
24 the West. However, if you ask me how PacifiCorp
25 dispatches the Merwin project compared to Klamath Falls,

0916

1 I wouldn't be able to tell you the particular details of
2 those things.

3 Q. Do you know anything about the what is
4 referred to as the Southeast Idaho Exchange?

5 A. I'm not familiar with the details of that
6 transaction.

7 Q. Do you know how PacifiCorp on a day-to-day
8 basis manages its peaking contract with Bonneville?

9 A. No, I do not.

10 Q. Are you familiar with the company's exchange
11 agreement with, summer-winter exchange agreement with
12 the Arizona Public Service Company?

13 A. I'm not familiar with the details of that
14 contract.

15 Q. Are you familiar with the contract that
16 PacifiCorp has with Southern California Edison where it
17 can make deliveries either in the Eastern or Western
18 Control Area?

19 MR. FFITCH: Your Honor, I'm going to object
20 to counsel testifying in his questions. We have no
21 foundational evidence for the information about Southern
22 California contracts other than counsel's own statement.

23 Q. Let me restate the question, and I believe
24 Mr. Duvall did testify to this effect.

25 Do you know anything about the company's

0917

1 long-term contract agreement with California Edison?

2 A. No, I'm not familiar with the details on
3 that, no.

4 Q. Will you concede that it is possible that
5 there is a degree of integration of PacifiCorp's system
6 that might not be discernible based just on the ability
7 to transfer power between the east and the west to serve
8 retail load?

9 A. I'm sorry, can you restate the question?

10 Q. Will you concede that there may be factors
11 other than PacifiCorp's ability to move power between
12 the east and the west to serve retail load that might be
13 relevant to the issue of the integration of PacifiCorp's
14 system?

15 A. I would agree with that, yes.

16 Q. Okay.

17 A. I would agree also that those types of
18 transactions and intersystem transfers happen between
19 utility companies as well.

20 Q. Okay.

21 Finally we have your two hypothetical
22 portfolios for your allocation method; do you recall
23 that?

24 A. Yes.

25 Q. We have portfolio P and portfolio U.

0918

1 A. Yes.

2 JUDGE RENDAHL: Which page are you referring
3 to in the testimony?

4 Q. I am referring, I'm trying to find the first
5 reference to it, I believe subject to the witness
6 correcting me that the first reference to it is on page
7 38; is that true, Mr. Black?

8 A. Well, I see a reference to portfolio P and U
9 on page 33.

10 Q. Okay. And then we mention the concepts
11 sporadically thereafter?

12 A. Yes.

13 Q. Okay. And P stands for Pacific Power?

14 A. There's no particular significance.

15 Q. Okay, but it's the west?

16 A. It helps me remember that it's the Western
17 Control Area.

18 Q. And U stands for Utah probably?

19 A. The U designation helps me keep in mind that
20 it refers to essentially PacifiCorp's Eastern Control
21 Area, yes.

22 Q. Which portfolio do you propose to put the
23 Wyodak plant in?

24 A. I do not have a specific proposal on that
25 particular matter.

0919

1 Q. Which portfolio do you propose to put the
2 Dave Johnson plant in?

3 A. I do not have a specific proposal on that
4 particular matter.

5 Q. Which portfolio do you propose to put
6 PacifiCorp's interest in the Colstrip plant in?

7 A. Well, maybe I can short-circuit this a little
8 bit. The purpose of this testimony is not to lay out
9 all of the details and particulars of how a portfolio
10 based method would be evaluated. Rather the focus of
11 this testimony is to start with the understanding that
12 there are effectively two separate portfolios that have
13 limited abilities to transfer physical power between
14 them, and recognizing that they do have a number of
15 contracts and transactions that some of which are within
16 a particular portfolio and some that do allow synergy
17 benefits between the two portfolios. The purpose of my
18 testimony is to describe a methodology or an approach
19 that could be used to evaluate those two systems and
20 that that proposal or that concept could be implemented
21 or used as an alternative to the Revised Protocol.

22 Q. But you would agree, would you not, that you
23 couldn't implement your proposal unless you could
24 achieve consensus on what plants went in which
25 portfolio?

0920

1 A. By consensus, what do you mean?

2 Q. Well, among other things consensus among
3 affected jurisdictions.

4 A. I don't believe that's the obligation of the
5 Washington Commission is to make rates for other
6 jurisdictions. I believe the obligation for the
7 Washington Commission is to fairly allocate and
8 equitably allocate costs that are relevant to this
9 jurisdiction.

10 Q. So you don't see value to customers from
11 achieving consensus among states on an
12 interjurisdictional allocation system?

13 A. I did not say that. I do see value in that,
14 and if I were in PacifiCorp's position, I would be
15 seeking to apply a method that's acceptable to all six
16 states. However, I do recognize that those six states
17 do have differences in their characteristics, for
18 example, of their loads, of their resources in the two
19 different portfolios, and that, for example, a rolled-in
20 methodology that takes a higher cost system or a growing
21 system with increasing costs and melds that together
22 with a slower growing or a lower cost system, I could
23 see how it would be difficult for the company to achieve
24 consensus across states where one prefers a rolled-in
25 approach for obvious reasons and another one prefers an

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1 alternative approach that looks more at the individual
2 systems.

3 Q. Well, and you do recognize, do you not, that
4 the Colstrip and Dave Johnson and Wyodak plants present
5 a significant dilemma in terms of which portfolio they
6 should go into?

7 A. I have not reviewed those, the details of
8 those transactions, so I wouldn't be able to say if
9 there is a significant dilemma. I would agree that
10 those would need to be addressed.

11 Q. And what do you understand to be the dilemma
12 associated with those plants?

13 A. I won't hazard a guess at that.

14 Q. So do you know whether they were plants that
15 were owned by -- that are located in the east but owned
16 by PacifiCorp before the merger?

17 A. I have some familiarity with Colstrip given
18 that Puget Sound Energy is one of the owners of that
19 plant. I'm also familiar that PacifiCorp has been an
20 owner of that and that there have been contracts
21 associated with that plant. But as to the details of
22 how it's being handled in the Revised Protocol or any of
23 the chain of interjurisdictional cost allocation methods
24 previously, no, I'm not familiar with those details.

25 Q. And similarly you don't know when those

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1 plants were acquired or by whom, you don't know whether
2 Wyodak and Dave Johnson were Utah Power plants or
3 Pacific Power plants premerger?

4 A. From memory on the stand I do not recall.

5 Q. Okay.

6 JUDGE RENDAHL: Mr. Galloway, do you have any
7 further questions for the witness?

8 MR. GALLOWAY: I may have one if I can just
9 pause for a moment, Your Honor.

10 JUDGE RENDAHL: All right.

11 BY MR. GALLOWAY:

12 Q. Is it fair to conclude that you are not
13 familiar with the details of how pricing would be
14 accomplished for transfers between your two proposed
15 divisions?

16 A. Again, the purpose of my testimony was to
17 describe a policy level approach that reflects the
18 fundamental nature of the two portfolios in the two
19 systems. The purpose of my testimony was -- and it
20 frankly would have been impractical for my testimony to
21 try and go through all of the details and the
22 particulars associated with implementing an approach.
23 What I will say though is that in my review of the prior
24 materials, I had not seen anything that indicated that
25 that form of approach had been applied.

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1 Q. So is your answer that you don't know sitting
2 here today how the transfer pricing would be
3 accomplished?

4 A. No, and I don't think anyone would.

5 MR. GALLOWAY: Okay, I have nothing further.

6 JUDGE RENDAHL: All right, well, with that,
7 we will take our lunch recess and come back at 1:30 and
8 begin with redirect by Mr. ffitch. We will be off the
9 record.

10 (Luncheon recess taken at 12:00 p.m.)

11

12 A F T E R N O O N S E S S I O N

13 (1:30 p.m.)

14 JUDGE RENDAHL: Let's be back on the record
15 after our lunch break this afternoon.

16 Good afternoon, Mr. Black.

17 THE WITNESS: Good afternoon.

18 JUDGE RENDAHL: We are now going to turn to
19 Mr. ffitch for redirect; is that correct?

20 MR. FFITCH: Correct, Your Honor.

21 JUDGE RENDAHL: All right, Mr. ffitch, please
22 go ahead.

23 MR. FFITCH: Good afternoon, Your Honor and
24 Mr. Black.

25

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1 R E D I R E C T E X A M I N A T I O N

2 BY MR. FFITCH:

3 Q. You were asked on your cross-examination if
4 you had any knowledge of dispatch, particularly
5 PacifiCorp dispatch, and could you please -- and you
6 indicated that you didn't have knowledge of PacifiCorp
7 dispatch but you had some experience in the area I
8 believe. Could you please just describe your experience
9 with utility dispatching.

10 A. Certainly. As I mentioned earlier today, I
11 was an employee of Pacific Gas & Electric Company from
12 1982 to 1991, and for several years while I was there I
13 coordinated the company's fuel management working group.
14 This was in the late 1980's, and one of the primary
15 functions that I was involved with and responsible for
16 in that group was making monthly operational planning
17 for PG&E's generating resources including setting
18 dispatch prices for the company's natural gas fired
19 generating plants, which amounted to several thousand
20 megawatts of resources as part of a very complex
21 portfolio of resources including nuclear, hydro
22 electric, QF purchase, geothermal, and other types of
23 resources, so that was at Pacific Gas & Electric.

24 In 1991 I moved to what is now Tacoma Power
25 and ultimately became the assistant power manager there.

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1 And my work location was Tacoma Power's energy control
2 center, and I sat literally 45 feet away from the
3 dispatch desk at Tacoma and spent quite a bit of time
4 talking to the dispatchers and became familiar with
5 operation of Tacoma's resources.

6 Then in 1997 I went to Puget Sound Energy,
7 and one of the first things that I did there to become
8 familiar with Puget Sound Energy's resources and
9 operations was to help the daily preschedule desk with
10 scheduling Puget Sound Energy's generation, contracts,
11 and market purchases and sales.

12 Q. All right. You were also asked a number of
13 questions about your familiarity with the Bonneville
14 peaking contract, Southern California Edison contract,
15 and the Southern Idaho Exchange; do you recall that?

16 A. Yes.

17 Q. If a utility has an exchange agreement with a
18 point of delivery in a particular control area, does
19 that allow the utility to exceed its transmission
20 constraints that it might have to get power to another
21 one of its control areas?

22 A. No, the transmission constraints are physical
23 constraints that are not allowed to be exceeded,
24 particularly if you're talking about exchange agreements
25 or capacity contracts or those kinds of things where you

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1 have one control area with both the point of integration
2 and the point of delivery. Basically what that allows
3 you to do is move power around within that control area
4 and between time frames within that control area, but it
5 does not allow you to exceed your transmission rights
6 from that control area to another one.

7 Q. Just one other question, Mr. Black, I think
8 towards the end of the cross-examination you were asked
9 that if PacifiCorp engages in risk management and
10 integrated resource planning, does that obviate the need
11 for a power cost adjustment mechanism, and I believe you
12 answered no; do you recall that?

13 A. Yes, I do.

14 Q. Would you explain, please explain why you
15 gave that answer?

16 A. Well, that answer was basically to ask if
17 having an energy risk management function -- I'm sorry,
18 can you repeat the question again, I lost my train of
19 thought for a second there, I apologize.

20 Q. You were asked that if PacifiCorp does
21 integrated resource planning and does have a risk
22 management program, does that obviate the need for a
23 power cost adjustment mechanism, and my notes indicate
24 that you answered no, and so my question to you was
25 could you explain your answer?

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1 A. Okay, thank you, that's helpful. The
2 question was really whether having IRP and energy risk
3 management functions eliminates the need for or the
4 possible need for something like a PCAM, and my answer
5 to that is no. I guess the added perspective that I
6 have on that is that simply because a company has those
7 functions though does not -- the flip side of the coin
8 does not apply. It doesn't mean that it automatically
9 satisfied the types of requirements that I believe are
10 necessary for a PCAM or that type of mechanism.

11 And, for example, in the area of energy risk
12 management, the -- by the way, I was -- I have some
13 experience in that area, I was Puget Sound Energy's
14 first director of energy risk management, and one of the
15 things we did there and that I worked on directly was
16 taking the company's energy risk management policy and
17 developing the practices and procedures to implement
18 that energy risk management policy. And a lot of that
19 had to do with what the objectives are for energy risk
20 management, including objectives of at the time were
21 oriented toward company profitability and company
22 earnings.

23 And so here's an example, if a company does
24 not have a balancing account, the need for reflecting
25 customer interest may not be as great or would need to

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1 be balanced more so against shareholder interest.
2 However, if you have a PCAM as PacifiCorp has proposed
3 which would place 90% of the burden of variability and
4 power costs on customers, then the energy risk
5 management policy and practices and procedures would
6 need to be oriented toward the interests of those
7 customers, for example in minimizing and limiting
8 variability or volatility and cost to the customer as
9 distinguished from the shareholder.

10 MR. FFITCH: Thank you, Your Honor, no
11 further questions on redirect.

12 JUDGE RENDAHL: Anything for recross,
13 Mr. Galloway?

14 MR. GALLOWAY: Yes, Your Honor. While I
15 think about it, can I offer Exhibits 472 to 481?

16 JUDGE RENDAHL: Are there any objections to
17 admitting into the record what have been marked as
18 Exhibits 472 through 481?

19 MR. FFITCH: No objection, Your Honor.

20 JUDGE RENDAHL: Hearing no objection, those
21 exhibits will be admitted.

22

23 R E C R O S S - E X A M I N A T I O N

24 BY MR. GALLOWAY:

25 Q. Mr. Black, I wanted to inquire further about

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1 your understanding of exchange agreements.

2 A. Sure.

3 Q. If there is a contract that requires
4 PacifiCorp to deliver a stated amount of power to
5 Bonneville in its Eastern Control Area and requires
6 Bonneville to contemporaneously deliver an equal amount
7 of power to PacifiCorp in its Western Control Area, how
8 is the issue of PacifiCorp's transmission rights or
9 transfer capability implicated?

10 A. Well, I guess if you're asking if that type
11 of an exchange agreement where PacifiCorp is delivering
12 to Bonneville in PacifiCorp East and then PacifiCorp is
13 receiving from Bonneville concurrently in PacifiCorp
14 West, then that would be in addition to PacifiCorp's
15 transmission rights from east to west.

16 MR. GALLOWAY: Okay, I have nothing further.

17 JUDGE RENDAHL: Thank you.

18 Are there any questions for Mr. Black from
19 the Bench?

20 All right, well, thank you, Mr. Black, you
21 may step down, and we will be off the record while we
22 bring Dr. Blackmon to the stand.

23 (Discussion off the record.)

24 JUDGE RENDAHL: We're going to now take the
25 testimony of Dr. Blackmon.

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1 (Witness GLENN BLACKMON was sworn.)

2 JUDGE RENDAHL: Okay, go ahead, Mr. Trotter.

3 MR. TROTTER: Thank you.

4

5 Whereupon,

6 GLENN BLACKMON,

7 having been first duly sworn, was called as a witness

8 herein and was examined and testified as follows:

9

10 D I R E C T E X A M I N A T I O N

11 BY MR. TROTTER:

12 Q. Please state your name for the record.

13 A. My name is Glenn Blackmon.

14 Q. And you are employed by the Commission in

15 what capacity, Dr. Blackmon?

16 A. I'm Director of Regulatory Services.

17 Q. Am I correct that you are sponsoring Exhibit

18 534-T in this proceeding, and you are adopting as your

19 testimony Exhibit 531-T, excluding the qualification

20 statement by Mr. Braden?

21 A. Yes.

22 Q. With those qualifications, if I asked you the

23 questions that appear in those testimonial exhibits,

24 would you give the answers that appear there?

25 A. Yes.

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1 Q. And you're also sponsoring Exhibit 533; is
2 that right?

