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1 BEFORE THE WASHINGTON UTILITIES AND
2 TRANSPORTATION COMMISSION

3

4 WASHINGTON UTILITIES AND) Docket No. UE-991832
5 TRANSPORTATION COMMISSION) Volume III
6 v.) Pages 84-307

7 PACIFICORP d/b/a PACIFIC LIGHT)

8 AND POWER)

9 _____)

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11 A hearing in the above matter was
12 held on April 25, 2000, at 9:37 a.m., at 1300
13 Evergreen Park Drive Southwest, Olympia, Washington,
14 before Administrative Law Judge DENNIS J. MOSS,
15 Chairwoman MARILYN SHOWALTER, Commissioner RICHARD
16 HEMSTAD, and Commissioner WILLIAM R. GILLIS.

17

18 The parties were present as
19 follows:

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23 98101-3197 and Stephen C. Hall, Attorney at Law,
24 Stoel Rives, 900 S.W. Fifth Avenue, Suite 2300,
25 Portland, Oregon, 97204-1268.

26 ICNU, by Melinda Davison, Attorney
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29 97201.

30 BARBARA L. NELSON, CSR

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1 THE COMMISSION, by Robert
2 Cedarbaum and Ann Rendahl, Assistant Attorneys
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1 JUDGE MOSS: Good morning, everyone. We
2 are convened in the matter styled Washington
3 Utilities and Transportation Commission against
4 PacifiCorp, doing business as Pacific Power and
5 Light, Docket Number UE-991832. We are convened
6 today for the purpose of initiating the
7 cross-examination of the company's case, that phase
8 of the case.

9 But, having said that, we did have some
10 matters arise at the prehearing conference on Friday
11 that caused a late change in our process that
12 included a session yesterday among the parties to
13 work informally off the record together to better
14 understand some changes that came to light,
15 particularly with respect to the revenue requirement
16 testimony by witness Larsen.

17 I know that those sessions went on all day
18 yesterday. I came in at two points to receive a
19 report from the parties as to their progress. That
20 also was off the record and informal. My
21 understanding of the situation, as it stood at
22 roughly 4:00, 4:30 yesterday afternoon, was that
23 while the parties had achieved some progress in
24 getting through this material and working together,
25 that they had not achieved a meeting of the minds

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1 with respect to how they wished to proceed on a going
2 forward basis.

3 And unless there have been some
4 developments in that regard, then I suppose we'll
5 need to hear more about that this morning. And in
6 that connection, I think I'll turn to Mr. Cedarbaum
7 and ask him to give me a report.

8 MR. CEDARBAUM: Yes, thank you, Your Honor.
9 Robert Cedarbaum, for the Commission Staff. As you
10 indicated yesterday, we did meet with the company for
11 most of the day, and I'd like to go into some detail
12 as to the course of events that have happened since
13 approximately mid last week.

14 I don't know if you want that detail now or
15 if you want me just to summarize I think where we are
16 today. But where we are today is that we, after
17 talking with the company yesterday, I don't think
18 we've reached agreement as to how to proceed with the
19 presentation this week.

20 The Staff's position as of yesterday was
21 that we need a delay in the hearings to incorporate
22 and examine adjustments that the company communicated
23 to us last week, but have not included in their
24 testimony, because of the burden that has placed on
25 Staff in trying to analyze those numbers and

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1 essentially revise a lot of the work that we've done
2 up until now.

3 So we are prepared today to ask for a
4 three-week extension in the hearing schedule, and
5 again, I'd like to at least go through some of the
6 detail as to why we have come to that position. But
7 absent that delay, we understand the Commission's
8 problems with the hearing schedule. Absent that
9 delay, we would prefer to go forward with the hearing
10 this week, then, to try to change the process in
11 other ways, along with some suggestions that were
12 made yesterday from the company.

13 So we would be asking for a three-week
14 delay in the hearing process, but if we can't have
15 that, we'd rather just proceed this week.

16 JUDGE MOSS: Well, it strikes me that
17 inherent in the options that you're suggesting is the
18 idea that you can be and go forward with the
19 cross-examination of Larsen, who was the witness who
20 was chiefly implicated.

21 MR. CEDARBAUM: Well, as we indicated all
22 along, there are aspects of the company's case we've
23 been prepared to go forward with all along.

24 JUDGE MOSS: Sure.

25 MR. CEDARBAUM: So we're still able to do

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1 that. And we are prepared, as prepared as we can be,
2 given what's happened with Mr. Larsen, to go forward,
3 but there are burdens attached to that because of the
4 lateness of the adjustments that we received and how
5 we can process that.

6 Because of that, we considered other
7 alternatives on how to handle Mr. Larsen's testimony
8 and exhibits, and on balance, we just felt that it's
9 better to go forward with it this week than to
10 postpone that, unless we can have the delay that
11 we're asking for in the case. So we are prepared to
12 go forward this week with Mr. Larsen, but our
13 preference is to have a delay.

14 JUDGE MOSS: And I'll give the company a
15 chance to speak in a moment, of course, but I'd just
16 note that -- let me ask, first, was the response to
17 Bench Request Number Two furnished to the parties, as
18 well?

19 MR. VAN NOSTRAND: We're still getting
20 copies of the 19-page attachment. They'll be here
21 within 30 minutes. We'll distribute the whole
22 document to everyone.

23 JUDGE MOSS: Okay. And so you haven't
24 distributed anything except this --

25 MR. VAN NOSTRAND: No, we have not.

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1 JUDGE MOSS: -- cover to the bench?

2 MR. VAN NOSTRAND: We're hoping to have the
3 rest of it by 9:30.

4 JUDGE MOSS: Okay. Well, I do have the
5 partial response to Bench Request Number Two that was
6 furnished to me this morning and I have furnished
7 that to the full Bench, but to no one else.

8 MR. VAN NOSTRAND: Would you like me to go
9 ahead and have that distributed to the parties right
10 now?

11 JUDGE MOSS: I don't know that it's really
12 necessary at this time. I just wanted to comment
13 with respect to it and I wanted to be clear on what
14 its status was. I understand it will be distributed
15 within a short time this morning, complete with the
16 attachment that includes some supporting information
17 that the response itself indicates much, if not all
18 of that, has already been furnished to Staff in one
19 form or another and to the other parties who
20 participated in the technical conference yesterday.

21 I do note that there's a statement in this
22 response to the effect that the company's exhibits
23 and testimony in the rebuttal phase of this
24 proceeding will incorporate these items, is the exact
25 word, but referring to the various changes.

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1 And so it did strike me, as I read that,
2 that this would be, in effect, a second opportunity,
3 then, for the Staff and other parties to examine the
4 witness with respect to these matters, so to the
5 extent there was some gap in the cross-examination
6 that was precipitated by an inability to fully
7 analyze the matter at this stage, there would be
8 quite a bit of opportunity to do that in the later
9 stages. And of course, meanwhile, there would be
10 some, I suspect, some additional discovery and
11 discussion, and we did have the technical conference
12 yesterday that would allow Staff to have what it
13 needs in terms of preparing its own case.

14 So I'm wondering if that doesn't relieve
15 some of the difficulty that has been reported about
16 this.

17 MR. CEDARBAUM: Well, Your Honor. I guess
18 there are two points to be made. One is that the
19 company, over the past couple days, has characterized
20 the corrections as being conciliatory and simple. In
21 fact, just from our perspective, the opposite is
22 true, that these have created a very great burden and
23 an inconvenience on the Staff.

24 Some of the adjustments have far-reaching
25 impacts on the work that Staff has done up until this

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1 point, which will essentially require us to start
2 over on some aspects of the case, and going forward,
3 to analyze now these new numbers.

4 So there's a great burden attached to the
5 lateness of what has happened with the company's
6 proposed corrections. And I would point out, in that
7 regard, the Commission does have a procedural rule,
8 WAC 480-09-736(6)(b), which states that each party
9 must advise other parties of substantive corrections
10 to evidence that has been prefiled as soon as the
11 need for change is discovered.

12 Many of the corrections that we've received
13 occurred and were identified in the company's Utah
14 proceeding and were prompted by responses to Staff
15 data requests that all occurred in the February and
16 March time frame. So from our perspective, the
17 company's been out of compliance with the
18 Commission's rule at a great burden to the Commission
19 Staff and, quite frankly, to you.