3 A. That's correct.

4 Q. And is that exhibit true and correct to the
5 best of your knowledge?

6 A. Yes.

7 MR. TROTTER: Your Honor, I move the
8 admission of Exhibits 531-T, 534-T, and 533.

9 MR. GALLOWAY: No objection.

10 JUDGE RENDAHL: All right, hearing no
11 objection, those exhibits will be admitted.

12 And are you then withdrawing Exhibit 532?

13 MR. TROTTER: Yes.

14 The witness is available for
15 cross-examination.

16 JUDGE RENDAHL: Mr. Galloway.

17 MR. GALLOWAY: Thank you, Your Honor.

18

19 C R O S S - E X A M I N A T I O N

20 BY MR. GALLOWAY:

21 Q. Dr. Blackmon, could I direct your attention,
22 please, to page 4 of your testimony.

23 JUDGE RENDAHL: And is this Mr. Blackmon's
24 testimony or Mr. Braden's that he's adopting?

25 MR. GALLOWAY: In all respects my questions

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1 will go to Mr. Braden's original testimony that he is
2 adopting.

3 JUDGE RENDAHL: All right, so that's Exhibit
4 531?

5 MR. GALLOWAY: Mm-hm.

6 BY MR. GALLOWAY:

7 Q. And on the first line of that, there's
8 reference to the need to, and I'm paraphrasing it, to
9 allocate costs on the basis of the "true" cost to serve
10 each state; do you see that?

11 A. I do.

12 Q. Two of the witnesses have testified that
13 there's a subjective element to cost causation, that not
14 all reasonable people agree on cost causation; do you
15 concur in that view?

16 A. I'm not sure which specific witnesses you're
17 referring to.

18 Q. Well --

19 A. But I will say that in general within the
20 field of economics there are different measurements of
21 cost, different approaches to what would be considered a
22 cost that is caused by or incremental to some particular
23 activity.

24 Q. And so referring to true costs is sort of
25 like referring to one true God, isn't it?

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1 A. No, I don't think it is.

2 Q. There's a reference further on in that
3 paragraph to an allocation mechanism needing to be
4 proper, equitable, and fair; do you see that, lines 5
5 and 6?

6 A. Yes.

7 Q. Is one of the aspects of determining whether
8 something is proper, equitable, and fair is the impact
9 on customers of a particular method?

10 A. Yes.

11 Q. All right. So is it reasonable to conclude
12 that you wouldn't support a method without determining
13 what the effect it would have on customers?

14 A. No, I don't know that that's true.

15 Q. What's not true?

16 A. I don't necessarily agree that you would not
17 approve an allocation method without knowing what the
18 effect of that method is on customers.

19 Q. I'm sorry, but I think I've got you into
20 double or triple negatives.

21 Would you want to assure yourself that the
22 effect on customers was reasonable before you adopted a
23 particular allocation method?

24 A. Ideally one would know the effect on
25 customers of a particular allocation method, though I

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1 think you can make a lot of progress in determining an
2 allocation method based on a principled approach without
3 reducing it to the specific effect on a specific
4 customer.

5 Q. If a particular allocation method turned out
6 to have a substantially adverse effect on Washington
7 customers, would you support it even if it was
8 theoretically justifiable?

9 A. If the result was a fair and economically
10 efficient allocation of costs to those customers, yes, I
11 would support it.

12 Q. Without regard to the impact?

13 A. I think it would be good for the Commission
14 to look at the impact on customers and see what it could
15 do to in some way mitigate that effect, but ultimately I
16 think it's very important that customers pay for the
17 costs that they incur when they consume the electricity.

18 Q. And is the concept of gradualism in rate
19 making one you're familiar with?

20 A. Yes, it is.

21 Q. And from time to time does the Commission in
22 order to balance the interests of customers and concerns
23 about theoretical correctness employ gradualism to
24 transition, a cost study or something of that sort?

25 A. I have seen that in particular in rate design

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1 work more so than in setting the overall revenue
2 requirement for a company.

3 Q. Do you believe all else being equal that it
4 is desirable for all of PacifiCorp's jurisdictions to
5 concur on an allocation method?

6 A. All other things being equal, yes. They
7 obviously aren't equal here, but yes, in the looking at
8 that alone, it would be desirable.

9 Q. And do you believe that the Washington Staff
10 should make a good faith effort to achieve a consensus
11 among jurisdictions?

12 A. I think it should, I think it has.

13 Q. And if the Commission approves the Revised
14 Protocol in this proceeding, will you instruct your
15 Staff to participate in the standing committee
16 proceedings and in the various work groups that are
17 contemplated under the Revised Protocol?

18 A. I think that if the Commission approves the
19 Revised Protocol, they will at the same time give Staff
20 some guidance on what it -- how it expects that to be
21 implemented here in the state of Washington, and we will
22 follow the guidance that the Commission gives.

23 Q. Could you turn, please, to page 7 of your
24 adopted testimony.

25 A. I have that.

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1 Q. And in that question and answer you refer to
2 a proposal by Staff, a so-called Amended Revised
3 Protocol, to remove various costs associated with
4 generation. Can you tell me mechanically how that is
5 accomplished?

6 A. No, I can't.

7 Q. Do you believe it was done reasonably?

8 A. Yes, I do.

9 Q. How can you reach that decision when you
10 don't know how it was done?

11 A. Well, the mechanical implementation is
12 something that I don't need to know in order to
13 understand the theory that Mr. Buckley used when he
14 developed this approach.

15 Q. But you apparently don't understand, you
16 don't know the theory?

17 A. I don't recall you asking me about the
18 theory.

19 Q. Okay, do you know the theory that Mr. Buckley
20 followed in removing these resources?

21 A. I believe so. I think he can correct me if I
22 have misunderstood it. But as I understand it, the
23 theory is to remove some but not all of the costs of
24 these resources. He chose not to remove all the costs
25 because he recognized that there was some benefit to the

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1 Western Control Area from the existence of these
2 resources, and so he made this adjustment in order to
3 reduce but not eliminate the Western Control Area's
4 responsibility for those costs.

5 Q. Did he remove from the power cost study the
6 output of these resources or just the costs?

7 A. As far as I know, he did not remove the
8 output from the study.

9 Q. So he removed the cost but not the benefits?

10 A. I don't think that's accurate.

11 Q. Well, if you continue to make the resources
12 available for purposes of power costs, then you're
13 leaving the benefits of the resources in the
14 calculation, aren't you?

15 A. I think your characterization would be a lot
16 more accurate if he had removed all the costs instead of
17 some of the costs.

18 Q. Are you disagreeing with my assertion that he
19 failed to remove the benefits?

20 A. I don't think I even understand your
21 assertion.

22 Q. And is that because you don't understand how
23 Mr. Buckley went about doing what he did?

24 A. No, it's because you're using the term
25 benefits in a way that -- without having defined the

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1 term and told me what you mean by that.

2 Q. The output of the resources being the
3 benefits.

4 A. Okay, if that's what you define as the
5 benefits, then if you would like to ask me the question
6 again I will try to answer it.

7 Q. Okay. If I choose to define benefits as the
8 output of these resources, the benefits were not
9 excluded from the calculation, were they?

10 A. As far as I know, they were not.

11 Q. Okay.

12 Would you turn, please, to page 9 of your
13 adopted testimony, and in particular line 18.

14 A. Yes.

15 Q. And you suggest there that it's important if
16 Washington rate payers support a resource that those
17 resources provide and your term is actual benefits to
18 the company's customers in Washington. How do we
19 determine whether a particular generator provides actual
20 benefits to Washington customers?

21 A. I believe that you do that by looking at the
22 requirements of the Washington customers and the
23 resources that are best suited to meeting those
24 requirements. And if any particular resource is within
25 that group of resources that best meet the needs of

0939

1 Washington customers, then it's a resource that provides
2 actual benefits to the company's customers in
3 Washington. Otherwise it does not.

4 Q. Dr. Blackmon, there has been earlier
5 testimony in this proceeding, and I will represent that
6 to you, that the company does not have transmission
7 capacity between its Lewis River hydro plants and its
8 Washington retail customers. Assuming that is correct,
9 are the Lewis County hydroelectric facilities providing
10 actual benefits to the company's customers in
11 Washington?

12 A. I think they can be.

13 Q. Even though there's no physical ability to
14 deliver power from them?

15 A. Yes.

16 Q. Okay. And as I understand it, there was a
17 recent settlement of an Avista case involving the Coyote
18 Springs 2 power plant; are you familiar with that
19 settlement?

20 A. Somewhat, yes.

21 Q. And there it was apparently, or can you state
22 whether it was demonstrated that Avista had ability to
23 move the power from the Coyote Springs plant to its
24 system?

25 A. I'm not familiar with that as an issue in

0940

1 that case.

2 Q. Okay, but there was a settlement?

3 A. Yes, there was a settlement in that Avista
4 case last fall.

5 Q. And an aspect of that settlement that I
6 assume Staff concurred in was that the Coyote Springs 2
7 plant was found to be used and useful and included in
8 Avista's rates?

9 A. To the best of my recollection, yes.

10 Q. Okay. And would that be equivalent to a
11 conclusion by at least your staff that the Coyote
12 Springs 2 plant was providing actual benefits to
13 Avista's customers?

14 A. Yes.

15 Q. Are you familiar with the company's interest
16 in, well, you're certainly aware of the Colstrip plant?

17 A. Yes, I am.

18 Q. Do you know whether it's located in the
19 company's Eastern or Western Control Areas?

20 A. No, I don't.

21 Q. All right. Would the same be true of the
22 Wyodak and Dave Johnson plants?

23 A. I don't know that they would necessarily be
24 located in the same control area.

25 Q. No, would it be the case that you wouldn't

0941

1 know where they were located?

2 A. Oh, yes, it would, I'm sorry.

3 Q. And if I were to represent to you that one of
4 those plants was in Montana and the other two were in
5 Wyoming and that there wasn't sufficient transfer
6 capability to bring their power to Washington, would you
7 from those facts conclude that they were not providing
8 actual benefits to Washington consumers?

9 A. No, not necessarily. I think that a resource
10 can provide economic benefits even if it doesn't provide
11 electrons to the customers' light bulbs and heaters.

12 Q. Okay. And so in your mind, to demonstrate
13 that a resource is providing actual benefits, there
14 doesn't need to be what has been referred to as
15 unlimited transfer capability between the resource and
16 the load?

17 A. No, I think the -- what unlimited transfer
18 capability gets you is sort of a demonstration that
19 everything benefits everyone. But in the absence of
20 that, you have to look much more carefully at exactly
21 which resources benefit which customers.

22 Q. And unlimited transfer capability in a
23 utility is a fairly rare phenomenon anyway, isn't it?

24 A. I don't really know.

25 Q. Don't all utilities have transmission

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1 constraints?

2 A. Certainly everyone has transmission
3 constraints. Whether that constraint is binding in any
4 meaningful way would depend on the facts.

5 Q. Page 14 of your adopted testimony, line 11,
6 you say:

7 Growth in energy requirements is a key
8 factor in assessing the need for the
9 company to acquire additional energy
10 resources.

11 Do you see that?

12 A. Yes.

13 Q. Is that the only reason the company has a
14 need to acquire additional resources?

15 A. No, another reason might be if the company
16 were losing a resource and needed to replace it.

17 Q. Okay. What do you know about PacifiCorp's
18 resources on the western side of its system and whether
19 it faces expiration or loss of any major resources?

20 A. I don't really know much about that.

21 Q. All right.

22 You characterized the Staff's proposal as,
23 I'm looking for the reference but maybe you remember it,
24 reasonable and well balanced, I'm sorry, the exact quote
25 is on page 12, line 4, that you suggest that what Staff

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1 is proposing to do is a relatively well balanced
2 mid-point position.

3 A. Yes.

4 Q. Do you know whether the Staff is proposing to
5 exclude the most expensive resources in the east,
6 resources of average cost, or resources of low cost?

7 A. I believe the Staff is proposing to remove
8 recent resources, ones that are most directly and
9 obviously tied to growth and load in Utah.

10 Q. And --

11 A. Whether those are high cost or low cost I
12 don't know.

13 Q. And yet you're prepared to opine that it is a
14 relatively well balanced mid-point position?

15 A. Yes.

16 Q. And on the top of page 11 of your testimony,
17 you suggest that Staff has made an informed judgment;
18 could you describe how the judgment is informed?

19 A. Mr. Buckley and others on the Staff have
20 spent a great deal of time looking in great detail at
21 the resources within PacifiCorp's portfolio. They have
22 examined the many different allocation proposals and
23 models, and it is their judgment that is the
24 well-informed judgment as to how to make these changes.

25 Q. Do you have an independent opinion as to

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1 whether the judgment is informed or the proposal well
2 balanced?

3 A. I have an independent opinion of the
4 expertise of our Staff, and I believe that they have
5 approached this with the objective of looking at this
6 with the interest of both Washington customers and the
7 company in mind and not approached it in an unbalanced
8 way. I have seen that in their work.

9 MR. GALLOWAY: I have nothing further, Your
10 Honor.

11 JUDGE RENDAHL: Thank you, Mr. Galloway.

12 Mr. Trotter, do you have any redirect?

13 MR. TROTTER: Yes, Your Honor.

14

15 R E D I R E C T E X A M I N A T I O N

16 BY MR. TROTTER:

17 Q. You responded to a question from company
18 counsel regarding the more recent added resources to
19 serve Utah and how those were treated in the Staff's
20 case, and you said you didn't know whether those were
21 high cost or low cost resources; do you recall that?

22 A. I do.

23 Q. Did the Staff apply a principle when making
24 that decision to exclude those resources without regard
25 to the cost of the resource?

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1 A. Yes, it did, it applied a principle that
2 growth should pay for growth.

3 Q. And should it pay for growth whether the cost
4 of that growth is higher or lower than the average cost
5 of resources?

6 A. Yes, it should.

7 Q. You were asked about the company's west side
8 resources, and you indicate that a resource need can
9 arise if the company loses a resource; do you recall
10 that?

11 A. Yes.

12 Q. Is the IRP the place to go if you want to see
13 the details about the company's current and prospective
14 load resource balance?

15 A. Yes, that's an excellent place to look.

16 Q. The company asked you a series of questions
17 about the Staff's Amended Revised Protocol and its
18 treatment of certain east side resources. Is
19 Mr. Buckley in a better position to answer those
20 questions, in the best position to answer those
21 questions if the company is seeking accurate
22 information?

23 A. Yes, he's the one who is making the
24 adjustments and sponsoring the exhibit that shows the
25 calculation.

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1 Q. You stated that, and I wrote this down, I
2 hope I got it right, the customers should pay costs they
3 incur. Assuming that you said that, is that the same in
4 your mind that -- did you mean to convey the notion that
5 customers should pay the costs that they caused the
6 company to incur?

7 A. I'm not following what the difference in
8 those two is.

9 Q. You see them as substantially the same?

10 A. As an economist, yes.

11 Q. Okay.

12 A. If I do something that causes the firm that
13 I'm purchasing from to incur a cost, then I'm incurring
14 that cost, I'm causing society to incur that cost.

15 Q. If a utility claims that a resource provides
16 actual benefits to the state of Washington, do you think
17 it is reasonable to require the company to quantify
18 those benefits before seeking to recover their costs of
19 that resource from Washington rate payers?

20 A. I think it is incumbent on a company to make
21 that demonstration, yes.

22 MR. TROTTER: Those are all my questions,
23 thank you.

24 JUDGE RENDAHL: Mr. Galloway, any recross?

25 MR. GALLOWAY: Yes.

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1 R E C R O S S - E X A M I N A T I O N

2 BY MR. GALLOWAY:

3 Q. Just as to that last point, Dr. Blackmon, I
4 asked you about the Lewis River facilities that are -- I
5 asked you to accept are not able to provide or have
6 power delivered to the Washington customers, would you
7 tell me how you would go about quantifying the benefits
8 that those facilities are providing to Washington
9 customers?

10 A. Well, I would look at the costs that
11 PacifiCorp incurs in producing that power, and then
12 there is obviously some method that you're using to
13 dispose of the power locally, whether that's through an
14 exchange or they're selling it and then purchasing other
15 power elsewhere, but I would compare that resource cost
16 to the cost that PacifiCorp would incur if it didn't
17 have that resource. And if the Lewis River facility is
18 less expensive than the one the company would otherwise
19 have to use to meet customer load, then it's providing a
20 benefit to customers.

21 Q. Okay. More broadly then, would it work to
22 determine whether a resource is providing benefits to
23 take the company's production cost model and remove a
24 resource and determine whether that caused the company's
25 costs to go up?

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1 A. Well, I think you would have to do more than
2 that, because presumably a resource is not in that model
3 unless it's necessary to meet load. So if you just
4 remove it, you're going to end up not giving somebody
5 electricity that they're asking for.

6 Q. And the flip side of that is if you --

7 JUDGE RENDAHL: Mr. Galloway, can you speak
8 into the microphone, I'm sorry.

9 MR. GALLOWAY: I'm sorry.

10 BY MR. GALLOWAY:

11 Q. So you would have to both remove the resource
12 and figure out where the replacement power had to come
13 from?

14 A. I think so, and you would want to look at
15 the, you know, what the least cost alternative to that
16 resource is. That's fundamentally what integrated
17 resource planning does.

18 Q. And so is it fair to conclude from your
19 answer to counsel's question that you think it is and
20 was incumbent on the company in respect to every one of
21 its generating resources to perform the sort of analysis
22 you have described?

23 A. Yes, I think that's basic cost effectiveness.

24 Q. Are you aware of this Commission ever
25 requiring a utility to perform that sort of test?

0949

1 A. I haven't really researched that or thought
2 about it.

3 MR. GALLOWAY: Okay, I have nothing further,
4 thank you.

5 JUDGE RENDAHL: Okay, is there any questions
6 for Dr. Blackmon from the Bench?

7

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

9 BY CHAIRMAN SIDRAN:

10 Q. Dr. Blackmon, Mr. Galloway was asking you
11 questions at the beginning of his inquiry talking about
12 looking at end results I think was his point about
13 impact on customers, and I just wanted to ask you, this
14 is really in the nature of a Bench request, so I'm just
15 going to ask you to follow up with Staff in preparing a
16 response to this so that we can see in context some
17 comparisons that I think would be useful when we look at
18 this issue of impact on customers. And I don't know
19 which Bench request number this would be, but I'm sure
20 Judge Rendahl will tell me.

21 JUDGE RENDAHL: This would will be Bench
22 Request 25.

23 Q. Okay, Bench Request 25. And we may refine
24 this in writing, but the gist of what I'm looking for is
25 to look at the average rates, the average costs to

0950

1 Washington rate payers at the time of the merger, which
2 I think is 1989 or thereabouts, comparing the relevant
3 companies that are relevant in Washington state, in
4 other words the average rates of Pacific Utah, I will
5 get to Utah in a minute, Pacific Washington, I guess it
6 was Washington Power at the time or --

7 A. Washington Water Power.

8 Q. Washington Water Power, Avista's predecessor,
9 I don't know if they had come into existence at that
10 point, and Puget, and then look at a comparison of those
11 rates, their most recent rates I guess might be 2004,
12 look at the rates of those companies or their
13 successors. And then also for the same time period I
14 would be interested in seeing Utah, I guess Utah Power
15 rates at the time of the merger and how those compare to
16 rates today in Utah. And I don't know if that's clear
17 what I'm asking, but I will be happy to clarify it in
18 writing. I basically want to compare rates within
19 Washington state for these companies, and I take it both
20 Avista and Puget Sound Energy operate within a single
21 control area, an integrated utility within a single
22 control area, correct?

23 A. That's what my understanding is.

24 Q. So I would like to just see those comparisons
25 going back to the time of the merger, a comparison of

0951

1 the average rates of each of these companies, and a
2 comparison of the average rates of these companies today
3 and having Utah as just a frame of reference to see
4 what's going on in that region as well.

5 A. And so you want the rates for 1989 and 2005?

6 Q. 2005 if that's available, but yes.

7 A. Okay.

8 Q. If not 2005, 2004, but I want to basically
9 see, among other things, the impact of the merger on the
10 relative relationship of rates between these companies.

11 A. All right.

12 CHAIRMAN SIDRAN: Thank you.

13 JUDGE RENDAHL: Dr. Blackmon, would you like
14 that clarified in writing and sent to counsel?

15 MR. TROTTER: I think we understand it, Your
16 Honor. I'm just saying sometimes when we do these
17 calculations because of basic charges and other things
18 we do it on a revenue per customer per class, but it's a
19 common revenue per customer may not be the actual
20 tariffed rates, but it's very close, but there's some
21 other tariffed items factored in, but.

22 CHAIRMAN SIDRAN: As long as the methodology
23 is consistent, what I'm looking for is comparability of
24 rates.

25 MR. TROTTER: We'll do our best.

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1 CHAIRMAN SIDRAN: Thank you.

2 MR. TROTTER: I think we understand the Bench
3 Request.

4 JUDGE RENDAHL: All right. Well, if you seek
5 clarification later, let us know and we'll endeavor to
6 get it in writing to you.

7 MR. GALLOWAY: I'm sure the company would be
8 glad to help if it can on some of the data.

9 JUDGE RENDAHL: Thank you, Mr. Galloway.

10

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

12 BY COMMISSIONER JONES:

13 Q. Before Dr. Blackmon steps down, I would just
14 like one clarification on a point of the Revised
15 Protocol. As I understand in your testimony on page 6,
16 you are urging the Commission to reject the Revised
17 Protocol; is that correct?

18 A. That's correct.

19 Q. And what is your recommendation for use in
20 this proceeding before us right now is to use what you
21 call an Amended Revised Protocol. Amended Revised
22 Protocol I understand to be Mr. Buckley's removal of
23 certain costs, the A&G, certain east side resources
24 defined in his direct testimony, and that is the
25 "Amended Revised Protocol"?

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1 A. That's correct.

2 Q. So you do not urge the -- you do not
3 recommend the Commission -- just before that provision
4 you talk about what the Oregon Public Utilities
5 Commission did and what the Utah Public Utility
6 Commission did, and you referenced certain actions they
7 did, the hybrid model among them for use as a
8 comparator, are you recommending that we take action
9 like that as well, to use the hybrid as a comparator, or
10 is that just there for reference purposes?

11 A. The reason that that's there is to make the
12 point that even among the four states that at first
13 blush appear to have accepted the Revised Protocol, that
14 in fact there always seems to be some sort of a
15 condition or qualification on that acceptance. We're
16 not recommending that you accept the Revised Protocol
17 and then put an asterisk after it the way the other
18 states have. We're recommending that you reject the
19 Revised Protocol. We think it doesn't meet the
20 fundamental test of allocating a fair portion of
21 PacifiCorp's costs to this state.

22 Q. And do you believe that it's consistent with
23 the order adopted in the last general rate case,
24 UE-032065, in which it was left somewhat ambiguous, but
25 the Commission used the protocol and then required the

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1 company to use the Revised Protocol for reporting
2 purposes, and then it set out a schedule of three
3 different events of --

4 A. I think it's perfectly consistent.

5 Q. You do?

6 A. The Commission did not accept the Revised
7 Protocol. It said that for reporting purposes it should
8 be used. We need to have reports. Even if the
9 Commission can't decide on an allocation method, which
10 it could not at that point, we still need to have some
11 way of gauging, you know, over time the company's
12 performance within this state, and the Revised Protocol
13 provided a basis even if it wasn't the right basis for
14 that monitoring.

15 COMMISSIONER JONES: That's all I have,
16 thanks.

17 JUDGE RENDAHL: Thank you.

18 Is there anything further for Dr. Blackmon?

19 All right, thank you very much, Dr. Blackmon,
20 you may be excused.

21 Let's be off the record very briefly while we
22 bring Mr. Buckley forward.

23 (Discussion off the record.)

24 JUDGE RENDAHL: Good afternoon, Mr. Buckley.

25 THE WITNESS: Good afternoon.

0955

1 (Witness ALAN P. BUCKLEY was sworn.)

2 JUDGE RENDAHL: Mr. Trotter.

3

4 Whereupon,

5 ALAN P. BUCKLEY,

6 having been first duly sworn, was called as a witness

7 herein and was examined and testified as follows:

8

9 DIRECT EXAMINATION

10 BY MR. TROTTER:

11 Q. Please state your name.

12 A. Alan Buckley.

13 Q. And you're an employee of the Commission; is
14 that right?

15 A. Yes, the Commission's Energy Staff.

16 Q. And what is your position with the
17 Commission?

18 A. Senior Policy Analyst for the Energy Section.

19 Q. And in the course of your duties in that
20 capacity did you have cause to prepare testimony and
21 exhibits in this case?

22 A. Yes, I did.

23 Q. Turning your attention to 541-TC, is that
24 your direct testimony?

25 A. Yes, it is.

0956

1 Q. I believe you have a couple of minor
2 corrections to make, would you please proceed to do
3 that?

4 A. Yes, I have two minor corrections, page 138,
5 line 16, I need to remove the southern influence and
6 change rollin-in to rolled-in.

7 JUDGE RENDAHL: I'm sorry, which line are you
8 on?

9 THE WITNESS: Line 16 where it says
10 rollin-in.

11 JUDGE RENDAHL: To rolled-in?

12 THE WITNESS: To rolled-in.

13 A. And then on page 188, line 12, there is an
14 exhibit that's cited that is PMW, that should actually
15 be MTW on line 12.

16 And that's all.

17 Q. If I asked you the questions that appear in
18 Exhibit 541-TC, would you give the answers that appear
19 there?

20 A. Yes.

21 Q. In the course of that testimony you refer to
22 Exhibits 542 through 557?

23 A. Yes.

24 Q. Are those, to the extent those were prepared
25 by you, are they true and correct?

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1 A. Yes.

2 Q. To the extent they were prepared by others,
3 are you relying on them as reliable information for
4 purposes of these proceeding?

5 A. Yes, I am.

6 MR. TROTTER: I move for the admission of
7 Exhibits 541-TC through 557.

8 MR. GALLOWAY: No objection.

9 JUDGE RENDAHL: Hearing no objection, what
10 has been marked as Exhibits 541-TC through 557 are
11 admitted.

12 MR. TROTTER: The witness is available for
13 cross-examination.

14 JUDGE RENDAHL: Thank you.

15 Mr. Galloway.

16 MR. GALLOWAY: Thank you, Your Honor.

17

18 C R O S S - E X A M I N A T I O N

19 BY MR. GALLOWAY:

20 Q. Mr. Buckley, the first subject I would like
21 to discuss with you is your proposed adjustment to the
22 hydro deferral recovery and in particular page 211 of
23 your testimony.

24 A. Yes, I'm there.

25 Q. As I understand your testimony, you are

0958

1 proposing that there be a band established around the
2 company's actual hydro results to exclude what you would
3 consider to be a normal variability in hydro?

4 A. I don't think I went to the extent of
5 analyzing whether a 15% band is -- would be normal.
6 What I just chose is in some ways a compromise number to
7 just represent some band in existence.

8 Q. Okay, but conceptually do I appear to
9 understand your point?

10 A. Yes.

11 Q. Okay. And the precedent, as I understand it,
12 for this band arises from the company's last rate case
13 and an adjustment that you proposed in that last rate
14 case?

15 A. Well, I think the precedent goes beyond that.
16 It also goes to a feature that is inherent in other
17 PCA's that we have with our regulated electric
18 utilities.

19 Q. But numerically the source of this is the
20 last rate case, is it not?

21 A. The 15%?

22 Q. Yes.

23 A. No, not really, this 15% was done independent
24 of that.

25 Q. New 15%?

0959

1 A. Yes.

2 Q. Okay. In the last rate case, you proposed an
3 adjustment that excluded water years that were one
4 standard deviation on both sides of the mean, did you
5 not?

6 A. Yes.

7 Q. Okay, and this reduced the number of water
8 years that were relied upon to establish the company's
9 net power costs, did it not?

10 A. Well, that case was settled, so it was one of
11 many --

12 Q. But one of just --

13 A. It was one of many --

14 JUDGE RENDAHL: Mr. Galloway, please don't
15 talk over the witness.

16 MR. TROTTER: Can the witness be allowed to
17 answer, Your Honor?

18 JUDGE RENDAHL: Yes.

19 Please go ahead.

20 MR. TROTTER: Thank you.

21 A. Yes, as I said, the last case was settled so
22 that the extent that that particular recommendation was
23 adopted is not necessarily so clear.

24 BY MR. GALLOWAY:

25 Q. But in your proposed adjustment, you ended up

0960

1 calculating net power costs with a smaller number of
2 water years; is that not correct?

3 A. Yes.

4 Q. Okay. And what was the directional effect of
5 your proposed adjustment?

6 A. Could you define directional.

7 Q. Directional in terms of did it increase or
8 decrease the company's net power costs from the level
9 first requested by the company?

10 A. I do not recall.

11 Q. I would like you to accept subject to check
12 that the effect of your adjustment was to reduce net
13 power costs from the level requested by the company;
14 will you do that?

15 A. In the last power case?

16 Q. Yes.

17 A. Yes.

18 Q. Okay. And does it follow that if the result
19 of the adjustment was to decrease the company's net
20 power costs that your proposed adjustment tended to
21 exclude more dry years than it did wet years so that you
22 assumed more water available to the company than was
23 assumed by the company in its case?

24 A. I did not analyze whether the years that were
25 left out were dry, wet, or anything. Once we did the

0961

1 adjustment, I just dealt with what was left.

2 Q. Can you explain, accepting my assertion that
3 the effect was to decrease the company's net power
4 costs, what would cause that to happen as a result of
5 your adjustment?

6 MR. TROTTER: Your Honor, I'm going to object
7 to the question. As Mr. Buckley explained, there was a
8 settlement, so there was no explicit effect of the
9 adjustment. If he wants to say had the adjustment been
10 accepted, that's one thing, but he's been talking as if
11 the adjustment was implemented, and it wasn't. So I
12 will object to the form of the question.

13 JUDGE RENDAHL: Mr. Galloway.

14 MR. GALLOWAY: I believe, but the record will
15 speak for itself, that the adjustment was spelled out in
16 the stipulation but --

17 MR. TROTTER: Well, that's fine if --

18 BY MR. GALLOWAY:

19 Q. -- that aside, I'm just asking you how your
20 adjustment worked.

21 A. Well --

22 JUDGE RENDAHL: The adjustment that he
23 proposed or the adjustment that was --

24 MR. GALLOWAY: The adjustment that he
25 proposed in the last rate case, because that appears to

0962

1 be the foundation for what he is proposing here.

2 A. No, I don't think that's entirely true that
3 it's the foundation for here, which is why I'm
4 hesitating a little bit. That particular recommendation
5 and testimony was done now quite a long time ago, and I
6 did not review it for purposes of this hearing today, so
7 I'm hesitant about going back and trying to remember the
8 details on what exactly happened and what not. I don't
9 think there's a strong connection is what you're
10 implying between what that recommendation was back then
11 and what this recommendation here was.

12 This recommendation in this particular case
13 was just a back of the envelope attempt to recognize
14 that the rates that had been -- the base rates that are
15 there now were, in fact, you know, based on a normalized
16 power supply procedure that is present, and it's just
17 simply to recognize that I didn't want to necessarily
18 recommend that the company be allowed to recover all
19 variations from -- due to the water variations. I was
20 looking for basically a recovery in such an unusual
21 accounting petition as this in order to address it
22 timely in this case to just simply answer that by saying
23 let's keep the, you know, look at the extreme variations
24 in water only. And I don't think 15% is particularly
25 extreme, which I describe in my testimony. But that was

0963

1 the purpose of it here, it was not tied in to anything
2 based on the last case.