20 Again, the company has yet to revise its
21 case, and that has an impact on all of us in the
22 room. And with respect to being able to look at the
23 company's rebuttal case so that we can have a second
24 chance, we have to file our case on June 12th, and
25 we'd like to be able to file a case that's accurate.

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1 We don't want to have to file a case that we know
2 might have problems because we haven't had a chance
3 to analyze all these new numbers.

4 And second of all, even if we're able to
5 then have a second look at the company's case, we
6 don't have built into the schedule any chance for
7 surrebuttal. There might be new issues that come up,
8 things that we need to respond to, as opposed to just
9 cross-examining. We won't have any ability under the
10 current schedule to do that.

11 So again, we think that a delay of three
12 weeks, which is not a very long period of time, in
13 theory, not knowing what the Commission's schedule
14 is, but three weeks' time is not a prolonged amount
15 of time given the impact these adjustments have had
16 on our preparation, but that the burdens of other
17 alternatives or of not having this chance for
18 cross-examination on the other aspects of the
19 company's case and condensing things into one hearing
20 at the end, that raises -- other alternatives raise
21 other burdens and inconveniences which we'd rather
22 avoid. So if we can't have the delay, we'd just as
23 soon go forward this week.

24 CHAIRWOMAN SHOWALTER: In the alternatives
25 that you considered, did you consider going ahead

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1 with some of the witnesses this week and delaying the
2 more significant witness or witnesses for another
3 time, three weeks from now, for example?

4 I mean, is that -- do I understand you to
5 say you want all -- the whole opening case to be now
6 or later, or is it a problem to divide it?

7 MR. CEDARBAUM: It is a problem to divide
8 it, because if we were to delay the revenue
9 requirements, Mr. Larsen's revenue requirement piece
10 of the case for two or three weeks, that delays our
11 ability to put our case together, and we're still
12 looking at a June 12th filing date.

13 We have to have our revenue requirements
14 known not only to put on that piece of the case, but
15 also to hand off to our cost of service people and
16 our rate design and rate spread people. So delaying
17 completion of the revenue requirements piece for Mr.
18 Larsen allows us to cross-examine the company's case
19 on other aspects, but we still can't put our case
20 together any sooner than we finish with Mr. Larsen.

21 CHAIRWOMAN SHOWALTER: Does it -- I'm not
22 an expert at procedure, by any means, but if you have
23 access to Mr. Larsen immediately, that is, on
24 deposition or in some other form than this hearing,
25 does that help you?

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1 MR. CEDARBAUM: We're in a position where
2 we've been given a lot of new information that we
3 haven't had the chance to digest or even receive --
4 or fully analyze, from our perspective. A lot of the
5 information that we received yesterday from the
6 company resulted in further errors just through the
7 course of the day, and our look at some of the work
8 papers have found some discrepancies between the work
9 papers and the corrections to the corrections that we
10 talked about yesterday.

11 So I think being able to depose Mr. Larsen
12 next week or the week after, we still need the time
13 to look at everything that's happened over the past
14 couple days and assess that and assess how it will
15 impact our case. So I don't know that -- that
16 process still needs to take place before we can meet
17 our June 12th deadline.

18 CHAIRWOMAN SHOWALTER: So fundamentally,
19 you're saying that the information you received, you
20 haven't had time to analyze adequately, and that's
21 the time that you need, and the order of witnesses,
22 et cetera, is not really the issue?

23 MR. CEDARBAUM: Right. We received the
24 information yesterday. We have some witnesses who
25 were involved in the Staff team on this case and have

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1 testimony in the Avista filing to be made next week.
2 So we haven't had -- we got the information
3 yesterday. We, of course, haven't had a chance to
4 look at it, but our analysis of that information and
5 the conclusions we've reached have to be incorporated
6 into our entire case, because it affects our entire
7 case. So until we've done -- completed that piece of
8 it, the rest of the pieces of our case don't fall
9 together into the whole.

10 So it's not something where we can go
11 forward on aspects -- we can go forward on aspects of
12 the case, do our cross-examination, but our case, in
13 its entirety, can't be put together until all of
14 these separate pieces are analyzed.

15 CHAIRWOMAN SHOWALTER: Is another
16 alternative to delay the June 12th day, or is that
17 running it too close to the next stage?

18 MR. CEDARBAUM: Well, we've talked
19 about that. We've talked about that as a
20 possibility. But unless you then -- you could always
21 delay the pre-filing of the Staff case. That would
22 be fine with us if you don't delay the company's
23 filing of its rebuttal case, but they're not going to
24 like that. And so you're still in a situation where
25 you have to consider letting the entire -- the rest

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1 of the schedule slip.

2 CHAIRWOMAN SHOWALTER: And how much of your
3 -- do you need time to digest this information in
4 order to have an effective cross of the witnesses
5 this time around or is there, in effect, another
6 opportunity to do that, maybe just by putting in your
7 case?

8 MR. CEDARBAUM: I'm not sure I know how to
9 answer that. The only other opportunity we will have
10 to cross-examine the company will be after it files
11 its rebuttal case. The only opportunity we have now
12 to prepare our case for filing June 12th is between
13 now and then.

14 CHAIRWOMAN SHOWALTER: I guess what I'm
15 trying to get at is what is the significance of the
16 opportunity to cross-examine these witnesses this
17 week or hence?

18 MR. CEDARBAUM: Well, the significance of
19 cross-examining witnesses is to build a record that
20 will support our testimony that we file in June and
21 will support your decision, ultimately.

22 CHAIRWOMAN SHOWALTER: Okay, thanks.

23 COMMISSIONER HEMSTAD: What about the
24 remedy of adding an opportunity for surrebuttal?

25 MR. CEDARBAUM: We haven't discussed that

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1 specifically. I'd have to talk to Staff about that.
2 That perhaps solves some of the problem, but not all
3 of it, because we still have the June 12th deadline
4 to work with, and our goal is to put on -- file a
5 case with you that is an accurate case, and not one
6 that we would have to change because our analysis --
7 we were unable to complete our analysis of this new
8 information.

9 JUDGE MOSS: I guess one concern that
10 lingers in the back of my mind is there's sort of an
11 assumption built into the argument that this
12 cross-examination -- this sort of bifurcated
13 cross-examination is a necessary step to the
14 development of Staff's case.

15 And with respect to that, I can only
16 observe that that is not the only way to conduct
17 these hearings, and that I have myself presided at
18 rate hearings before this Commission where we did all
19 this in a single hearing. And Staff, through the
20 process of discovery, was able to put together an
21 accurate case, a good case, and present that through
22 its direct testimony and exhibits, and I'm wondering
23 what's different here.

24 Why is it that this cross-examination phase
25 is such a necessary element of Staff putting together

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1 its direct case? Why can't that same information be
2 gotten through the discovery process and the
3 deposition process, if that's needed with respect to
4 one or two witnesses or something like that?

5 MR. CEDARBAUM: Because there are issues in
6 the case beyond the pure accounting ones that we feel
7 you need to hear about now, that we would like to
8 make a presentation through cross-examination of the
9 company's direct case to go into issues that are
10 important and that we would like to develop a record
11 on early in the case, rather than later. And that
12 can't be done as effectively, both from our
13 perspective and I think from your perspective, as the
14 decision-makers, through depositions and one hearing
15 at the end.

16 JUDGE MOSS: Well, those are two separate
17 issues, though. The issue I'm concerned about is you
18 getting the information you feel you need to develop
19 your case. And the question I put to you is, can't
20 that be accomplished in another way? I understand
21 that you have some separate goals you wish to achieve
22 by having this early round of cross-examination.

23 But with respect to that particular aspect
24 -- I mean, the Commission's paramount concern is to
25 have a complete and accurate record upon which

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1 decisions can be made, so we don't take lightly the
2 suggestion that you need certain process in order to
3 ensure that Staff's direct case is as accurate as it
4 can be, and then the other parties, too, of course.
5 So that's the question I'm going to, is can't you get
6 that information through other processes? Doesn't
7 our experience with other cases where we haven't had
8 this early round suggest that you can?

9 MR. CEDARBAUM: And I guess it just goes
10 back to the point I made before, that the information
11 that we received from the company just yesterday and
12 Friday is information that we need to analyze first,
13 and to be able to meet our June 12th deadline.

14 JUDGE MOSS: Right.

15 MR. CEDARBAUM: And being -- having a
16 deposition of Mr. Larsen or others between now and
17 then, as opposed to a delay in the case, doesn't get
18 us closer to being able to analyze that information
19 than the delay does.

20 JUDGE MOSS: Go ahead.

21 MS. DAVISON: Thank you, Your Honor. This
22 is Melinda Davison. I'm here representing the
23 Industrial Customers of Northwest Utilities. I would
24 like to just briefly weigh in on this issue. I'd
25 like to say that we support the suggestion made by

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1 Staff, and I'd just like to make four quick points in
2 support of that.

3 The first point is one that Mr. Cedarbaum
4 has been alluding to, but I would like to say it very
5 explicitly. I think that the fact that the company
6 has failed to comply with the requirements of WAC
7 480-09-736(b) has put all of the parties at a
8 disadvantage. It has prejudiced all the parties.
9 And we heard yesterday that the company has been
10 aware of several of these corrections for several
11 months now.

12 And I think that any kind of reading of
13 this rule suggests that those corrections should have
14 been made promptly. And to make those corrections
15 two days -- well, actually, one day before the
16 hearing was to begin puts all the parties in a
17 prejudicial position in terms of the ability to
18 prepare.

19 The second thing is that the opportunity to
20 depose Mr. Larsen and to try to get to the bottom of
21 what his numbers are I think puts an improper burden
22 on the other parties to the case. I think that it is
23 incumbent upon the company to correct their
24 testimony, which we have not seen any corrections to
25 their testimony, even to this point today, and that

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1 preparing for a deposition and trying to elicit that
2 information through that type of process is very time
3 consuming and it puts a lot of burden on the parties
4 trying to figure out what are the right questions to
5 ask in order to get that information. I think that
6 that just simply flips the burden from where it
7 should be.

8 The third point is really what I've been
9 saying all along, which is that the company must
10 correct its testimony, and they have not done so.
11 I'm not quite sure how we go from here, in terms of
12 the record that would be created in this process, and
13 perhaps -- I'm sure Mr. Van Nostrand will address
14 this point. I'm not clear whether Mr. Larsen is
15 planning on handing out errata to his testimony, is
16 he planning on making corrections to his testimony
17 verbally, because we certainly have enough
18 information to know that his testimony and his
19 exhibits, he cannot get on the witness stand and
20 swear that they are true and correct, because he
21 knows that there are lots of errors.

22 And particularly, an exhibit that is of
23 concern is the results of operation exhibit. That is
24 something that has a full range of numbers, and lots
25 of those numbers are admittedly not correct.

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1 Having said all that, Commissioner
2 Hemstad's suggestion of surrebuttal, I think, is an
3 excellent one.

4 CHAIRWOMAN SHOWALTER: Independent, instead
5 of delay, or -- I mean, does it obviate the need to
6 delay or is it just a good idea in general, because
7 it gives you another crack or you're getting late
8 information?

9 MS. DAVISON: I guess I would respond by
10 saying I'm getting a very strong sense, and I think
11 Judge Moss has been very straightforward with us from
12 the beginning, which is there's a real issue with the
13 schedule and a delay of the hearing. And so I'm
14 getting a very strong sense that that is something
15 that there is probably not a real groundswell of
16 support for.

17 CHAIRWOMAN SHOWALTER: I don't think you
18 should assume that.

19 MS. DAVISON: Oh, okay.

20 CHAIRWOMAN SHOWALTER: I feel generally
21 impartial on the question, and I am. I don't think
22 you should make an assumption like that.

23 MS. DAVISON: Okay. Well, I'll put that
24 assumption aside, then. I think that I would like to
25 know the answer to the question of how the company

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1 plans to correct Mr. Larsen's testimony and exhibits.
2 And assuming that there is some type of correction
3 provided, then I don't want to say anything that
4 undermines Staff's position, because I know that
5 there is definitely a lot of information that has
6 been provided on this last-minute basis, and I know
7 there's a lot of concern about that.

8 But I do think that surrebuttal could be
9 one mechanism to deal with some of those issues,
10 provided that we have corrections given to us as
11 quickly as possible, as the rule requires.

12 I would also point out to you that this
13 notebook that is sitting in front of me is the
14 rebuttal case of the company in Utah. So you can see
15 that their rebuttal case was quite substantial. And
16 I think that if they are planning on making lots of
17 corrections in their rebuttal case, then we may very
18 well be all coming back to the Commission asking for
19 surrebuttal in any event.

20 JUDGE MOSS: Okay.

21 MR. CEDARBAUM: Your Honor, if I could just
22 add to that point on surrebuttal. My recollection of
23 the current schedule right now is that the company --
24 there's, I think, three weeks between the company's
25 filing of its rebuttal and the hearings, which begin

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1 the first week of August, end of July.

2 JUDGE MOSS: That's right.

3 MR. CEDARBAUM: If we were to -- I'm not
4 sure of what you're talking about if we went the
5 surrebuttal route is to squeeze in a filing of
6 testimony in that three-week period of time or to
7 delay those hearings at the end. I would think,
8 given, apparently, the size of the rebuttal case that
9 we might get and the fact that we would then be both
10 analyzing that rebuttal case and drafting
11 surrebuttal, would require a delay in that last
12 hearing phase.

13 So I certainly don't want to argue against
14 surrebuttal, if that's going to be how this case
15 progresses, but I think you need to keep in mind
16 whether that would also require a change in the last
17 round of hearings.

18 JUDGE MOSS: Okay. All right.

19 CHAIRWOMAN SHOWALTER: Commissioner Hemstad
20 has comments, so do I.

21 JUDGE MOSS: Oh, I'm sorry.

22 COMMISSIONER HEMSTAD: I'd like to hear
23 from the company.

24 JUDGE MOSS: I want to turn to the company
25 next.

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1 MR. CROMWELL: May I address the issue,
2 Your Honor?

3 JUDGE MOSS: Well, Mr. Cromwell, go ahead.

4 MR. CROMWELL: Robert Cromwell, for Public
5 Counsel. Just as a matter of record, it's our
6 position that the company's conduct has resulted in
7 prejudice to our due process rights at this phase of
8 the proceeding. We're certainly very sensitive to
9 the Commissioners' calendar and how tight that is.
10 We are in the same boat, as it were, in most of those
11 cases that are driving the Commission's calendar.

12 As to Commissioner Hemstad's suggestion
13 about surrebuttal, it's one of those things that I
14 think, as Chairwoman Showalter pointed out, you like
15 having the extra crack, but my concern would be how
16 the additional burden that that would impose on our
17 preparations for this case affect our ability to
18 prosecute the other cases that we're also involved
19 with here and sort of the cascade effect that that
20 would have.

21 COMMISSIONER HEMSTAD: It would have that
22 effect by delay, too, wouldn't it?

23 MR. CROMWELL: But if we took this case
24 schedule and essentially stacked it out three weeks
25 with the existing schedule, continued every day three

00110

1 weeks, assuming that your calendars permitted such,
2 that would integrate better with the existing
3 workloads than adding a chunk of extra work sort of
4 in the middle to end -- I guess it would be mid-phase
5 of this case.

6 COMMISSIONER HEMSTAD: But I suspect if the
7 Utah experience is something to be anticipated here,
8 Staff, Public Counsel, and intervenor probably would
9 be asking for the right to surrebuttal anyway.

10 MR. CROMWELL: We may. And I guess it's
11 going to depend on what the company brings forward
12 here in Washington.

13 But I think our next point is that we
14 certainly appreciate the efforts that the company
15 made in bringing folks here yesterday. It was a very
16 productive session for us to go through all that, and
17 I won't repeat the points Mr. Cedarbaum made in that
18 regard.

19 But I think it's our position that a cross
20 in three weeks of the company's witnesses will
21 produce a better record, will produce a better set of
22 filings from the other parties and ultimately create
23 a better record in this case for you all to review.

24 And finally, just in closing, we're very
25 concerned about the problems that we've encountered

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1 with this company's approach to this case so far.