3 BY MR. GALLOWAY:

4 Q. Could you turn, please, to page 211.

5 A. I'm there.

6 Q. Line 18, and read the sentence that starts
7 there.

8 A. (Reading.)

9 This is consistent with Staff's proposed
10 methodology from the company's previous
11 rate case, Docket UE-032065, which the
12 company cites on page 6 of its petition.

13 Q. And then turn to page 212, line 5, and read
14 the sentence that appears there.

15 A. (Reading.)

16 Indeed, the settlement agreement
17 approved by the Commission in Docket
18 UE-032065 adopted such a hydro
19 normalization adjustment.

20 And I think my testimony stands. What I'm
21 saying there, this is a question about why is the band
22 appropriate, and I think that stands.

23 Q. Well, I guess I asked you to read those
24 because I was confused by your assertions here today
25 that your proposed adjustment was unrelated to the last

0964

1 rate case and you hadn't thought about it.

2 A. Well, consistent here is taken in a broad
3 term. It's not consistent with the exact calculations
4 from the last rate case. It's consistent with the idea
5 of focusing the recovery of excess cost, not going back
6 to the exact numbers from the last rate case.

7 Q. Okay.

8 A. So it's not as I think focused as what you're
9 thinking.

10 Q. But the bottom line is in the last rate case
11 you made an adjustment that had the effect I represented
12 to you of lowering net power costs because it excluded a
13 range of more typical hydro events, right?

14 A. It excluded a range of unusual events, not
15 more typical events, it included the range of more
16 typical water events.

17 Q. It included the range, is it the first
18 standard deviation you excluded or the -- I thought you
19 excluded the first standard deviation?

20 A. No, the tails are what's excluded.

21 Q. Okay.

22 A. So add to that, it's the cases where there's
23 either extreme wet or extreme dry years in that case.

24 Q. Okay.

25 A. It's the middle that's included.

0965

1 Q. Okay. And so as a result of that adjustment,
2 you lowered the company's sort of base calculation of
3 net power costs?

4 A. In that case it lowered, and it could have
5 raised it in that case. The calculation, as you pointed
6 out, lowered it.

7 Q. Okay, lowered it. And is it not correct that
8 what you're now proposing to do for purposes of the
9 deferred cost recovery is to take a base level of net
10 power costs that has already been lowered to exclude
11 extraordinary events and then lower it again with
12 another adjustment to exclude those?

13 A. That's not the intent of what I did. And
14 again, we run into a problem because the revenue
15 requirement in the last case was settled, as was the
16 power supply cost, so -- and even though that adjustment
17 was identified, it was, you know, under the context of a
18 settlement.

19 Q. Doesn't --

20 A. Mathematically, if you're asking me that,
21 then yes, that's what this would do.

22 Q. And your testimony I want to remind you
23 states that the adjustment was adopted, was approved by
24 the Commission in the last rate case?

25 A. Yes.

0966

1 Q. So aren't you in effect making the same
2 adjustment twice, whether you intended to or not?

3 A. I think there may be some duplicity of the
4 adjustment. I don't think it ends up doubling it. I
5 think that, one, you're right, changing the base level,
6 and another one you're using the 15%.

7 Q. You're doing the same thing twice?

8 A. Yes.

9 Q. Okay.

10 You joined the Commission in 1993?

11 A. Yes.

12 Q. After the merger?

13 A. Yes.

14 Q. And your prior occupation didn't involve you
15 in the merger and the --

16 A. Not this merger.

17 Q. -- activities after?

18 A. I was working on another lovely merger but
19 not this one.

20 JUDGE RENDAHL: Mr. Buckley, can you wait to
21 give an answer until after counsel has asked his
22 question.

23 THE WITNESS: Yes.

24 JUDGE RENDAHL: Thank you.

25 BY MR. GALLOWAY:

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1 Q. I want you to turn to page 9 of your
2 testimony, particularly about line 7.

3 A. I'm there.

4 Q. Is it your testimony that the company should
5 not have performed analyses of the revenue requirement
6 impact of the various allocation methods as part of the
7 MSP process?

8 A. It's my testimony that the results based type
9 analysis that I discuss here, if at all, should have
10 been carried out after an allocation methodology was
11 adopted. It should not have been used to determine
12 which allocation methodology was adopted.

13 Q. Do you think there is any reasonable prospect
14 of getting representatives from various of PacifiCorp's
15 jurisdictions to agree on a allocation method without
16 informing them of the consequences for their customers
17 of the methods they're looking at?

18 A. First of all, based on my experience, I don't
19 think there's any chance of getting all of them to agree
20 on an allocation methodology of any kind. To the extent
21 that these type studies should be carried out, in my
22 opinion, as I just said a minute ago, it should be done
23 after people analyzed whether an allocation methodology
24 meets certain principles, and then if they want to
25 determine what the results of that are and base their

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1 recommendations to their, you know, commissions on how
2 to handle it or how not to handle it, that should be
3 done. The problem that Washington Staff, and I think
4 Washington Staff has stood alone from the very beginning
5 in this, has been that this type analysis is simply not
6 acceptable for determining what type of allocation
7 methodology should be adopted or what features within an
8 allocation methodology should be adopted.

9 Q. So is it your testimony that the Washington
10 Staff driven by principle would sign off on a proposed
11 allocation method not knowing what the consequences were
12 for Washington customers?

13 A. No, I'm not saying that. I think we would
14 have some idea of the consequences, but again that would
15 be done after we chose the correct allocation
16 methodology to use. And again, that's been something
17 that in my limited participation in the MSP has
18 evidently been a surprise to many parties, the company,
19 the other jurisdictions, is that we would be willing to
20 accept, if it was a principled allocation methodology,
21 the results of that, good or bad, we have repeatedly
22 expressed that, and that this type analysis should not
23 be used to either develop or fine tune what analysis you
24 have. In our opinion they're not necessarily
25 principled, some features may be, some not, and it's

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1 basically driven by a number of assumptions that are
2 carried out and put in, and that that is not what we
3 would recommend this Commission use as evidence to
4 approve an allocation scheme.

5 Q. What do you think would happen if the
6 company, or any company, were to file a proposed
7 interjurisdictional allocation scheme which did not
8 contain any information on customer impact, that just
9 described the theory; what would Staff's reaction to
10 that be?

11 A. Well, one thing, I don't think a company ever
12 would, and again I think you're missing my point is I
13 don't have any problem with the company providing this
14 information, but it would be after the fact. This is
15 very similar, and I think Mr. Blackmon discussed this,
16 as to what we have done in cost of service studies. The
17 companies or Staff or other interveners basically
18 develop a cost of service study with principals with
19 whatever recommendations they have, the numbers fall out
20 as they may. Now some people may advocate positions
21 that may change that, but under our job is to basically
22 take a balanced approach, it falls out like it is, and
23 then you address the issue of the results, in some cases
24 with mitigation, tiered rates, there's a number of ways
25 to do it. But we don't use that, at least the

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1 Washington Staff under myself and who's responsible
2 under me, do not use that as a basis for coming up with
3 a recommendation.

4 Q. So you think the process, the MSP process was
5 flawed?

6 A. Yes, and we made that clear from the very
7 early stages.

8 Q. I agree with that.

9 Are you aware of any electric utility in the
10 United States that uses other than a rolled-in method?

11 A. I'm not aware that there are either utilities
12 that do or don't really. I'm aware of what our
13 jurisdictional utilities do and to a somewhat lesser
14 extent some western utilities.

15 Q. So you're not able to cite to the Commission
16 any precedent for your recommendation here?

17 A. Which recommendation is that, to not use
18 rolled-in?

19 Q. Yes.

20 A. Yes, very much so. I can basically cite, and
21 I think I have in a data response to the company,
22 Staff's testimony, the Commission's own orders, and in
23 fact my testimony before FERC relating to the merger of
24 Washington Water Power and Nevada Power. In that case,
25 as I explained in the response to the data request, the

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1 issue of two different priced areas, divisions, whatever
2 you want to call them, of the merged company was the
3 foremost issue, and this Commission made it clear that
4 it would not stand for the allocation, if you will, of
5 or the averaging of the higher priced Nevada Power with
6 Washington Water Power, and that was done to the extent
7 of standing in the hearings before FERC and telling the
8 parties in that case that Staff would recommend to the
9 Commission that that merger be denied based on that. So
10 I consider that, yes, I consider that something that we
11 brought up before.

12 Q. That sounds vaguely results based, that your
13 reaction was the fact that Avista was proposing to merge
14 with a higher cost system?

15 A. That case never got as far as here, because
16 we didn't, you know, there was other reasons, clear
17 reasons, why the two should not be basically averaged.
18 It was an out -- it was basically FERC that was
19 promoting the outside. But I mean I wouldn't -- yes, in
20 a way I guess, you know, if you wanted to call it
21 results based, but it was based on analysis before it
22 got to that point. I think it's slightly different than
23 here.

24 Q. But are you suggesting that if Avista was
25 proposing to merge with a lower cost utility that the

0972

1 Commission would have had the same level of militancy
2 that it exhibited there?

3 MR. TROTTER: I will object to the
4 characterization of militancy, Your Honor, that was
5 testimony filed on behalf of the Commission, not on
6 behalf of Staff, and so I oppose the characterization.

7 Q. I forget exactly the word you used, but I
8 think you suggested the Commission had strong views on
9 the prospect of merging with a higher cost system and
10 blending the cost, did you not?

11 THE WITNESS: Is there an objection
12 outstanding?

13 MR. GALLOWAY: I'm sorry, I was just trying
14 to restate the question.

15 JUDGE RENDAHL: Yeah, I thought counsel was
16 rephrasing the question. Why don't you restate the
17 question again.

18 BY MR. GALLOWAY:

19 Q. Is it a correct recollection from your
20 testimony that you said that the Commission expressed
21 strong views about the prospect of a merger with a
22 higher cost company?

23 A. Yes.

24 Q. Okay, and --

25 A. And I think to go back to your question, I

0973

1 think in that case, given the situation of a case where
2 there is no interconnections, I think there would have
3 been considerable concern if it had been the other way
4 about the reasoning behind why Nevada Power should
5 basically subsidize Washington Water Power at that time.

6 Q. Concerns from this Commission or the Nevada
7 Commission?

8 A. I would hope there would have been concerns
9 from this Commission.

10 Q. But in 1986, that last time the Commission
11 considered this issue, it seemed perfectly comfortable
12 with the rolling in of costs from a variety of low cost
13 thermal plants in Wyoming, wasn't it?

14 MR. TROTTER: I will object to the question
15 because the phrase this issue is undefined.

16 JUDGE RENDAHL: Mr. Galloway, can you
17 rephrase the question, please.

18 BY MR. GALLOWAY:

19 Q. The issue of rolled-in, the policy that the
20 Commission had adopted in regard to PacifiCorp in the
21 last contested rate case was one of rolled-in, wasn't
22 it?

23 A. Can you repeat the question?

24 Q. Isn't it the case that the Commission's
25 policy as established in the last contested rate case on

0974

1 the issue of rolling in of costs was that it was the
2 appropriate approach for PacifiCorp?

3 A. You mean the case here a year and a half ago?

4 Q. No, the one in 1986, which was --

5 A. 1986.

6 Q. -- the last time --

7 A. You know, I have only reviewed the documents
8 I have seen, including I think the document you
9 discussed with Mr. Lott this morning. I think, although
10 I wasn't working on that merger, you know, been dealing
11 with the effects of it for a few years, and I think it's
12 important to point out that when there is a merger like
13 that, there's great hopes that certain things will
14 happen, and I think the Commission's reaction from the
15 various sources that I have read were mixed. There was
16 great concern of us or the Pacific Power & Light section
17 being brought in with a higher price I think or a higher
18 priced company, I think that's clear from my testimony,
19 and I think the documents that I listened to this
20 morning said that there was some interest in trying to
21 roll in. I think that a lot of that is brought about by
22 certain hopes.

23 At the time in 1987, 1988, 1989, if I
24 remember right there was, you know, discussions with the
25 company to improve transmission lines, eliminate

0975

1 constraints, there were issues, load growth hadn't
2 become such an issue at that time that the divisions I
3 think were much closer in what they were experiencing,
4 Oregon did not have its legislation, and there was a
5 variety of events that people were naturally in a merger
6 hopeful it will occur and, you know, hope that they do.
7 So I would expect at the same time that there was
8 concern, that there was also hope regarding rolled-in or
9 other ways.

10 Q. Okay. The principle of cost causation is one
11 that appears repeatedly through your testimony, does it
12 not?

13 A. Yes.

14 Q. And is cost causation a concept that in your
15 view should only apply to the interjurisdictional
16 allocation aspects of setting retail rates?

17 A. No, we try to establish it within bounds for
18 I think all types of service, electric and gas.

19 Q. And why the modifier in bounds?

20 A. Because you can get in situations where for
21 lack of a better word political reasons or that certain
22 classes of customers may knowingly be or knowingly have
23 rates that are set that are subsidizing other classes of
24 customers. So while the more common tools that we use
25 such as cost of service studies, you know, try to follow

0976

1 cost causation, there are times at which it is not done.

2 Q. But it appears that uniquely in the context
3 of interjurisdictional allocations you take a very much
4 a purist view of cost causation, don't you?

5 A. I don't think so.

6 Q. I mean I read your testimony to say there is
7 one true cost causation, the company, the MSP process
8 should have followed it and lived with the outcome;
9 isn't that the sense of your testimony?

10 A. Well, I think what my testimony tries to
11 point out is that the company has presumably done a
12 significant amount of work on its IRP's, its RFP's, its
13 certificates of necessity, its acquisition process, its
14 bidding evaluations, any number of processes, and, you
15 know, to the extent that a allocation methodology can be
16 attempted to be developed, it should be based on that.

17 Q. But your testimony appears, unlike the
18 testimony of others, to assume that cost causation is
19 something that can be in this context objectively and
20 definitively established?

21 A. No, I don't think it's quite so definitive as
22 what you're implying.

23 Q. Okay. And is the reason, the philosophical
24 reason that we worry about cost causation in rate making
25 is that it's unfair for customers to pay costs that they

0977

1 have not caused the utility to incur?

2 A. Could you repeat the question.

3 Q. Is the reason that we concern ourselves with
4 the principle of cost causation in setting retail rates
5 because it's not fair for customers to pay costs that
6 they have not caused the utility to incur?

7 A. I prefer to look at cost causation as there
8 to ensure that those customers who have caused the cost
9 pay the cost, not that those that have not caused it not
10 pay.

11 Q. That is probably better and has far fewer
12 negatives.

13 Okay, I'm retired on a fixed income.

14 A. This is a hypothetical?

15 Q. Kids have left. We own all the appliances I
16 hope to ever own. My electricity consumption is not
17 going to increase, and I would promise my electric
18 utility that it's not going to increase. If I were to
19 write a letter to Puget Sound Energy and say, count me
20 out of these new plants you're looking at, they're being
21 built for somebody else, I'm not causing those costs,
22 and I can demonstrate that I'm not causing those costs,
23 what response do you think I would get from Puget Sound
24 Energy?

25 A. Are you a person or are you an industrial

0978

1 company?

2 Q. I am a person.

3 A. Big difference. I think that, I'm not an
4 economist thank goodness, and I think one of the, as an
5 engineer, one of the responses to that question that I
6 hear since I ask it all the time is that it is better
7 for you to go ahead and pay a portion of the incremental
8 cost, and there's a bunch of reasons for that. You
9 know, you get benefits from the grocer, you get benefits
10 from your kids being employed, there's a bunch of
11 economic benefits to that. And I think in general when
12 we deal with that, we're dealing, you know, within a
13 fairly limited area or a limited, what I would say in
14 this case with the company, I wouldn't extend it to the
15 company because obviously, you know, my beliefs about
16 the control area, but it would be within a control area
17 you would still kind of adopt that philosophy.