2 JUDGE MOSS: Let me ask, before we do turn
3 to the company, when you talk about slipping the
4 cross-examination for three weeks, or approximately,
5 let's say, are we also talking about slipping every
6 other date by three weeks, or are we talking about
7 making adjustments internally to the schedule to
8 maintain our July 31st through August 4th hearing
9 schedule?

10 MR. CEDARBAUM: Our proposal was that the
11 schedule, each stage of the schedule would slip.

12 JUDGE MOSS: Okay.

13 MR. CROMWELL: That was our understanding,
14 as well, Your Honor.

15 JUDGE MOSS: That's the proposal. I just
16 wanted to be clear that that's what the suggestion
17 is.

18 MR. CEDARBAUM: Sorry if I didn't make that
19 clear.

20 JUDGE MOSS: No, it was probably the
21 listener, not the speaker.

22 CHAIRWOMAN SHOWALTER: Before we turn over
23 there, I just have a question of these parties and
24 also of the company. If we go ahead this week, what
25 is the value of the cross? That is, are we going to

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1 have initial testimony that's accurate, and assuming
2 that, do you have questions prepared? I mean, are we
3 going to get benefit out of both a direct and a cross
4 this week? And I'm sure that we'll have an answer on
5 the other side, as well.

6 MR. CEDARBAUM: Well, as we discussed
7 before, there are witnesses we're prepared to go
8 forward with that can be looked at independently from
9 the revenue requirements issues, so --

10 CHAIRWOMAN SHOWALTER: And who would those
11 witnesses be?

12 MR. CEDARBAUM: Mr. Dalley, Mr. Hadaway, I
13 believe Mr. Widmer, unless there's something from Mr.
14 Larsen's corrections that impacts Mr. Widmer. I'm
15 not sure. And I think, from Staff's perspective, Ms.
16 Rockney and Mr. Hedman. So Mr. Peterson, Taylor, and
17 Griffith and Larsen would be the witnesses that would
18 be impacted, or potentially impacted.

19 CHAIRWOMAN SHOWALTER: Well, I guess I'm
20 back to my first question, and we've just had more
21 discussion since then, but if our calendar is a
22 problem, then exactly what is the problem with going
23 ahead this week with Dalley, Hadaway, Widmer, et
24 cetera, and delaying the rest? Maybe it invokes the
25 next question of delaying all the rest. But if we

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1 don't have five days or four days three weeks from
2 now, but supposing we do have a few days left now and
3 some days later, does that at least enable this plan,
4 and I don't know about all the rest of the slipping
5 date. That's its own problem.

6 MR. CEDARBAUM: From the Staff's
7 perspective, we could cross-examine the witnesses
8 that I listed as being potential for this week, but I
9 still think that, because we still can't get to the
10 big picture of revenue requirements until after we've
11 analyzed Mr. Larsen's corrections, putting together
12 our case entirely for June 12th is the burden.

13 CHAIRWOMAN SHOWALTER: Okay.

14 MR. CEDARBAUM: So we could go forward with
15 cross on some witnesses this week, but I don't think
16 that means that we could then assume that, Well, we
17 can get to Mr. Larsen in two or three weeks and find
18 a couple of days on your schedule then to finish the
19 case.

20 CHAIRWOMAN SHOWALTER: Without also
21 slipping all the rest.

22 MR. CEDARBAUM: Exactly.

23 JUDGE MOSS: I'd like to pursue that for a
24 minute and wonder if we might shorten the amount of
25 slippage you feel like is required. Let's assume for

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1 half a minute, and we have done some investigation of
2 calendars to even see if this is a possibility, to go
3 ahead with the witnesses we're fully prepared to
4 examine, the ones you mentioned, and then have a
5 couple of days three or four weeks from now for
6 Larsen, primarily. I think it's primarily Larsen.
7 Peterson. We look at Griffith, and the Staff only
8 had five minutes of cross-examination of Griffith,
9 according to its estimate, so maybe we could get him
10 out of the way now, maybe not. Taylor is the other
11 witness more significant in terms of the time that's
12 estimated.

13 What I'm thinking is, and I haven't really
14 looked at the schedule to be certain of myself, but I
15 think it might be possible, for example, to have some
16 cross-examination of those select witnesses three or
17 four weeks from now, and then maybe slip the
18 testimony date by a week, which would give you a
19 couple weeks after that, in addition to all the time
20 before that, for other aspects of the case. You
21 know, whether some plan like that might work, as
22 well.

23 MR. CEDARBAUM: Just so I understand, we
24 would -- how much are you saying we'd slip the June
25 filing?

00115

1 JUDGE MOSS: You know, just thinking off
2 the top of my head, I think there's certainly at
3 least a week built in there, maybe two. You know,
4 three weeks between the last round of prefiled
5 testimony and the hearing is probably more than is
6 really needed. So that gives us a little flexibility
7 there. We might have to shorten the time between the
8 direct case of Staff and other parties and rebuttal
9 by the company. I mean, there's some give in there.
10 I'll tell you, one of the key problems here
11 that we're faced against is that the original
12 schedule was established in cooperation with the
13 parties with an eye to the suspension period. And if
14 you're talking about slipping this whole case
15 schedule by three weeks, you are reducing to
16 approximately five weeks the entire time for briefing
17 and the Commission's deliberation and the decision
18 process, and that's, frankly, not realistic.
19 Experience tells us that we need to leave
20 60 days at the end for that process to take place,
21 and I'm just concerned, if we're talking about
22 slipping nearly half of that away, that that raises a
23 problem. So my thinking -- and I too remain
24 open-minded about this. Of course, the Commissioners
25 will make the decision, but my thinking about this is

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1 one that, as Ms. Davison observed, has been strongly
2 oriented toward the idea that if we can preserve that
3 end hearing date and make some changes internally,
4 that that is a superior solution, from the Bench's
5 perspective, for a number of reasons, one of which is
6 the calendar constraints -- and I guess they're both
7 calendar constraints. The other, of course, is the
8 suspension date, which is a calendar consideration.

9 Of course, the company holds the keys to
10 the ten-month statutory suspension period. Nobody
11 else in this room can waive that. And so, you know,
12 that's sort of where we stand, I guess.

13 MR. CEDARBAUM: I guess two points. One is
14 you're right, that we do have a suspension period
15 problem, but that problem was created by nobody in
16 this room except for PacifiCorp.

17 JUDGE MOSS: Well, I understand that.

18 MR. CEDARBAUM: Well, but that's important.
19 I mean, we're in this position not because of
20 anything that Staff did or the other parties or this
21 Commission did; we're here because the company, on an
22 untimely basis and to the extreme burden of everyone
23 else, gave us an indication of corrections that it
24 discovered, but has yet to commit to revise its case
25 around. And so if it involves letting the suspension

00117

1 period slip, then so be it. And the company should
2 back off on that, because it's responsible for this
3 situation.

4 And second, with respect to trying to use
5 today and the current endpoint in the schedule, I
6 just think that's unworkable, mostly because if
7 you're looking at reducing the time in between the
8 company's rebuttal filing and the hearings, which is
9 currently now only three weeks, that is not much
10 time. That is honestly a short period of time for us
11 to be able to review and analyze and prepare and just
12 do discovery and prepare for cross-examination of the
13 company's rebuttal case, especially if we're faced
14 with a situation of a rebuttal case being extensive,
15 which I would anticipate being the case, given the
16 fact that the company has many corrections to make to
17 its direct case already, not to mention other
18 substantive issues that might come up.

19 So I think the option of trying to work
20 within the existing parameters, time-wise, of the
21 schedule doesn't solve the problem. It just takes
22 time away from other -- from aspects of the case that
23 we still need to build into the schedule.

24 CHAIRWOMAN SHOWALTER: What's the current
25 date that -- your testimony is due June 12th. What

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1 date is the company's rebuttal testimony?

2 MR. CEDARBAUM: July 5th.

3 CHAIRWOMAN SHOWALTER: And then the
4 hearings start what day?

5 MR. CEDARBAUM: July 31st, and then --
6 through, I think, the 4th of -- that week, which is,
7 I guess, the 4th of August.