18 However, also saying that, there are times
19 where given, changing your hypothetical a little bit if
20 I may, where you may be sitting on Mercer Island or
21 Bellevue and everything else is the same, only you want
22 to not see a distribution facility out of your window,
23 and you write and you want something done about it. We
24 at this Commission have been in situations where that
25 sort of issue has come before us, and we have basically

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1 said that's fine, however, you will pay for it.

2 Q. Okay.

3 A. So --

4 Q. But we have sort of gotten off --

5 A. Yes.

6 Q. I assume we agree that if I as an individual
7 could certify that my consumption wasn't going to
8 increase, the Commission or my serving utility wouldn't
9 pay a lot of attention to that and I would get charged
10 the same rate as everybody else?

11 A. Yes, I think that would be safe to say.

12 Q. Now there's been testimony in this proceeding
13 that I will ask you to accept as accurate for purposes
14 of my question that there are two separate load areas
15 that are physically separated within the company's
16 Washington service territory.

17 A. Generally, yes.

18 Q. Okay. And please assume further that one of
19 those load areas, the Yakima area, is not growing, and
20 the Walla Walla area is growing extraordinarily rapidly.
21 Do you think under those circumstances that the
22 principles of cost causation would require different
23 rates to be set for the Yakima customers from the Walla
24 Walla customers?

25 A. You said require, I don't think --

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1 Q. Would you recommend that?

2 A. Possibly, yes.

3 Q. Okay, suppose I'm in --

4 JUDGE RENDAHL: Mr. Galloway, I'm sorry, so
5 that people in the room can hear you, can you speak into
6 the mike.

7 MR. GALLOWAY: Okay.

8 JUDGE RENDAHL: Thank you.

9 BY MR. GALLOWAY:

10 Q. Assume I am a customer in Yakima, and I read
11 in the newspaper that PacifiCorp is proposing to expand
12 its business center in Walla Walla because a lot more
13 customers to serve. Would you recommend that the Yakima
14 customers be insulated from the cost of that expansion
15 because they are not in any respect causing it to occur?

16 A. These are a lot of hypotheticals. First of
17 all, understanding I think you agree there are a lot of
18 hypotheticals, I think that in that example probably the
19 growth in the one area would pay for the new facility,
20 and I think, yeah, that's part of the equation is you
21 actually have to look and see what obviously the, you
22 know, using the rates there presently what that pays
23 for. You didn't address either whether there were
24 telephone line constraints so that people in one area
25 could actually use the other area, but I just can't

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1 imagine any situation where that would be so outrageous
2 that there would be two separate rates adopted in that
3 case.

4 Q. Okay. My point in these hypotheticals that I
5 would like to ask you to agree to is that in a whole
6 bunch of other areas cost causation is a factor that is
7 considered in rate making but is not the sole factor?

8 A. Yes.

9 Q. Okay. And interestingly in response to my
10 question about the new service center in Walla Walla,
11 you said that this might not be a problem if the load
12 growth in Walla Walla was generating enough revenues to
13 pay for the new building; do you recall that testimony
14 just now?

15 A. Yes.

16 Q. Can we draw an analogy that if by virtue of
17 the dynamic allocation factors in Utah that revenues are
18 growing fast enough in Utah to pay for the new
19 generation that you're concerned about, that that should
20 be the end of the matter?

21 A. No, I don't think it should be the end of the
22 matter.

23 Q. What's the distinction?

24 A. I think what you're trying to do is work
25 quite a ways backward, and if I may, you're kind of

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1 maybe leading to these load growth studies which are out
2 which the company says demonstrate that Utah load growth
3 pays for Utah growth. Is that, may I ask if that's
4 correct?

5 Q. We're probably heading in that direction.

6 A. Okay. I don't think that that is the end of
7 the story, because again it's something that is results
8 driven, if you will. If we step back for a minute and
9 I'm a Washington analyst trying to determine what
10 Washington's rates are, I need to be able to track the
11 need of Washington and what that, you know, what
12 basically is the need and how to least cost address it.
13 And just by adding something, running the Revised
14 Protocol and then having a number saying that, oh, your
15 rates don't change, that's not satisfactory to me. And
16 by the same token, if we use a hypothetical where Utah
17 has growth, there's a resource that's acquired, you run
18 the Revised Protocol, Washington rates go down, that's
19 not right either.

20 Q. So you --

21 A. I can't use the Revised Protocol to tell my
22 commissioners that Washington's needs, you know, have
23 been met in a least cost fashion.

24 Q. So you would be concerned about Utah load
25 growth and new plants built in Utah even if it were

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1 demonstrated that it was not having an adverse effect on
2 Washington customers?

3 A. I would not recommend the Revised Protocol be
4 adopted if the study showed that Utah load growth either
5 caused no increase in Washington or decreases in
6 Washington rates, I would not recommend the Revised
7 Protocol.

8 Q. That was not my question.

9 A. Okay.

10 Q. You make much of the Utah load growth issue,
11 new resources in Utah, and I thought I heard you say to
12 the effect that you would view that as a problem even if
13 it were demonstrated that Washington customers weren't
14 being adversely effected.

15 A. Well, I guess it would assume on what
16 allocation methodology has ultimately been adopted. If
17 there's one that isolates Washington from those
18 decisions, then, you know, it's not a concern as a
19 Washington Commission Staff person.

20 Q. But you characterized the situation of
21 looking at the impact on Washington as being
22 impermissible because it was, as you describe it,
23 results driven.

24 A. Well, I'm trying to say that either if you
25 have an allocation scheme that is independent that

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1 doesn't -- that Washington state has there's a clear
2 methodology to track Washington costs and I can do that,
3 that's one situation. If there -- and that -- and if
4 there's a situation where we're under a Revised Protocol
5 world, then that's a different one.

6 Q. Okay. So is it fair to say that your
7 concerns here are more methodological than economic?

8 A. Well, I think I probably need a definition of
9 both those terms to help me out. Can you word it in
10 another way?

11 Q. Okay. And I don't want to misconstrue your
12 testimony. It sounds like you would be opposed to the
13 Revised Protocol even if it were demonstrated that it
14 was not burdening Washington customers with additional
15 costs.

16 A. If that was the reason for adopting the
17 Revised Protocol and its terms, yes.

18 Q. Okay.

19 JUDGE RENDAHL: Mr. Galloway, would this be a
20 good time to break?

21 MR. GALLOWAY: This would be a fine time to
22 break.

23 JUDGE RENDAHL: All right, why don't we take
24 a break for 15 minutes, and we will be back at 25 after,
25 we'll be off the record.

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1 (Recess taken.)

2 JUDGE RENDAHL: Let's be back on the record
3 after our afternoon break.

4 Mr. Buckley, do you have a correction you
5 wanted to make on the record?

6 THE WITNESS: Yes, I have one small
7 correction. Earlier I had talked about a proposed
8 merger between Washington Water Power and Nevada Power,
9 it should have been Sierra Pacific Company, not Nevada
10 Power.

11 JUDGE RENDAHL: Okay, thank you.

12 Mr. Galloway.

13 MR. GALLOWAY: Thank you, Your Honor.

14 Mr. Buckley, I must confess to a sense of
15 loss when I got to the end of your testimony, and so it
16 is here I am at the end of your cross-examination.

17 JUDGE RENDAHL: So you are finished?

18 MR. GALLOWAY: I am done.

19 JUDGE RENDAHL: Wow. Well.

20 THE WITNESS: Wait, wait.

21 JUDGE RENDAHL: All right, well, with that,
22 Mr. Trotter, do you have any redirect for this witness?

23 MR. TROTTER: Yes, I do, Your Honor.

24 Well, first of all, with respect to the
25 exhibits, counsel?

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1 MR. GALLOWAY: I was going to offer them if
2 that's an appropriate time, and they are Exhibits 558
3 through 576.

4 MR. TROTTER: I have no objection, Your
5 Honor.

6 JUDGE RENDAHL: All right, with that,
7 Exhibits 558 through 576 will be admitted.

8 MR. TROTTER: And, Your Honor, I have three
9 redirect exhibits. The first two I have in my hand, and
10 these are data request responses that are referred to in
11 various of the exhibits that PacifiCorp has moved into
12 evidence, and so just to complete the record I wanted
13 those in.

14 And the third --

15 JUDGE RENDAHL: Go ahead.

16 MR. TROTTER: And the third exhibit, which is
17 being copied as we speak, is the data request that
18 Mr. Buckley referred to in his cross-examination
19 regarding the FERC proceeding, and just so the record is
20 complete we're going to offer that. But I do have
21 copies of the first two right now.

22 JUDGE RENDAHL: All right, so we would mark
23 the redirect Exhibits as 577, 578, and 579, and so why
24 don't we be off the record while you circulate the first
25 two that you have, let's be off the record.

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1 (Discussion off the record.)

2 JUDGE RENDAHL: While we were off the record
3 Mr. Trotter distributed and we marked as Exhibit 577 the
4 Staff response to Data Request 1.8, and marked as
5 Exhibit 578 the Staff response to Data Request Number
6 2.2. We also marked as Exhibit 579 or identified as
7 Exhibit 579 the Staff response to what I understand is
8 Data Request 1.1, but it is being copied; is that
9 correct?

10 MR. TROTTER: Yes.

11 JUDGE RENDAHL: All right, so, Mr. Trotter,
12 please go ahead with your redirect.

13 MR. TROTTER: Thank you.

14

15 R E D I R E C T E X A M I N A T I O N

16 BY MR. TROTTER:

17 Q. Mr. Buckley, you were asked some hypothetical
18 questions regarding Pacific's service territory, and you
19 were asked to assume that Yakima was not growing but
20 Walla Walla was growing rapidly; do you recall those
21 questions?

22 A. Yes.

23 Q. Are you aware of actual circumstances in this
24 state where a utility's rates differ based on different
25 characteristics of its service territory?

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1 A. Right now there is one situation that's
2 similar, which is Puget Sound Energy's service to
3 Kittitas County. The rates that are developed for that
4 area are different than its tariffed rates for other
5 portions of PSE's natural gas service area.

6 Q. Turn to Exhibit 577.

7 A. Which data request is that again?

8 Q. 1.8.

9 A. Yes.

10 Q. In the second paragraph you explain PSE's
11 situation and Avista's situation with regard to how
12 those companies have costs allocated to them, to the
13 state of Washington.

14 A. The second paragraph starting, for example?

15 Q. Yes.

16 A. Yes, I see that.

17 Q. And then in the next paragraph you go on and
18 discuss an example involving the Potlatch Corporation,
19 can you explain that situation?

20 A. Yes, that's a matter, without getting into
21 too much detail, that a PURPA contract that was signed
22 with the Potlatch Corporation using Idaho Public
23 Utilities Commission avoided cost was an issue in
24 previous rate cases with Avista, and the reason is
25 because Idaho's avoided cost methodology is

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1 significantly different than Washington's. And in that
2 proceeding it was determined that Washington should get
3 different treatment for the Potlatch contract than just
4 having it basically rolled in to the rates. And as part
5 of that, there was agreements with the Idaho Commission
6 in the past, there has been various issues related to
7 that over the years, but that's roughly the root cause
8 of it.

9 Q. Okay.

10 JUDGE RENDAHL: Before we move on, can you
11 spell Potlatch for the record.

12 THE WITNESS: I think it's P-O-T-L-A-C-H.

13 JUDGE MACE: T-C-H for the record.

14 JUDGE RENDAHL: That wasn't a spelling test,
15 I just wanted it for the record.

16 THE WITNESS: I always flunk those.

17 BY MR. TROTTER:

18 Q. With regard to the questions you were asked
19 regarding one area paying for the growth of another
20 area, I want to ask you, has the company demonstrated
21 that under the Revised Protocol that Utah is paying for
22 its appropriate share for growth in Utah?

23 A. The company I think has provided studies that
24 it believes says that, yes.

25 Q. And how do you recommend the Commission

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1 analyze those studies?

2 A. Well, again, the studies that the company --
3 that I believe the company used and the other parties in
4 the MSP process used was these results-driven analyses
5 to determine an effect on rates or revenue requirements
6 caused by the load growth, and so I think -- and I'm
7 looking at what I believe the company has interpreted,
8 that the company feels like it has made that showing.
9 Like I said before in my earlier testimony was that that
10 is not something that we used in our determination of
11 whether the Revised Protocol was acceptable for
12 Washington.

13 Q. You were asked some questions about other
14 jurisdictions agreeing to a particular allocation
15 method. Why do you think other jurisdictions have been
16 able to come to an agreement on using the Revised
17 Protocol, understanding of course that conditions have
18 been applied in three of the four jurisdictions that
19 have done so?

20 A. I think for two primary reasons. The first
21 of those is what has been discussed previously is that
22 there are conditions on several of the approval
23 processes that went on under the Revised Protocol, and I
24 won't go into those.

25 I think the second reason was when we first

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1 entered the -- when Washington first entered the
2 multistate process, it appeared to us that we were the
3 only Commission, if you will, that didn't have what
4 might be called an agenda or issues that were outside
5 maybe the normal realm that could be addressed or should
6 be addressed in order to keep control of the revenue
7 requirements.

8 For example, Oregon came in to the process,
9 it clearly had views on what it thought its rights to
10 the Mid-Columbia contracts was. Oregon also had its
11 treatment that it desired in regards to its
12 restructuring and how freed up resources could be
13 treated. I think it's safe to say that Utah, and
14 rightly so, was concerned about the effect of load
15 growth and new resources that are being acquired.

16 In my opinion, I think Utah also had some
17 issues related to the desirability of certain type
18 resources such as coal and where those coal plants
19 should be located.

20 I think Idaho, I think it was discussed
21 earlier in this hearing, is in a strange position
22 because a large portion of its load is one customer, and
23 any changes in allocation or any other cost of service
24 even in a small bid causes some pretty big concerns to
25 that customer.

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1 And finally, I think Wyoming had some very
2 specific concerns related to the nature of its loads.
3 It has some large industrial customers and has a
4 different load factor than the rest of the states.

5 So it appeared to me in kind of reviewing the
6 overall context of where everybody was at and what
7 everybody's expectations were that we were the only ones
8 that didn't have something out there that we could trade
9 or give away or needed to be addressed or something, and
10 I think we just had that problem from the very
11 beginning.

12 Q. Company counsel asked you if you were taking
13 a "purist view" of cost causation, in your testimony
14 what sorts of documentation on cost causation do you
15 rely on?

16 A. Well, I really tried to focus on documents
17 that the company would provide to support its support,
18 if you will, to a commission on whether -- on who should
19 pick up costs. That's why there's discussions at length
20 about IRP's and RFP's, certificates of necessity, that I
21 was looking in their documents for some indication that
22 Washington needs were considered primarily for these new
23 large resources that had recently been acquired. That
24 was the emphasis I admit in this case. So that's what I
25 was trying to use as my analytical tool and the basis

0993

1 for coming up and trying to follow what should be done.

2 Q. Did you also look at board minutes?

3 A. Yes.

4 Q. Based on your review of all of those
5 documents which you have identified in your testimony --

6 A. Yes.

7 Q. -- were Washington -- did the company
8 consider Washington needs in making those resource
9 decisions and planning decisions for the new projects to
10 serve Utah?

11 A. If I focus in on the more recent acquired
12 ones of the Gadsby peaker, the West Valley lease, and
13 Currant Creek, and then the upcoming Lakeside project as
14 well as a few other ones, I did focus in on those, and
15 -- I think it's safe to say in thousands and thousands
16 of page's of documents that there wasn't a mention, if
17 you will, of Washington, let alone the Western Control
18 Area and what those resources were acquired for and, you
19 know, in the process of getting them approved and
20 accepted by the board and approved by the state.

21 Q. Now in the company's rebuttal case it says
22 that when you implemented what you found regarding cost
23 causation that you were "color coding" electrons; can
24 you comment on those claims?

25 A. I don't think I was at all. My world, if you

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1 will, is the Western Control Area to begin with, and I
2 think my recommendations focused in on developing a
3 Western Control Area based allocation model to be used,
4 and not including the temporary or the compromise
5 Amended Revised Protocol that I'm recommending in this
6 hearing, looking more at the long-term solution, I don't
7 think I addressed any kind of color coding within the
8 control area whatsoever. And, in fact, in some ways I
9 think the Revised Protocol actually has more color
10 coding than what my recommendation does within the
11 control area. Between control areas I don't think I
12 color coded, because my recommendation is certainly that
13 to the extent that resources can be shown to be needed
14 and least cost for Washington, that we could somehow
15 price those so that Washington rate payers would pay
16 them, but I don't believe I color coded.

17 Q. And your recommendation for the purposes of
18 this case only is to use an Amended Revised Protocol; is
19 that right?

20 A. Yes.

21 Q. Okay.

22 A. The long-term recommendation is what I call a
23 simplified control area model.

24 Q. Okay. Under the adjustments that you make in
25 the Amended Revised Protocol for purposes of this

0995

1 proceeding, is Staff providing benefits to Washington
2 that Washington is not paying for?

3 MR. GALLOWAY: Your Honor, I object to the
4 question, I think this is beyond the boundaries of any
5 cross-examination that I recall.

6 JUDGE RENDAHL: Mr. Trotter.

7 MR. TROTTER: Well, the company -- first of
8 all, I think it's within the scope of cost causation.
9 Secondly, the company elected to cross-examine
10 Dr. Blackmon about this, and Dr. Blackmon indicated that
11 Mr. Buckley was the person to get the most accurate
12 response to the issue, and the company elected not to
13 ask Mr. Buckley. So unless this question comes from the
14 Bench or me, it's not going to be asked, so I'm asking
15 it, and I will take your ruling.

16 JUDGE RENDAHL: Mr. Galloway, anything
17 further?

18 MR. GALLOWAY: Unless I misunderstand the
19 question, and I don't want to make a big deal of it, it
20 doesn't seem to me the question even goes to anything I
21 asked Dr. Blackmon in terms of --

22 JUDGE RENDAHL: All right, objection denied.

23 Mr. Trotter, can you restate the question.

24 MR. TROTTER: Yes, I will just rephrase it.

25 BY MR. TROTTER:

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1 Q. Could you please comment on the claims by the
2 company that you were providing benefits, that your
3 adjustments to create the Amended Revised Protocol
4 provides free benefits to Washington.

5 A. I think the specific reference you're
6 referring to is the discussion regarding my removal of
7 certain costs during the Revised -- in my Amended
8 Revised Protocol, at the same time maintaining the
9 benefits; is that the area?

10 Q. Yes.

11 A. There is a gray area here. I think the
12 Commission needs to recognize that the dispatch model
13 that's used for rate setting, which is where we're at in
14 this process, is independent of any allocation model,
15 and so the system gets dispatched according to how it's
16 modeled, and the allocation models are essentially after
17 the fact accounting models.

18 So what I -- the way I looked at this was
19 that it really wasn't at the level I was looking at to
20 make an adjustment for purposes of this hearing, that it
21 wasn't clear whether benefits from those projects did
22 indeed in the dispatch model go to Washington. So in my
23 opinion you can't say absolutely that Washington, or the
24 Western Control Area, I will stick with that, received
25 benefits from these, and I don't think you can say

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1 without more in-depth study that they did.

2 So what I looked at that was and said, okay,
3 what are my options, my options are to take all the
4 costs out and, you know, make an adjustment based on
5 that. On the other hand, I thought, well, okay, let's
6 recognize that perhaps that once we look, you know, if
7 we went into much more depth analysis that there could
8 be some benefits from these in spite of not being, you
9 know, identified by the company previously, perhaps
10 there is, so let's at least give them sort of an
11 equivalent of a transfer price, which is why I took out
12 the fixed cost, the rate base, and some of the fixed
13 cost associated with those plants and left in the fuel,
14 the operating cost, the variable cost, to be sort of
15 like a proxy that we were accepting kind of market
16 prices and some cost recovery of those resources. So
17 even that adjustment was a compromise within the
18 compromise.

19 MR. TROTTER: Your Honor, I do have Exhibit
20 579 I can distribute.

21 JUDGE RENDAHL: Thank you.

22 All right, we have previously identified as
23 579 the data request, Staff response to Data Request
24 1.1.

25 BY MR. TROTTER:

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1 Q. Mr. Buckley, referring to Exhibit 579, is
2 this the data request you were referring to in your
3 response to Mr. Galloway's questions regarding a FERC
4 matter?

5 A. Yes, it is.

6 MR. TROTTER: And, Your Honor, just in
7 looking at the response, I believe it's -- it was also
8 on two-sided paper, we believe it's self explanatory, I
9 don't think any further questioning is necessary, but of
10 course if the parties disagree they're welcome to do so,
11 and that concludes my redirect, I will move the
12 admission of Exhibit 579.

13 JUDGE RENDAHL: And do you wish to move
14 admission of 577 through 579?

15 MR. TROTTER: I so move, Your Honor.

16 MR. GALLOWAY: No objection.

17 JUDGE RENDAHL: All right.

18 And, Mr. Galloway, do you have any recross?

19 MR. GALLOWAY: I do.

20

21 R E C R O S S - E X A M I N A T I O N

22 BY MR. GALLOWAY:

23 Q. In respect to, sorry, I'm struggling to find
24 the right exhibit that you spoke to, in respect to
25 Exhibit 577, do you have that before you?

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1 A. I don't have them marked, could you tell me
2 which DR?

3 Q. It's the response to Data Request 1.8.

4 A. Yes.

5 Q. There's a reference in the middle of the
6 response to Avista's IRP not identifying any constraints
7 on moving power throughout its service territory.

8 A. Yes, I see that.

9 Q. This appears to have been written either
10 before or without regard to the consequences of its
11 acquisition of Coyote Springs 2.

12 A. Probably without regard.

13 Q. Okay.

14 A. And I think that the sentence still stands.
15 If I review the Avista IRP's, they don't I believe show
16 that there are constraints, and I think one of the
17 reasons why that might be is because the IRP is
18 primarily dealing with the first half of Coyote Springs,
19 I believe that the transmission constraint issue that
20 you recently or that you discussed with some of the
21 other witnesses may have been in regard to the
22 acquisition of the second half of Coyote Springs.

23 Q. Okay. And while it seems that it may be true
24 and still true that they don't have constraints within
25 their service territory, they most definitely have

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1 constraints getting Coyote Springs 2 power into their
2 service territory, don't they?

3 A. I will accept that subject to check.

4 Q. Okay.

5 A. Based on what you said.

6 Q. And if you do accept that subject to check,
7 do you and Staff who has earlier testified join in the
8 stipulation to permit Coyote Springs 2 in rates and
9 found it used and useful?

10 A. I'm not familiar with that docket whatsoever.

11 Q. Okay, that's fair.

12 You were asked by Mr. Trotter as to why four
13 other states went along with the Revised Protocol while
14 Washington Staff resisted, and you said one of the
15 reasons was the other states imposed, or at least three
16 of the four states imposed conditions. Are there any
17 conditions that you can think of that the Commission
18 could attach to its approval that would make the Revised
19 Protocol palatable to Staff?

20 A. You know, I seriously have considered trying
21 to develop conditions similar to what the other parties
22 have done, the other jurisdictions have done to address
23 problems, and it just came down to that I felt, call it
24 principled if you will, that I could not stand here and
25 recommend something that I thought was inappropriate and

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1 then try to correct it by conditions. That just isn't
2 the way that I evaluate items. So yes, I gave it much
3 thought, and I think other Staff members gave it much
4 thought. We never really talked with the company much I
5 have to admit about trying to develop something specific
6 for Washington. So that's probably to the extent, there
7 was a lot of thought but no action.

8 Q. And on the subject of thought and no action,
9 were you involved in any way in the efforts to develop
10 the hybrid model that was filed in response to the
11 Oregon order?

12 A. No.

13 Q. You also testified that Washington was the
14 only jurisdiction that didn't have I think you said
15 issues?

16 A. Agendas.

17 Q. Agendas.

18 A. And that was my opinion.

19 Q. Okay. Do you think that is why it appears
20 that the Revised Protocol is more favorable to
21 Washington compared to the status quo than it is to any
22 other jurisdiction?

23 A. Well, I don't think I can quite get there for
24 this reason is that those discussions and analysis that
25 I have seen that bring up the concept of Washington

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1 being better off under the Revised Protocol uses other
2 not approved, not accepted methods as a comparison, so I
3 have been hesitant to go that far as long as it starts
4 getting into a results-driven analysis.

5 Q. Okay.

6 A. Of really worrying about whether Washington
7 is better or worse off under, you know, the Revised
8 Protocol as compared to the Modified Accord or a
9 rolled-in methodology.

10 Q. And even accepting those propositions as
11 true, your position would be unchanged in this
12 proceeding?

13 A. Yes.

14 Q. In response to another line of questions from
15 Mr. Trotter, you indicated that you had been through
16 thousands of documents associated with PacifiCorp's Utah
17 resource acquisition and didn't find any indication that
18 PacifiCorp was attempting to measure the impact on
19 Washington customers from the investment; is that a fair
20 summary of your testimony?

21 A. No. Well, I don't know if it's that broad.
22 I looked at thousands of pages of documents of IRP,
23 well, IRP related documents, RFP related documents,
24 certificates of necessity, board meeting minutes,
25 relating to those specific acquisitions. I am not

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1 including in that load growth studies that the company
2 or that were carried under the MSP process or that area
3 of analysis. These were just the documents that the
4 company used internally to make its decisions and
5 present them to the authorities.

6 Q. Mr. Black states in his direct testimony:
7 In Washington state, a regulated cost of
8 service utility such as PacifiCorp uses
9 an integrated portfolio of electric
10 resources to provide service to its
11 retail electric customers. Individual
12 resources are not planned, acquired, or
13 operated on a separate basis to serve
14 specific retail customers.

15 And that appears on page 4 of his testimony.
16 Do you disagree with Mr. Black's testimony in that
17 regard?

18 A. To the extent he was talking about within a
19 control area, I agree with it.

20 Q. But he --

21 A. I don't know if he, in that particular
22 wording in his testimony, he limited it to control area.
23 My acceptance would be limited to a control area.

24 Q. But I understood your earlier testimony to
25 suggest that the company should have been evaluating the

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1 effect on Washington customers who would seem to fall
2 under his description of specific retail electric
3 customers.

4 A. Could you repeat the question.

5 Q. He suggests that you shouldn't plan, acquire,
6 operate on a separate basis to serve any specific retail
7 electric customers, and wouldn't a view to Washington
8 customers as a subset violate his advice?

9 A. Yes.

10 Q. Okay. So to that extent, do you disagree
11 with his testimony?

12 A. Yes.

13 Q. It is the case -- strike that.

14 Was there evidence in those thousands of
15 documents that you reviewed that the company was
16 attempting to minimize costs to customers in any
17 particular state?

18 A. I'm trying to recall thousands of pages of
19 documents. The emphasis in those documents, I don't
20 know if cost was so much an issue, but it was meeting --
21 primarily those resources were meeting what appeared to
22 be fairly dire needs in the Utah bubble and the load
23 growth in Utah so -- and I'm assuming that somewhere in
24 that process that there was discussions about cost.

25 Q. Okay, but what --

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1 A. There was no discussion about -- sorry.

2 Q. Sorry.

3 A. There was absolutely no discussion about
4 whether even if there was no constraints or even if they
5 were needed in Washington that they were the least cost.
6 That's what I was looking for for Washington, not
7 Wyoming or Utah.

8 Q. Wasn't the metric that was being used for the
9 documents you looked at in the analyses what was the
10 least risk and least cost for the system as a whole?

11 A. The IRP generally is the document of the
12 documents that discussed cost, and there, if I remember
13 right, there are some broad statements. But when you
14 look at the way the analysis performed, it appeared to
15 be totally on, you know, a Western-Eastern Control Area
16 basis, so there was -- you can't discuss whether
17 something was least cost for the system and at the same
18 time not even bring up what the cost might have been in
19 the Western system.

20 Q. Did --

21 A. So to the extent, you know, if they did, and
22 I can't recall every page of the documents here, but to
23 the extent that they said or the company said this is
24 the least cost for the system, you know, I bring it back
25 to saying, well, what was least cost for the system

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1 doesn't necessarily mean that it was least cost for
2 Washington.

3 Q. Do you recall seeing any documents that did a
4 least cost or risk minimization analysis that was
5 confined to the Eastern Control Area?

6 A. For?

7 Q. Any of these proposed new resources.

8 A. I think by default, I haven't seen anything
9 that addressed, relating to these resources, anything
10 that had anything to do with the west, so by default I'm
11 assuming they're in the east.

12 Q. But my question was, did you see anything
13 that evaluated the costs for the eastern side of the
14 system independent of the system as a whole?

15 A. I'm not recalling any.

16 Q. Is it your testimony that Washington
17 consumers don't have an interest in decisions that are
18 least cost, least risk on a system basis?

19 A. Well, in my opinion, that's just a simple
20 play on words. I can define something as I want to and
21 sit here and claim that something is least cost for the
22 system and go out and acquire it, but to me it's hard to
23 back that up if, for example, we'll use the specific
24 examples of the west and east in this case, if you never
25 submitted, or let me back up, that saying that you

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1 acquired something least cost for the system, you put
2 out an RFP for specific delivery points in Utah for
3 specific type of resources specifically identified to
4 serve Utah and, you know, a bunch of specifics, and then
5 you never ever go over to the west side and put out
6 anything that kind of gives you a comparison of what --
7 if power was needed, in this case let's say there's no
8 constraints. If you never have that comparison, you
9 never have an RFP in the west, in fact, the company, you
10 know, filed for waivers of RFP's, you can't say that you
11 acquired that on a least cost system basis, you just
12 can't say it.

13 Q. Suppose the company was considering a
14 potential choice between two new resources in Utah, one
15 of which lowered, minimized total system cost, and the
16 other one had a higher total system cost but a lower
17 cost for Washington, which should the company pick?

18 A. I think I need more time to sit down and
19 analyze that.

20 Q. Well, it's --

21 A. I think it gets to the point of again you
22 can't claim that something is minimum for the system and
23 then turn around and roll in the allocation of that
24 without checking to see what the alternative was for any
25 kind of load growth or benefits that you were trying to

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1 meet in the other jurisdiction. You can't -- I just --
2 no matter what hypothetical you throw out there, you
3 can't do that.

4 Q. Well, I think the hypothetical is directly
5 responsive to what you're suggesting. You said that the
6 company should have in these new resources considered
7 impacts on Washington customers, and I'm asking you what
8 do you do if the study shows that one resource minimizes
9 Washington costs, the other one minimizes system costs,
10 what's the company do with that?

11 A. Then I don't think Washington should be
12 blindly willing to pick up that cost. If by your
13 hypothetical you have already demonstrated that there's
14 some cheaper alternative in Washington, because you have
15 said that it's higher cost in Washington, that I would
16 not recommend that that item be recovered in Washington
17 rates, nor would I recommend that the benefits be
18 included in that item.

19 Q. But you would agree that the company ought to
20 acquire the least cost system resource?

21 A. It may have to change what it acquires.

22 Q. Okay. And just to minimize Washington costs?
23 I thought you were suggesting you should buy the lowest
24 cost system resource and then make some sort of rate
25 adjustment.

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1 A. No, I'm saying that if you -- if there was a
2 resource that for some reason, and again I'm having
3 trouble even imagining the hypothetical, that it was
4 more cost effective in I guess the east than -- or for
5 the system than it was in Washington, that my reaction
6 to that would be then, like I said before, we should not
7 be picking up that cost. It hasn't been, assuming even
8 it was determined to be needed, in my opinion if there's
9 an alternative out there that is cheaper, and that's my
10 problem I think, I don't see mathematically how you
11 could not end up with a system cheaper ultimate combined
12 portfolio if you, you know, I don't want to use the word
13 scale down the resource on one side and got the cheaper
14 one for Washington over here, that's what you would want
15 to do.