8 JUDGE MOSS: That's correct.

9 MR. CEDARBAUM: I can't remember when
10 briefs are due.

11 JUDGE MOSS: September 7th.

12 CHAIRWOMAN SHOWALTER: Well, supposing the
13 company were not given any more time to file
14 rebuttal, but your date slipped, if this is, in fact,
15 their doing. We have yet to hear from the company on
16 the point, but I guess I'm -- you keep resisting any
17 solution to keep the current schedule, but what if
18 you're not really -- what if your date slips, but
19 nobody else's does?

20 MR. CEDARBAUM: I think that could work.

21 CHAIRWOMAN SHOWALTER: We'll probably hear
22 from the company on that point.

23 MR. CEDARBAUM: I was assuming, and maybe I
24 shouldn't have made the assumption, but I was
25 assuming that the company would argue against that.

00119

1 CHAIRWOMAN SHOWALTER: They may.

2 MR. CEDARBAUM: And that you might be
3 persuaded by their argument on that point, but we
4 could delay the Staff pre-filing without a delay of
5 the company's rebuttal pre-filing and solve some of
6 our problem.

7 CHAIRWOMAN SHOWALTER: Okay.

8 JUDGE MOSS: It might shorten the rebuttal
9 case, too. Nobody's even in the mood for even light
10 humor.

11 MS. DAVISON: Your Honor, may I make one
12 very quick suggestion before you move on to the
13 company? Very quick. In pursuing the solution that
14 Chairwoman Showalter was suggesting, the only other
15 thing I'd like to throw into the mix would be
16 expedited responses to data requests. That would be
17 very critical to making the current schedule work.

18 JUDGE MOSS: Yeah, we've had prior
19 occasions when we have shortened response periods,
20 and that's an option that we can build in to any
21 adjustments that might be indicated after we hear the
22 full argument on the subject matter.

23 I think we're probably up to the point now
24 where we can most usefully turn to the company and
25 get its perspective on all of this. So Mr. Van

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1 Nostrand.

2 MR. VAN NOSTRAND: Thank you, Your Honor.

3 I guess I have such a list of things to which to
4 respond, I don't know where to begin. Perhaps the
5 notion that the Staff prefiling date could be slipped
6 and we would still file rebuttal on July 5th, I guess
7 that we have three weeks now, which effectively
8 denies us any ability to do any discovery on the
9 opposing testimony before we file rebuttal, and I
10 think that would be a severe hardship already, which
11 we're very concerned about, and to shorten that even
12 further -- in response to the notion, well, look how
13 big the Utah rebuttal case is, the rebuttal case is
14 as big as it has to be to respond to the opposing
15 testimony put on by Staff and the other parties.

16 That's the nature of a rebuttal case. It's
17 only appropriate to respond to the cases that are put
18 on against us. If it goes beyond that, it's improper
19 and subject to being stricken. So the size of our
20 rebuttal case is largely not within our control, and
21 I just -- I don't know if the solution here is
22 shortening that time -- already short time between
23 June 12th and July 5th.

24 In terms of expediting the suspension
25 period, I think it's PacifiCorp's position, and I

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1 guess we'll see whether the testimony bears it out,
2 but it's substantially underearning in this state.
3 And the notion that we would delay implementing new
4 rates to give the company a reasonable opportunity to
5 earn an allowed return, delay that for three weeks I
6 think is a punishment which doesn't fit the crime.

7 And now I'd like to talk about the crime,
8 which we don't think there has been a crime. There's
9 been a lot of talk about information which was
10 provided for the first time yesterday. I think when
11 the Commission gets an opportunity to review the
12 responses to the Bench requests, you'll see that a
13 lot of this information has been provided in response
14 to data requests.

15 I'd like to clarify the record. I think
16 Staff has taken position with how this was
17 characterized in the arguments on Friday in the
18 prehearing conference, in terms of whether these are
19 concessions or not. The point is that the process of
20 discovery in a rate case, I think Staff, in an audit,
21 will see things that they don't think are correct or
22 possibly a mistake, they'll ask a company, in a data
23 request, Gee, could you reconcile these numbers. The
24 company attempts to reconcile the numbers and
25 acknowledges, yes, there's been a mistake, the

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1 correct number should be this.

2 So that's what a lot of these data request
3 responses are that are listed in response to the
4 bench request. I don't know if that could be
5 characterized as concessions, but the point of the
6 matter is that Staff has identified certain problems,
7 the company has responded by acknowledging the
8 problems and saying that yes, a correction would be
9 appropriate, rather than having to go through the
10 exercise of putting the data request in the record,
11 forcing the witness to admit, gee, weren't you wrong,
12 the point of this whole exercise, which started last
13 week, was to compile all these areas where we think
14 adjustments would be appropriate and provide that to
15 the parties.

16 Some of these -- and in terms of whether or
17 not we've complied with the rules and actually revise
18 our exhibits, we are not revising our exhibits at
19 this point of the case. The total amount of the
20 adjustments is still within \$700,000 of the total
21 revenue requirement. There is just -- it's not the
22 wholesale revision of the company's case that we
23 think warrants formally refileing exhibits. We will
24 stand on the testimony that we filed. We will
25 acknowledge that these items have been brought to our

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1 attention and that adjustments probably should be
2 made. If they're not made sooner, we will make them
3 in our rebuttal case, but we're not proposing to
4 submit revised exhibits with the notion we're out of
5 compliance with the WAC.

6 This is the kind of give and take that
7 happens in rate cases. The Staff audit process --
8 they've done a very thorough job. They've come down
9 to the PacifiCorp headquarters in Portland for days.
10 They turn up things. That's their job.

11 And the company's job is to look at the
12 items that they've identified and see whether we've
13 made a mistake. If we have, choose to not
14 acknowledge it or acknowledge it and move on. We've
15 chosen to acknowledge it and move on, so --

16 CHAIRWOMAN SHOWALTER: Can I just interrupt
17 you on that particular point? Does that mean -- are
18 your witnesses prepared this week to get on the stand
19 and be sworn in under oath and answer the question,
20 If this was your testimony, if you were asked these
21 same questions today, would it be your same
22 testimony, are they going to answer yes?

23 MR. VAN NOSTRAND: I think they would say
24 yes, subject to the items that have been included in
25 the response to the bench requests. There are clear

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1 --

2 CHAIRWOMAN SHOWALTER: Doesn't that imply
3 an errata list? I mean, in my limited experience,
4 which is limited, it seems that the first thing the
5 witness will do will say, well, I want to change on
6 page 14, line 10, you know, this number to that
7 number, and those corrections are made. And my
8 question is, are you anticipating that process or
9 not?

10 MR. VAN NOSTRAND: I think we can indicate
11 what the correction would be to the revenue
12 requirement figure were we to rerun the results of
13 operation at this stage of the game. But this -- the
14 direct testimony is sort of like a snapshot. And I
15 mean, there's still seven weeks between when this
16 round of hearings is over to when Staff does their
17 case. There's an opportunity for another two rounds
18 of discovery. The rate case is evolving.

19 I think next week we could find more
20 corrections, more adjustments that might be
21 warranted. The point is you don't just refile your
22 case every time an item needs to be adjusted. I
23 think if we were talking about significant
24 adjustments, that may indeed be appropriate. We're
25 talking about \$700,000 cumulative magnitude of these

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1 19 adjustments. It doesn't substantially affect the
2 cost of service recommendations or the rate design,
3 rate spread recommendations. These are not material
4 changes.

5 I think the witness is going to have to
6 acknowledge that we have -- we have admitted that
7 some corrections should be made and that testimony
8 would be subject to those items that are listed in
9 response to the Bench request, and including those
10 work papers that are included in response to the
11 Bench request, but it's -- I guess the notion that we
12 need to stop at this point in time and refile the
13 whole case, it's kind of a Catch 22.

14 Do you -- I mean, do you just deny that
15 there's a need for adjustments and force the issue to
16 be battled over cross, or do you admit that
17 adjustments probably should be made, but we've got
18 another four months to go in this process, another
19 round of testimony, and this is what the rate case
20 process is about. There are errors that are
21 discovered, there are adjustments that are made.

22 The company will refile its revenue
23 requirement in rebuttal with new numbers, we'll agree
24 to a lot of things that happened. One of these
25 adjustments, for example, assume that the PITA accord

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1 would be adopted. It wasn't, so it wasn't
2 appropriate to advance that cause anymore. It would
3 have been not wise to continue arguing for it, but --
4 CHAIRWOMAN SHOWALTER: Well, I'm not really
5 questioning the testimony that you did prefile. I'm
6 looking at the Staff's point of view for my own. If
7 I open up the book and start reading the witnesses'
8 testimony, which is what I do before they're
9 cross-examined, am I reading accurate testimony or
10 not? That's my question.

11 MR. VAN NOSTRAND: I guess, in our view,
12 and others probably may have a different view, this
13 is a very small piece of the company's case. A
14 substantial majority of the issues are unaffected by
15 this whole debate. Because they are revenue
16 requirement issues, the numbers do, of course, ripple
17 through. If you're going to go look at the number of
18 numbers on Mr. Larsen's exhibit that would have to be
19 changed, that's the nature of the revenue requirement
20 witness. If any number changes, they ripple through.
21 A couple of the adjustments are the interest trueup
22 and the taxes. Those things just flow from other
23 adjustment.

24 But substantial parts of the company's case
25 are completely unaffected. We think it's a very

00127

1 small slice of the case that is affected. Mr.
2 Cedarbaum has indicated that they're ready to go
3 forward with five witnesses. Another two witnesses,
4 Taylor and Griffith, are the rate design, cost of
5 service, and the question is, with a magnitude of
6 change in the revenue requirement of this small
7 amount, are those numbers really changed? Well,
8 technically, they are changed, but are the rate
9 design recommendations going to change because the
10 figure is \$700,000 more or less than the 25.8
11 million? I don't think so. The testimony is largely
12 unaffected.

13 And another issue that they're proposing to
14 defer is Dan Peterson on depreciation. We
15 understand, from talking to Staff this morning, that
16 there are four very minor changes which Staff is
17 proposing to make to the new depreciation study filed
18 by the company, and if we had a couple weeks, we
19 could probably resolve that whole issue through a
20 stipulation and not even offer Mr. Peterson, which
21 has been done in the other states.

22 That's another item made to look larger
23 than life and made to look like it's affecting the
24 whole case when I think, if the parties had time,
25 through a technical conference, probably we can work

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1 out the whole depreciation issue and make it go away.

2 So I think it's -- in terms of is it a
3 waste of time to listen to cross-examination on this
4 case, it is really a small sliver of the case that's
5 affected. And I'm sure it's revenue requirement and
6 the numbers ripple through, but if you look at the
7 number of issues involved in the case, how many are
8 affected, a very small number.

9 CHAIRWOMAN SHOWALTER: Can you address the
10 question of whether you had this information in
11 February or March and could have given it at a much
12 earlier date?

13 MR. VAN NOSTRAND: I think what we tried to
14 do on the bench request response and what we've given
15 to the parties earlier was identified those data
16 request responses where we originally advised Staff,
17 and because the copies of the data request responses
18 to Staff were given to all the other parties, pretty
19 much everybody was notified. We indicated when that
20 information was first provided to the Staff and the
21 parties.

22 I think, in some cases, there may have been
23 some things that came out of the Utah rate case, I
24 think probably could have been brought to the
25 attention of the parties sooner, and I frankly don't

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1 have a good explanation for that, other than just the
2 number of proceedings going on.

3 And there is a practical recognition that
4 the Commission Staff's and the parties to the other
5 cases are exchanging a lot of information, and I
6 think, in some cases, the company felt that parties
7 here were aware of what was going on in Utah, but,
8 admittedly, I think a couple of these changes that
9 came out of the Utah rate case probably could have
10 been brought forward in a more timely fashion, but I
11 believe the Utah adjustments really only -- there's
12 only two of these that fall into that, into that
13 category. Maybe three, unbilled revenues.

14 All three of them are very small, small
15 items. It's unbilled revenues, outside services and
16 the bridger accounts receivable. And the rest of
17 them are in a different category of -- largely in
18 response to Staff audits and largely acknowledged in
19 our responses to Staff data requests.

20 CHAIRWOMAN SHOWALTER: I mean, as I analyze
21 this problem here, you don't want to shorten the time
22 between the three-week period between their case and
23 your rebuttal, you don't want to delay the suspension
24 period, but you do acknowledge, I think, that you
25 could have given this information earlier.

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1 Now, you say it's not very important
2 information or it's quite slight, but the Staff says
3 no, at least on their first look at things, more
4 profound than you would have us believe. But we, of
5 course, don't know whether it's big or little, but it
6 is new, and maybe could have been not quite as new as
7 it is.

8 So you're asking us not to delay anything,
9 even though you did delay some of this information.
10 And I guess my question is, is it possible that, even
11 though shortening that three-week period would be
12 difficult on you, but maybe that's appropriate, given
13 that you have caused some of this crunch?

14 MR. VAN NOSTRAND: Again, a couple things.
15 One, I think we made it clear early on yesterday that
16 we would agree to put Mr. Larsen later on in the
17 lineup this week, so that if Staff and the other
18 parties needed time to assimilate this information,
19 they'd have that time. We made it very clear that we
20 would agree to make Mr. Larsen available for a
21 deposition down the road once the parties had a
22 chance to go through this information.

23 I guess I would agree with Ms. Davison. I
24 don't know that depositions are the best way to
25 proceed. I frankly think the kind of exchange we had

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1 yesterday with the technical conference was far more
2 productive, and I think we're totally agreeable to
3 doing that. There's better ways of familiarizing the
4 parties with our case and these changes than
5 litigated deposition process. So we're open to that,
6 and we made that clear that we would do anything we
7 can to accommodate making Mr. Larsen available and
8 Mr. Peterson available down the road.

9 I guess, in our view, we see there's still
10 seven weeks from yesterday or today till Staff files
11 its case. That, to us, seems like a long time. It's
12 enough to allow two full rounds of discovery, it's
13 enough that, in a couple, three weeks, there could be
14 a round of depositions to nail down whatever issues
15 or items with Mr. Larsen and Mr. Peterson that can't
16 be addressed this week, although I think, with Mr.
17 Peterson, we think the whole thing could go away in
18 short order.

19 Again, I think we have been agreeable to
20 providing remedies which we feel match the crime,
21 because my experience, with the exception of a
22 couple, three of these, is this is the sort of give
23 and take that happens in discovery process and the
24 auditing process, and it's being made to look much
25 larger than it is. But I acknowledge people may

00132

1 disagree about how large these changes are, but
2 again, the impact on the revenue requirement is
3 relatively small.

4 JUDGE MOSS: A concern that I have, Mr. Van
5 Nostrand, is the state of the evidence in the record.
6 When it comes time for the Commissioners to
7 deliberate and make a decision and ultimately to put
8 their signatures at the bottom of an order that is
9 prepared, the fundamental premise of that order will
10 be that there is substantial competent evidence in
11 the record that supports each and every decision that
12 is made in that.

13 And of course, in a sense, although not
14 each line item, of course, is addressed expressly in
15 an order, if the Commission determines the revenue
16 requirement is X, then that necessarily implies that
17 the Commission has found substantial competent
18 evidence to support all of the underlying numbers
19 that go into that overall revenue requirement.

20 And so while it may be true that \$700,000
21 pales in comparison to \$25.8 million, another concern
22 is simply the number of adjustments that are made
23 ultimately to the underlying analyses. And I'm
24 concerned, if I look at an exhibit that has 70 or 80
25 line items on it, and the witness takes the stand and

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1 is asked if his testimony and exhibits are true and
2 correct and his responses would be the same, and he
3 says, Well, yes, except for the 19 adjustments, which
4 then, when they're flowed through to the various line
5 items in the exhibit, turn into 68 adjustments, and
6 so on, so forth, that's sort of a cascading effect,
7 as you have alluded to, and that is the nature of the
8 beast.

9 But what do I do with that, as a Judge,
10 advising the Commissioners; what does our accounting
11 adviser do, as an adviser advising the Commissioners;
12 and what do the Commissioners themselves do with a
13 body of evidence that includes, as one of the
14 company's primary pieces of evidence, an exhibit upon
15 which, frankly, they cannot rely, because so many of
16 the numbers that it states have changed?