16 Q. No, no, let me flesh out the hypothetical.
17 You have one resource choice that precisely meets the
18 Utah load growth in its delivery time. The other one
19 produces a surplus of power that can be sold into
20 wholesale markets. And the effect when you run that
21 through the allocation model is that the precisely sized
22 resource minimizes system costs, but the other resource
23 by virtue of the wholesale sales is cheaper for
24 Washington. You can -- that's not all that far fetched,
25 is it?

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1 A. Well --

2 Q. And --

3 A. It's hard to analyze it sitting up here right
4 now, but go ahead.

5 Q. Is it your suggestion then that the way you
6 envision this working is that for every new resource
7 there should be a least cost analysis for each of
8 PacifiCorp's jurisdictions and that we need to come up
9 with an allocation scheme that makes side payments
10 between the states to somehow reflect the difference
11 between system impact and individual state impact?

12 A. I don't think it's as difficult as you're
13 making it out to be. If you have a resource and you're
14 acquiring a large resource to serve somewhere, before I
15 think Washington should be allocated a portion of that
16 cost, there needs to be some demonstration that it's
17 needed. And if it's not needed, then at least the
18 benefits from it through perhaps increased wholesale
19 sales, you know, are acceptable and that that is a
20 better option than meeting Washington's needs, you know,
21 on some resource that's in the western side.

22 Q. Now Dr. Blackmon seemed to be prepared to
23 conclude that if a resource lowered Washington's costs
24 that it was appropriate to consider it used and useful
25 even though there was no demonstration that electrons

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1 flowed to Washington. Do you disagree with his
2 conclusion?

3 A. I think used and useful is defined as having
4 either needed in Washington or provides benefits.

5 Q. Right.

6 A. In some fashion to Washington, that's the
7 definition of it.

8 Q. Right, so do you agree with his testimony?

9 A. I think so.

10 Q. Okay. So you don't -- you're not -- it's not
11 your position that there needs to be some demonstration
12 that the electrons from a new resource are flowing to
13 Washington?

14 A. Not necessarily.

15 Q. Okay.

16 A. There could be benefits, and, you know, it
17 could either be needed to serve load directly, there
18 could be other benefits. I think that you're also
19 missing another point is that the level of benefits or
20 the level of need needs to correspond to the level
21 that's being allocated, and I think that's a huge issue
22 that is out there that seems to be forgotten. Under the
23 Revised Protocol, the basic assumption is any resource
24 that's out there, no matter what, 8 point something
25 percent of it gets allocated to Washington. There's no,

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1 you know, no look at, at least the company for the
2 existing ones it has acquired has never looked at
3 Washington, yet it wants to support the Revised
4 Protocol. And the way that I have tried to address it
5 is saying very simply that we're willing to pick it up
6 if it's demonstrated that it has benefits or, you know,
7 least cost benefits or that's it's needed or a
8 combination of those, I assume it would be a
9 combination, then we're willing to pick up, you know,
10 the costs that correspond to the amount of those
11 benefits for those needs and those resources but not a
12 straight 8 point something percent.

13 Q. So you favor a Washington specific least cost
14 plan for the company?

15 A. Personally I would, yes.

16 Q. And corresponding --

17 A. Or, excuse me, can I back up, or at least a
18 significant portion in the existing IRP process that
19 addresses, you know, Washington's need, the Western
20 Control Area needs.

21 Q. And by extension, a separate least cost plan
22 for each of the other jurisdictions?

23 A. I'm not worried about them.

24 And this unfortunately, If I can add on to
25 that if I may, it's not something that I feel proud

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1 about recommending or liking to recommend, it's kind of
2 being recommended by necessity, because we just feel it
3 is inappropriate to be kind of brought along by these
4 other resources that are being acquired, so that's
5 what's promoting that kind of idea.

6 Q. On the issue of the adjustments that you made
7 to come up with your Amended Revised Protocol, and you
8 describe a challenge in the modeling as I recall, would
9 it not have been possible in the production cost model
10 and the grid model to do what you were proposing, to
11 exclude the costs of the resource and also decrement,
12 which is to say for purposes of the study reduce Utah
13 load by the output of the resource and rerun the grid
14 model with a resource completely removed?

15 A. Yes, you can do that.

16 Q. Okay. And would that produce a better
17 matching of costs and benefits?

18 A. I can't say that it's a better result.

19 Q. Okay.

20 A. It's maybe more analytical. I don't know, I
21 don't know if it's better.

22 Q. Anything wrong with analytical?

23 A. No.

24 Q. And I just wanted to clear up what I think
25 was a misstatement on your part. You indicated that as

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1 a compromise you excluded the fixed cost of certain
2 resources.

3 A. Yes.

4 Q. In fact, your approach was to exclude the
5 fixed costs of resources that are characterized by
6 having relatively high fixed costs and low variable
7 costs, and you excluded the variable costs of resources
8 that tend to have low fixed costs and high variable
9 costs, did you not?

10 A. No. That concept did not enter into my mind
11 once, and I am under oath. The removal of those costs
12 was 100% based on timing, and obviously these are the
13 main resources that we have taken issue to.

14 Q. But sometimes you excluded fixed costs,
15 sometimes you excluded variable costs?

16 A. No, there's very -- the different adjustments
17 are all different, they're not tied in to each other.

18 Q. But aren't there in the case of West Valley
19 and Gadsby it's the variable costs that you have
20 excluded?

21 A. No. It should be the rate base and the fixed
22 O&M, and on West Valley what was reduced was the lease,
23 Washington allocated lease, so the variable cost, the
24 variable O&M that's in the grid model and the variable
25 fuel related cost for all those are in.

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1 Q. In respect to all of the resources?

2 A. To those three, to Currant Creek, West
3 Valley, and Gadsby, rate base for Gadsby, rate base for
4 Currant Creek, and the lease payment, which is a fixed
5 lease payment, which represents the fixed costs
6 associated with the Currant Creek lease.

7 Q. So when --

8 A. Or not Currant Creek, I'm sorry, West Valley.

9 Q. So when Dr. Blackmon page 7 of your testimony
10 indicated, on his testimony indicated that the operating
11 costs of West Valley were being excluded, he misspoke?

12 A. The fixed O&M should be excluded and the
13 variable O&M included.

14 Q. And so you didn't exclude the operating costs
15 of West Valley?

16 A. Right.

17 MR. GALLOWAY: I have nothing further, Your
18 Honor.

19 JUDGE RENDAHL: Thank you.

20 Are there any questions from the Bench for
21 Mr. Buckley?

22 Commissioner Jones.

23

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

2 BY COMMISSIONER JONES:

3 Q. Mr. Buckley, I have a couple questions on
4 your references to the Revised Protocol work groups,
5 pages 139 to 147 of your testimony.

6 A. Yes.

7 Q. Could you turn to page 141.

8 A. I am there.

9 Q. Okay. The load growth report was submitted
10 on October 20th, 2005, correct?

11 A. Yes, and I'm not 100% sure that was the
12 final, final copy of the load growth report.

13 Q. As you describe it here, I'm assuming that
14 you had a chance to review it and read it?

15 A. Very briefly.

16 Q. Have you not?

17 A. Cursory review, and it was provided, if I'm
18 not mistaken, in rebuttal testimony.

19 Q. Okay.

20 A. Once I saw again that it was kind of based on
21 these results based, 15 year revenue requirement
22 studies --

23 Q. You didn't look at it?

24 A. -- I didn't pay too much attention to it.

25 Q. You didn't look at it once you found out,

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1 okay.

2 On line 6 through 9, I'm just going to read
3 this and I would just like to find out what the source
4 of this is, it says:

5 The company in its load growth report
6 (October 20th, 2005) claims that the
7 current studies show that the Revised
8 Protocol protects the slow growing
9 states from potential cost shifts
10 associated with a faster growing state
11 load growth.

12 That statement comes from the company?

13 A. I believe it's either a conclusion of the
14 company independently or the parties, the load growth
15 work group, maybe I'm assuming that. If I remember, it
16 might be in the executive summary.

17 Q. Yeah, I think it's Exhibit 342, and I think
18 you are correct, it's section 1.2 of PacifiCorp's
19 conclusion.

20 JUDGE RENDAHL: And that's in Exhibit 342?

21 COMMISSIONER JONES: Yes.

22 BY COMMISSIONER JONES:

23 Q. 342, where it states that the Revised
24 Protocol protects the slow growing states from potential
25 inappropriate, the word is inappropriate, cost shifts

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1 due to the fastest growing states' load growth.

2 A. Yes.

3 Q. So the fact that this is in your testimony is
4 not indicative of your review and analysis of it, it's
5 just there as a reference point, if you will, of what
6 the work groups of the Revised Protocol have been doing?

7 A. Yes, at the time --

8 Q. Okay.

9 A. -- the testimony was being finalized and even
10 earlier, there was the hybrid work group was going on,
11 the load growth work group, and I believe that the load
12 growth work group was finishing up its work just as a
13 matter of -- around that time and that we would get the
14 courtesy E-mails or I'm still on the E-mail list of what
15 happens in these so it comes to me. You know, Staff did
16 not participate in the work groups, nor did we send any
17 comments on earlier drafts or anything related to it,
18 but we did get as you go E-mails of what was going on
19 and minutes to meetings and things like that, the
20 company was good about that.

21 Q. You took my next question. So my next
22 question was, how do you get information on what's going
23 on in the work group if a Commission member is not
24 participating in the work group, it's through E-mails,
25 summaries of what is going on?

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1 A. Generally. It has varied over the process.
2 I think, you know, we have been on various E-mail lists
3 of this, and I think we're still part of the MSP E-mail
4 list, so we do get notified of that. We may not get
5 notified of specific meetings that the company is having
6 with, you know, one or two other jurisdictions and that
7 sort of thing, but if it's sort of official MSP type
8 information, we generally get it. Although again not
9 having being there, I'm not sure how reliable it is, and
10 there's also -- we also get copied on multiple responses
11 of parties back and forth agreeing or disagreeing on
12 what's in these studies or minutes. So to the extent
13 that I have time possible, I can follow them.

14 Q. Lines 15 to 17 say that:

15 Finally, it appears that there is some
16 disagreement between the company and
17 some of the work group participants
18 regarding the need for additional
19 studies to determine whether or not the
20 full benefits from hydro generation are
21 properly being allocated.

22 So what is the source of information on this?

23 A. The source of that is the E-mails that are
24 working their way around when people comment on either
25 the meetings themselves, the meeting minutes, or, you

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1 know, the reports themselves.

2 Q. Let's turn to the next one, the hybrid
3 working group, and that's described at pages 142 to 144
4 of your testimony. So it's my understanding that you
5 have not been a part of the hybrid -- was any member of
6 this Staff a member of the hybrid method work group in
7 the beginning, and then I understand from your testimony
8 was disbanded as the company started to work with Oregon
9 Staff to meet its stipulation?

10 A. No, during the MSP process the hybrid model
11 was being discussed, and there was no separate work
12 group to my recollection. The official hybrid work
13 group that's discussed here started up as a result I
14 believe of the Oregon Commission's order. And then it
15 appeared to me based on the review of the E-mails
16 flashing across the screen that it went on for a while,
17 and then it appeared that ultimately Oregon decided
18 that, or maybe the company and everybody decided, I'm
19 not sure, that it's time to bring it back in house in
20 Oregon. And so that I think that in some ways it wasn't
21 necessarily disbanded, but it was maybe the other
22 jurisdictions were kicked out or something, I'm not
23 quite sure what went on here. It became clear that
24 there was some disagreement about whether it should be
25 -- it was finished or the results of it, and I think,

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1 you know, that's one of the issues that is in my
2 testimony about, you know, at least one of the parties
3 who participated thoughts about how the process went.

4 COMMISSIONER JONES: Judge, I would like to
5 ask a question or two on the hybrid report to the Oregon
6 Public Utility Commission. I made a Bench request
7 yesterday for a copy of it, and I have since received a
8 copy outside of the normal channels, I have it in front
9 of me. Is it appropriate to make a motion to have this
10 entered into the record at this point? I think the
11 company said that it was already in the record at some
12 point, so I'm a little confused on this.

13 MR. GALLOWAY: Well, the company certainly
14 has no objection to it being entered into the record.

15 JUDGE RENDAHL: There's no problem with
16 entering it into the record. Do you wish to include it
17 as an exhibit to Mr. Buckley's, as a cross-exhibit at
18 this point?

19 COMMISSIONER JONES: Sure, yes, I would.

20 JUDGE RENDAHL: All right, so we'll include
21 it as Exhibit 580. And do you still need the Bench
22 request, or there's no need for the Bench request?

23 COMMISSIONER JONES: No, I would move that
24 the Bench request be withdrawn, but I think ICNU was
25 going to provide some information on the study for the

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1 record, which I would still like to see.

2 MR. SANGER: Yes, ICNU prepared a letter that
3 was filed with Oregon PUC which we will still provide in
4 our Bench response.

5 JUDGE RENDAHL: All right, we'll make sure
6 that a copy is circulated to all parties or if the
7 parties -- let's go off the record for a moment.

8 (Discussion off the record.)

9 JUDGE RENDAHL: I will endeavor to get copies
10 of the hybrid model and make sure it's included in the
11 record as Exhibit 580 and distribute it internally and
12 to counsel for Staff. The other parties have indicated
13 they have it available. Mr. ffitich, is that correct, or
14 do you --

15 MR. FFITCH: Well, Your Honor, we have a
16 copy, but I guess because I'm a lawyer I have a similar
17 reaction to Mr. Trotter, which is I guess I would like a
18 copy of whatever is going into the record in this case
19 just to make sure that we have the right thing in our
20 file of this case.

21 JUDGE RENDAHL: All right.

22 MR. GALLOWAY: Your Honor, may I make a
23 suggestion?

24 JUDGE RENDAHL: Please do.

25 MR. GALLOWAY: Which is that this was in as a

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1 Bench request and that we should pretend that it's still
2 a Bench request, and we'll file and distribute it to
3 everybody so that they don't have to scurry around for
4 more copies.

5 JUDGE RENDAHL: I would appreciate it, but
6 we'll mark it as Exhibit 580.

7 MR. GALLOWAY: All right.

8 JUDGE RENDAHL: Do you have any further
9 questions?

10 COMMISSIONER JONES: Yeah, I have a couple of
11 questions on this.

12 BY COMMISSIONER JONES:

13 Q. Have you had a chance to read this yet,
14 Mr. Buckley?

15 A. No, my kind of interest in that hybrid
16 workshop sort of ended when I started looking at what
17 the results were coming out, so I haven't read the
18 report. I think I have it E-mailed to me, but I have
19 not read it. But I can try to answer any questions
20 based on past history.

21 Q. Well, my questions are, I would think you
22 would have an interest because two of the new components
23 that were added to the hybrid are two of the adjustments
24 that you make in your testimony; were you aware of that?

25 A. No, no, it reached kind of a state at which

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1 point based on other factors that I didn't think that
2 that particular hybrid model they were developing was
3 reasonable.

4 Q. I see. Well, just let me state for the
5 record even though you haven't read it that the two new
6 components that were added were, one, allocation of
7 Mid-Columbia contracts within the West Control Area,
8 which I understand to be your adjustment 5.5, two, Situs
9 allocation of QF contracts, which I understand to be
10 another of your adjustments. So I was going to ask you
11 to look at what was in the hybrid model to see if you
12 agreed with the adjustments made or if you had some
13 analysis of it, but I guess you can't do that at this
14 point on the record?