17 Now, the suggestion is made in the response
18 to Bench Request Number Two that a correct set, I
19 suppose, of revenue requirements exhibits would be
20 introduced through the rebuttal case. While that
21 might ultimately lead to an accurate record, you
22 know, in a sense, it would cause me to want to take
23 this exhibit here and toss it out the window, because
24 it does me no good.

25 What you're telling me is that, you know,

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1 at the end of the case on July 5th or, you know,
2 three weeks before the final round of hearing, that
3 exhibit's no good. So I guess the question then
4 comes back to why should we spend time -- why should
5 we burn hearing time now going through exhibits that
6 ultimately are going to fall out of the case.

7 I mean, why shouldn't the Commission, for
8 example, entertain a motion to strike Mr. Larsen's
9 exhibits at this juncture if they are ultimately to
10 be totally replaced, which seems to me to be what is
11 being suggested here, that ultimately these will be
12 corrected and replaced at the end of the case.

13 Now, maybe you're telling me that happens
14 in the routine course of rate cases. Certainly it
15 would be an unusual rate case indeed where one
16 party's or the other's exhibits or testimony were
17 adopted by the Bench as its decision in the case.
18 There's usually some give and take and this number's
19 accepted on the basis of the strength of the evidence
20 and the number from this other witness' on this other
21 point, so on, so forth, but I'm just concerned with
22 what we do with this body of evidence, given its
23 condition.

24 MR. VAN NOSTRAND: I don't think that
25 exhibit, at the conclusion of the case, would be one

00135

1 on which the company heavily relies. I think that's
2 the nature of the rate case process. I indicated
3 yesterday, were it not for this round of hearings
4 where we cross-examine the direct case, the
5 Commission would largely be unaware of this whole
6 exchange, because this is the type of things that I
7 can see in Mr. Larsen's rebuttal exhibit. It would
8 be like, Oh, by the way, we have all these items that
9 Staff pointed out in their audit that these numbers
10 have been revised to reflect these things.

11 And I don't -- I think it's typical of the
12 process where you have three rounds of testimony and
13 one round of hearings, that that last round of
14 testimony largely makes the first round of testimony
15 unnecessary, because the company, in response to the
16 parties' cases, will adopt many of their adjustments
17 and their proposed corrections, and I think that's
18 why -- I'm not sure why, but the Commission's moving
19 more to that process, because so much of the case
20 does go away by the time you get to that phase. If
21 the issues are in error, and the company will adopt
22 those adjustments that have merit or concede that
23 corrections need to be made to some thing.

24 So bottom line, I don't think, at the end
25 of the case, the company would be relying heavily on

00136

1 Mr. Larsen's direct exhibit. They'd say there's a
2 new calculation of the revenue requirement and Mr.
3 Larsen sponsors it as part of the rebuttal case, and
4 that's the case that the company would be proposing
5 at that time, which would reflect the adjustments and
6 corrections they thought were necessary from the
7 opposing cases.

8 CHAIRWOMAN SHOWALTER: But isn't the
9 distinction that you know right now of these
10 corrections? I mean, I think whatever process is
11 used, whether it's a long, drawn out one or a compact
12 one, it's good that people adjust their testimony as
13 time goes on with mistakes that are realized, et
14 cetera. That is the purpose of the process, and I
15 would expect that to happen over the ensuing process.

16 But what's different about this is you know
17 today that the testimony to be introduced today or
18 this week is inaccurate. And so you're saying,
19 hypothetically, if we hadn't all known this, we would
20 have found it out later, so no harm done, except we
21 do all know this, I think you're admitting that, and
22 so it's very odd to begin hearings based on testimony
23 everybody in the room seems to agree is inaccurate.

24 I mean, the difference is normally you all
25 start out under oath saying this is what I know

00137

1 today, it's the best, it's my most honest testimony
2 today, and we accept that, and then there's
3 cross-examination and adjustments to the testimony.

4 MR. VAN NOSTRAND: I guess my experience
5 has been that there -- as part of the auditing
6 process and the discovery process, this is fairly
7 common to identify these errors. And when you have
8 -- the case has been on file for five months. We've
9 answered 450 data requests to Staff alone, another
10 120 to Public Counsel. There's been a lot of
11 discovery that's been done. I don't know if this is
12 unusual that items are acknowledged where there are
13 adjustments that are warranted, but you still don't
14 refile your exhibits, because the case changes, and
15 it will continue to change until we file rebuttal.

16 I don't know if this is any more unusual,
17 other than -- I think the company probably made a
18 mistake by compiling all these acknowledgements and
19 stepping up to it. I guess, in retrospect, we should
20 have played the game and forced the parties to put in
21 the data request responses and get chased around on
22 cross-examination and then admit, finally, after
23 being beaten into submission, yeah, we made a
24 mistake, we'll correct it.

25 But I think the tactic of coming forward

00138

1 and saying we've compiled all the data request
2 responses where we've acknowledged corrections should
3 be made, and here we are, and have it blown up and
4 used as the basis for delaying the case, I think
5 that's the unusual aspect of it, and I've done a few
6 of these general rate cases.

7 JUDGE MOSS: All right. We're going to
8 take a recess now. Hopefully, we can be back in
9 about ten minutes, so let's count on that. Parties,
10 please be back around, ready to go back on the record
11 at ten before the hour, and we'll get back quickly as
12 we can. We're off the record.

13 (Recess taken.)

14 JUDGE MOSS: Let's go back on the record.
15 The Bench has had an opportunity to deliberate, as it
16 turned out, for somewhat more than ten minutes to
17 consider this conundrum that has been presented and
18 that the parties have had an opportunity to present
19 argument with respect to.

20 It appears that the best solution, in terms
21 of accommodating the various interests that have been
22 expressed, conditions as they exist at this moment in
23 time, at least, and the Bench's need for a complete
24 and accurate record in the case, that the best option
25 is to postpone the cross-examination of Witnesses

00139

1 Larsen, Peterson, Taylor and Griffith until another
2 date. And we have checked the calendars and have
3 found that the dates June 5th and 6th are available
4 to conduct that cross-examination.

5 In the meantime, we would go forward with
6 the examination of Dalley, Hadaway, Widmer, Rockney
7 and Hedman, and we may talk in a moment if there are
8 any other of the four that I've identified as needing
9 to be postponed that we might go ahead and take care
10 of, if that's possible, if their testimony is not, in
11 fact, implicated.

12 Point two, then -- the postponement is
13 point one. Point two, the Bench would require of the
14 company that we have revised testimony and exhibits
15 for Larsen that accurately reflect the changes that
16 are indicated and discussed in response to Bench
17 Request Number Two. And the date for that would be
18 May 9. See if I have a calendar.

19 CHAIRWOMAN SHOWALTER: It's two weeks from
20 today.

21 JUDGE MOSS: Okay. So it's a Tuesday. I
22 mentioned the cross-examination would begin on June
23 5th with respect to the four postponed witnesses, and
24 then continue on the 6th, as necessary. Staff's
25 direct, which I believe is currently due on June the

00140

1 12th, would be slipped to June the 19th, and the
2 balance of the procedural schedule would remain as
3 is, unless the company wants to waive the suspension
4 period, in which case there would be some flexibility
5 to extend the end part of the procedural schedule and
6 make some accommodations in some of these dates.

7 Now, we have about 30 minutes before the
8 luncheon hour. If anybody wants to comment on this
9 determination or bring any other business that we
10 might want to conduct forward at this time, then we
11 can do that. Otherwise, we're going to take an early
12 recess for lunch and come back. Mr. Cromwell.

13 MR. CROMWELL: Just a clarification, that
14 that would be -- the June 19th date would be for all
15 other parties, as well?

16 JUDGE MOSS: Yes, all parties. And I
17 apologize. I sometimes simply say Staff, because
18 they are taking the principal laboring oar in this
19 case, as indicated by the estimates of
20 cross-examination time, but when I speak to them or
21 refer to them, I am referring to all parties who are
22 in some fashion opposed to portions of the company's
23 case.

24 MR. CROMWELL: Thank you, appreciate that.

25 JUDGE MOSS: Okay. It appears that we have

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1 no short business to conduct before the luncheon
2 recess. We will take that commencing now and return
3 at 1:00. We're off the record. Oh, let's go back on
4 the record momentarily. I apologize. I cut off some
5 comment from the Bench.