15 A. It's worth I guess discussing where I have
16 problems with that. I think that those are adjustments
17 that are indeed made, and, you know, without looking at
18 the specifics of them, I would have to defer whether,
19 you know, I would accept that they're reasonable or not.
20 I think where the hybrid work group and its product lost
21 my interest, for lack of a better term, is its kind of
22 earlier stages that involved divvying out the resources,
23 that type of thing. And it appeared to me, and I think
24 it appeared to some of the other parties too, that the
25 effect of at least some of the parties was just trying

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1 to get a model that would match the rolled-in model with
2 the Revised Protocol. And so the constant concern about
3 which resources should be in the west and which in the
4 east, and this to me at least from the earlier stages
5 that I saw, it continued kind of this what I thought
6 kind of an unprincipled approach to divvying it up,
7 trying to even things out rather than just doing
8 something based on control area. This is why when I
9 started to develop kind of our Staff's ultimate
10 recommendation, long-term recommendation, that we would
11 at least maybe attempt to do a simplified model, but I
12 called it a control area based model rather than a
13 continuation of the hybrid model that was being
14 developed there.

15 Q. Aren't the states of Oregon and Washington
16 both in the Western Control Area?

17 A. Yes, but we are not alike when it comes to
18 thinking what needs to be done.

19 Q. I understand. But don't you give some weight
20 to what the Oregon Commission does in its orders on
21 subjects directly relevant to your hundreds of pages of
22 testimony?

23 A. Yes, I gave weight to what they said,
24 particularly the large amount of discussion that was
25 related to a control area model being better than the

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1 rolled-in model, but that's about the extent of it.

2 Q. That's the extent of it, I understand, let's
3 move on.

4 Page 128 of your testimony, you talk about
5 "administrative burdens", can you go to that part?

6 A. Yes.

7 Q. I am having a bit of a difficulty
8 understanding precisely what administrative burdens
9 you're referring to here. As I look at 17 years of
10 meetings and travel, discussions, E-mails, it seems to
11 me there's -- it's already quite a bit of work, it's
12 pretty complex, what you're proposing is complex, what
13 the company is proposing is complex, so I'm having a
14 difficult time understanding administrative burdens,
15 especially when you refer to on lines 17 through 20
16 where you talk about the MSP standing committee, the
17 development of a working hybrid or a control area based
18 model, "all of these efforts require significant
19 Commission resources". What's different today than over
20 the past 17 years?

21 A. Well, I think there may be a slight
22 misunderstanding of what our ultimate recommendation is.
23 I have tried to, and perhaps not too successfully, in
24 testimony identify our recommendation as being a
25 simplified control area model. And the other models

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1 that I identified that I looked at before coming to the
2 conclusion that we should at least try that, one of the
3 basis on them was simplification, simplification, in the
4 hopes that we can develop rates that are fair, just, and
5 reasonable for the company. So my version of the world
6 outside the Revised Protocol would be that it's not as
7 burdensome as what you might think by looking at what's
8 been going on in the past in that, that we would,
9 because primarily the biggest factor is, in developing
10 my simplified control area model or other model that we
11 may use, would be between us, the company, and other
12 interested parties in Washington, not the other
13 jurisdictions. And that fact alone, at least in my
14 opinion, eliminates a lot of the burden. So on that
15 issue, my long-term recommendation was not as burdensome
16 as what I think the Revised Protocol has been
17 demonstrated to be.

18 What this basically tries to point out is
19 that we are 8%, and that's 8%, it's a significant amount
20 of the company. We are a very small Commission compared
21 to the other commissions in both Oregon and Utah and to
22 a certain degree the other commissions in Idaho and
23 Wyoming. Our resources, you know, are somewhat limited.
24 Based on what I have been told about the MSP process,
25 Washington would go to the meetings and literally be

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1 drowned out by the volumes of participants from the
2 other states. Now that doesn't mean that Ms. Steel was
3 not able to have her voice heard, but, you know, it
4 points out that we, you know, are a small fish in the
5 ocean here and that they don't see the development of
6 the load growth workshop, which had, or work group which
7 had multiple meetings, the hybrid one, in order to
8 protect our interest as well as addressing some of these
9 other factors that are in the Revised Protocol terms
10 such as, you know, saving, you know, rates for QF's and
11 special contract rates and some of the other issues that
12 I discussed, it just seems like it just becomes fairly
13 burdensome for the specifics of our Commission.

14 And that's what this is aimed kind of
15 discussing, not -- hopefully a more simplified
16 administratively easier issue. I'm sure the company
17 would love to be able to come in and, you know, get
18 rates adjusted in a much quicker fashion than what we
19 have now, in a much more assured fashion, you know, if
20 something was simpler for us. So that was kind of --
21 that's the two differences between the Revised Protocol
22 world and, you know, hopefully a future world.

23 JUDGE RENDAHL: Excuse me, can we stop
24 conversations, it's getting late and I'm easily
25 distracted at this point, so if you can focus on what's

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1 going on, that would be helpful.

2 Go ahead, Commissioner Jones.

3 BY COMMISSIONER JONES:

4 Q. Mr. Buckley, your recommendation for the
5 interstate allocation in this case and for the longer
6 term with your "simplified" area control model I guess
7 is the long-term recommendation are to focus on what we
8 call the Western Control Area; is that correct?

9 A. If possible, yes.

10 Q. If possible?

11 A. If possible.

12 Q. I understand --

13 A. There may be --

14 Q. I understand that's the basis of your whole
15 testimony?

16 A. Yes.

17 Q. What would be the implication for the
18 durability of your recommendation if the company were to
19 establish under Grid West or some successor some
20 consolidation of the control areas, what would be the
21 specific implications? And I think we understood from
22 the company's witness, Mr. Duvall, yesterday that such
23 consolidation is currently under consideration.

24 A. It's been under consideration for a few
25 years. I think that that would make it so that you

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1 would have to look at how the company plans, acquires,
2 and operates its system again. If that changes because
3 of the ability to, you know, more freely move power
4 around and we can identify benefits in a better fashion
5 and the company does so in its documents, in its
6 internal documents that it does, I think, you know, then
7 it could change it.

8 COMMISSIONER JONES: That's all I have.

9 JUDGE RENDAHL: Commissioner Oshie.

10 COMMISSIONER OSHIE: Thank you.

11

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

13 BY COMMISSIONER OSHIE:

14 Q. Mr. Buckley, I've got a couple questions.
15 One, let's just explore briefly a hypothetical and that,
16 you know, if we, let's assume that the Commission
17 adopted Revised Protocol, and let's assume that it did
18 -- essentially agreed with the company and the
19 principles that it has stated in its testimony, and then
20 let me add to that that assuming there is a merger and
21 the company as a whole now built transmission from its
22 Mid-American service territory to its eastern boundary
23 of what's now the Eastern Control Area, I would assume
24 under the mechanics of the Revised Protocol that the
25 costs of that transmission would be allocated to

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1 Washington at least by the 8.2%?

2 A. I'm guessing that that's such a significant
3 change in operations that the company would have to
4 relook at whether the Revised Protocol was appropriate.
5 I can only guess, but that would be my assumption given
6 that happening.

7 Q. I'm just assuming that under the mechanics of
8 the Revised Protocol as it now operates or is proposed
9 to operate in the state of Washington, what that new
10 resource, would it just get rolled in, get added in I
11 guess?

12 A. Yes, if there was no other adjustments made
13 to counter that, yes, it would get rolled in.

14 Q. And if Mid-American decided to build new
15 generation in its service territory, then at least
16 arguably that would get perhaps added in as well or --

17 A. It would get rolled in, but I think you have
18 to also recognize that the allocation factors would
19 change to whatever was over on the Mid America side. So
20 if you were to -- if you wanted to look at a
21 results-driven result, Washington rates could
22 theoretically go down, you know, based on the Revised
23 Protocol. Who knows? It would be I think somewhat
24 random, which is one of my problems that I'm having with
25 the Revised Protocol.

1 Q. In keeping with the same lines and at least
2 in very general terms, if we adopted the Revised
3 Protocol as it's been advocated, would there be any
4 occasion in which we as a Commission would have an
5 opportunity to determine the prudence of resources that
6 have been approved in other jurisdictions?

7 A. I think that there is a clause in the Revised
8 Protocol that says something that a particular
9 Commission's rights or something, you know, will remain,
10 so I think perhaps under some clause, and I would have
11 to go through it again, it's been a while, that there
12 would be a mechanism in a general rate case to, you
13 know, address the prudence of that.

14 I think the problem more becomes, and I think
15 you can probably tell by the discussion I had with
16 Mr. Galloway earlier, it really becomes difficult about
17 trying to follow benefits and costs around when they're
18 in another control area or in another area. It also
19 becomes kind of a -- the Revised Protocol appears to me
20 to just kind of assume that it's okay to be allocating
21 this in whatever percentage to Washington. I think, so
22 I guess to get maybe back to shorten my answer, I think
23 there probably is a way to get a foot in the door as far
24 as getting prudence, but it's going to be difficult
25 because much of it would be after the fact.

1 You know, we're not involved in certificates
2 of necessity in other states, and I think that's one of
3 the problems, you know. Things like that came up, for
4 example, in some of the more recently acquired
5 resources, was the company would acquire them, we at
6 least on the face would get allocated to them, and this
7 was even after in their own jurisdictions let's say of
8 Utah there was a fairly large battle going on whether
9 that resource was the one that was appropriately, you
10 know, acquired during its proceedings in Utah. In order
11 to protect kind of our standing and our costs, it
12 appears to me that we would have to get involved in
13 those to protect us, and that also goes back to a little
14 bit about the administrative burden about that.

15 Q. Well, frankly, that's exactly what I was
16 thinking as well in your discussion with Mr. Galloway,
17 that in order to determine prudence of resources, we
18 would either have to have the company file that exact
19 same case in the state of Washington with a full review,
20 or we would have to, you know, sort of a stretch,
21 intervene for example in Utah to defend the state's
22 interest perhaps in their review of a new resource.
23 That would be a very extreme example, but it did occur
24 to me as I was thinking about the issues that were
25 raised in your discussion.

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1 A. Yes. Under the idea that what's good for the
2 system, what's least cost for the system is good for
3 you, we should and probably could and more recently have
4 been in Utah literally, you know, at the commission or
5 wherever else kind of giving our interest on whether it
6 was necessary to serve load in Utah, necessary least
7 cost compared to other options in Utah, and that would
8 have been for, you know, Gadsby, West Valley, Carrant
9 Creek, Lakeside, on and on and on, in order to protect
10 our interests, and that just seems a little bit extreme
11 as required under the Revised Protocol.

12 Q. I suppose if we didn't make those prudence
13 determinations on an independent basis, then we would
14 have to rely on the other commissions to make those
15 decisions for us?

16 A. And that's, yes, and that's I think where we
17 start getting into some of the state specific political
18 environments, economic environments, things such as
19 favoring, you know, mine mouth coal generation in Utah
20 for purposes of getting tax base and jobs. I'm not
21 saying that's necessarily what's happening, but things
22 like that that are not uncommon become an issue, and it
23 just -- and it kind of pits us perhaps against, you
24 know, that sort of situation. And it's not easy for the
25 company, I will be the first to admit it, it is not an

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1 easy thing to deal with.

2 Q. I'm going to move on, and this is really my
3 last question. Would you please turn to page 210 of
4 your testimony, Exhibit 541.

5 A. Yes.

6 Q. And here you're referring to the deferred
7 hydro costs, and on line 13 you have a number 3, and
8 that states, and I will just read it into the record:

9 The allocation of any costs or benefits
10 should be consistent with the cost
11 allocation methods proposed by Staff in
12 this case.

13 A. Yes.

14 Q. Can you elaborate a bit? I know what the
15 words say, but, you know, can you put some context
16 around what you're really saying there?

17 A. This sentence is very narrowly focused on
18 this compromise adjustment, if you will, the one time
19 amount that I'm recommending the company be allowed to
20 recover, and this relates to the way that on Exhibit --
21 it's APB-17, which number is that?

22 JUDGE RENDAHL: 557.

23 A. It simply relates to that instead of using
24 the Revised Protocol overall allocation of benefits of
25 the Mid-Columbia and the hydro, it's under the Revised

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1 Protocol, that I'm doing it as if all of the other
2 resources benefits were allocated to the Western Control
3 Area, so it's very narrowly focused on making an
4 adjustment. So effectively I think it takes, instead of
5 allocating the percentages, hold on, I believe it
6 changes the overall allocation of some of the costs down
7 on lines 26 and 27, so that number there is after the
8 adjustment to treat these the same as if they were all
9 being allocated to the Western Control Area and then
10 allocated to Washington and Oregon based on load, not
11 Oregon's technique of the -- that they used in the
12 Revised Protocol.

13 COMMISSIONER OSHIE: No further questions,
14 thank you.

15 JUDGE RENDAHL: Chairman Sidran.

16

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

18 BY CHAIRMAN SIDRAN:

19 Q. We're at the end of a long day, and my memory
20 does not extend to recalling just which exhibit or whose
21 testimony I read this in, but I wanted to follow up on
22 Commissioner Oshie's questions about the Revised
23 Protocol. Two things that I recall, and I just want you
24 to either confirm or correct my impression. One is that
25 all of the states entered the Revised Protocol with the

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1 understanding that they preserved their sovereignty to
2 decide issues as they deemed fit.

3 A. Yes, and that's under the discussion of my
4 sustainability and this idea that it appears that the
5 Commissions can change their mind at any time, with good
6 cause, that they can do that.

7 Q. And that the Revised Protocol is actually
8 through a variety of language within the protocol itself
9 and as reflected by the conditions attached by those
10 commissions which have accepted it subject to
11 interpretation, modification, or cancellation at the
12 discretion of a commission at some future point in time
13 since none of these commissions, including our own, will
14 bind their successor; is that correct?

15 A. Yes, and I think in some cases it goes a
16 little stronger than that. You know, for example, you
17 have Utah Commission approval still sort of as a last
18 remark states that it thinks the rolled-in is
19 appropriate, so I feel like some states, you know, if
20 you were looking at the possibility of change, some
21 states may be more on the brink than others perhaps.

22 CHAIRMAN SIDRAN: Thank you, that's all I
23 have.

24 JUDGE RENDAHL: And I don't have any
25 questions.

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1 Judge Mace?

2 JUDGE MACE: No.

3 JUDGE RENDAHL: All right, well, thank you,
4 Mr. Buckley, you may step down, you're excused.

5 Is there anything further for us to address
6 today before we come back on Friday?

7 Mr. Sanger.

8 MR. SANGER: What is the order of witnesses
9 going to be on Friday?

10 JUDGE RENDAHL: My understanding is we're
11 going to begin with the company's witness Mr. Martin to
12 finish the revenue requirement issues prior to
13 supplemental testimony, and then we will begin with on
14 the decoupling issues with Mr. Cavanagh, then
15 Ms. Omohundro, Ms. Steward, and Mr. Lazar.

16 MR. FFITCH: And, Your Honor, will we have a
17 9:30 start time on Friday also?

18 JUDGE RENDAHL: That was my understanding
19 from our discussion yesterday. I think we're going to
20 start at 9:30 so we can finish and make sure we're done
21 by lunch, and I did let Mr. Purdy know that the
22 Commission doesn't have any questions for Mr. Eberdt, so
23 he will not be here.

24 CHAIRMAN SIDRAN: And as long as we're on the
25 subject of Friday, I think you are aware, but it may

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1 influence what time we start, I have to testify in a
2 legislative hearing at 1:30 on Friday, so if we do not
3 finish by noon, I won't be able to be back here until
4 approximately 2:15. So I guess what I'm saying is that
5 if the parties think that we are not likely to finish by
6 noon but could finish by running late or by starting
7 early, that would probably be preferable.

8 MR. TROTTER: Your Honor, we're still on the
9 record, was this intended to be off the record.

10 JUDGE RENDAHL: Let's be off the record.

11 (Hearing adjourned at 5:00 p.m.)

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