6 COMMISSIONER HEMSTAD: I was going to ask
7 what will the order of witnesses be starting this
8 afternoon?

9 MR. VAN NOSTRAND: Mr. Dalley, Mr. Hadaway,
10 Mr. Widmer, Ms. Rockney, and Mr. Hedman.

11 JUDGE MOSS: Anything else? And I do
12 apologize for cutting off prematurely. All right.
13 We're off the record.

14 (Lunch recess taken.)

15 JUDGE MOSS: Let's go on the record.
16 Welcome back, everyone, after our luncheon recess.
17 We are prepared, I believe, to have our first
18 witness.

19 MR. VAN NOSTRAND: Your Honor, if it would
20 be appropriate for a couple of clarifications of the
21 ruling just before lunch?

22 JUDGE MOSS: Sure.

23 MR. VAN NOSTRAND: One, we want to make
24 sure this revised exhibit prepared by Mr. Larsen, I
25 think there was some reference to whether or not it

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1 would include only the 19 items set forth in the
2 bench request, because invariably there may be other
3 things that will come up between now and May 9th.
4 Should that revised exhibit be limited to only those
5 things in the Bench request, or should we include
6 other things which may arise between now and May 9th?

7 JUDGE MOSS: Let's learn the Bench's
8 preference.

9 (Discussion off the record.)

10 JUDGE MOSS: All right. Thank you for the
11 question, Mr. Van Nostrand. The response is that the
12 Bench would prefer to see the best information
13 available to the company as of the date of filing.

14 MR. VAN NOSTRAND: Okay. Thank you for
15 that clarification, Your Honor. Another point we'd
16 like to request, given the short turnaround that we
17 now have between June 19th and the filing of our
18 rebuttal case, we're hoping to revisit perhaps the
19 discovery turnaround time.

20 We had agreed in the prehearing conference
21 that once we filed our rebuttal case on July 5th, we
22 would shorten the turnaround time to seven business
23 days, and we'd ask that that be extended back to June
24 19th. Otherwise, there will be no discovery of the
25 company -- or of the Staff and other parties'

00143

1 testimony with the standard ten-day turnaround.
2 JUDGE MOSS: I wonder if we should
3 entertain the idea of shortening the discovery
4 response time from this point forward. Other
5 parties?

6 MR. CEDARBAUM: I don't have any objection
7 to doing that, to shortening from ten days down to
8 seven from today.

9 JUDGE MOSS: Okay. I think we'll do that.
10 On a going forward basis, the response time for
11 responses to data requests will be seven days,
12 instead of ten.

13 MS. DAVISON: Your Honor, could I just
14 clarify, are these working days, as opposed to --
15 business days, as opposed to calendar days?

16 JUDGE MOSS: We normally -- what does the
17 rule say, business days?

18 MS. DAVISON: Yes, Your Honor, but since
19 we're making an exception, I just wanted to make
20 sure.

21 JUDGE MOSS: What did the parties have in
22 mind, business days or calendar days?

23 MR. VAN NOSTRAND: Prehearing conference
24 order said business days.

25 JUDGE MOSS: That's what we've been

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1 operating under. So seven business days, that seems
2 reasonable. So you may want to time your questions
3 carefully.

4 MR. CEDARBAUM: Your Honor, just one quick
5 request in response to Mr. Van Nostrand's request to
6 you about putting all revisions into the new Larsen
7 exhibit to be filed May 9th. My request would be
8 just that if there are revisions that are in there
9 beyond the 19 that we've been discussing, that the
10 company, at least in the cover letter when they
11 submit this, just list what they are, so we can have
12 some direction as to what we're looking for.

13 JUDGE MOSS: Seems reasonable that you
14 would identify the points in the exhibits and
15 testimony where the changes are made by some sort of
16 a list that would give people the ability to focus
17 quickly on that. Anything else we need to take up
18 with respect to that?

19 Let me ask the parties, do you require a
20 written order, or does everybody feel they
21 sufficiently understand what we're doing on a going
22 forward basis?

23 MR. CEDARBAUM: We understand.

24 MR. VAN NOSTRAND: We understand.

25 JUDGE MOSS: Okay, good. Fine. Then I

00145

1 won't take the time this evening to write an order.
2 Well, then, I think we are ready to call our first
3 witness. Mr. Van Nostrand, if you would do the
4 honors.

5 MR. VAN NOSTRAND: Thank you, Your Honor.
6 The company would call Robert Dalley.
7 Whereupon,

8 ROBERT R. DALLEY,
9 having been first duly sworn, was called as a witness
10 herein and was examined and testified as follows:

11 JUDGE MOSS: Thank you. Please be seated.

12

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

14 BY MR. VAN NOSTRAND:

15 Q. Mr. Dalley, could you state your name and
16 spell it for the record, please?

17 A. Yes, my name is Robert R. Dalley, D, as in
18 David, a-l-l-e-y.

19 Q. And what is your position with PacifiCorp?

20 A. I'm the company's controller and chief
21 accounting officer.

22 Q. If I understand correctly, Mr. Dalley,
23 you're adopting the prefiled testimony of Richard T.
24 O'Brien in this case?

25 A. Yes, I am.

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1 Q. Do you have before you what's been marked
2 for identification as Exhibit 1-T, that being the
3 prefiled direct testimony of Richard T. O'Brien?

4 A. Yes, I do.

5 Q. You also have before you what's been marked
6 for identification as 2-T, which is the statement of
7 background and qualifications of Robert Dalley?

8 A. Actually, I don't have that in front of me,
9 but I probably know it.

10 Q. Okay. We would hope so. Do you have any
11 additions or corrections to make to your testimony at
12 this time?

13 A. Just one. On page six, line five, strike
14 the words "William E. Peressini, Vice President and
15 Treasurer," and insert the words "Samuel C. Hadaway,
16 a principal in Financo, Inc., financial analyst
17 consultants."

18 Q. Does that complete your additions and
19 corrections?

20 A. Yes.

21 Q. If I asked you the questions set forth in
22 this document, would your answers be the same as set
23 forth therein?

24 A. Yes.

25 MR. VAN NOSTRAND: Your Honor, I'd move the

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1 admission of Exhibits 1-T and 2-T.

2 JUDGE MOSS: Any objection at this time?

3 Hearing no objection, they will be admitted as
4 marked.

5 MR. VAN NOSTRAND: And Mr. Dalley is
6 available for cross-examination.

7 JUDGE MOSS: Thank you very much. We
8 haven't discussed the order of cross-examination.
9 Ordinarily, it would be my preference that the
10 intervenors go first and the Public Counsel, and then
11 the Staff last, but we may want to reverse that
12 order, since Staff is taking the principal laboring
13 oar on the cross-examination. Would that be the
14 parties' desire, as well?

15 MR. CEDARBAUM: That's fine with me.

16 MR. CROMWELL: I suppose my preference
17 would be to bat cleanup, Your Honor.

18 JUDGE MOSS: All right. That's what we'll
19 do, then. We'll have Staff go first. And it appears
20 we have only one participant from the intervenors
21 today, so we'll have you go second in this case, and
22 Mr. Cromwell, we'll have you bat cleanup. Go ahead.

23 MR. CEDARBAUM: The pressure's on.

24

25

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

00148

1 BY MR. CEDARBAUM:

2 Q. Good afternoon, Mr. Dalley. My name is
3 Robert Cedarbaum. I'm representing the Commission
4 Staff.

5 A. Good afternoon.

6 Q. You indicated that you were presenting or
7 adopting the testimony that was prefiled by Mr.
8 O'Brien. Can you just describe when the decision was
9 made for you to do that?

10 A. It was shortly after the time Mr. O'Brien
11 departed, which is near the end of February.

12 Q. Okay. So the circumstances which led to
13 your adopting his testimony was that he actually left
14 the company?

15 A. That's correct.

16 Q. Okay. And then you were selected as the
17 lucky one to fill in for him?

18 A. Absolutely.

19 Q. Did you participate in the preparation of
20 Mr. O'Brien's prefiled testimony?

21 A. Only generally. I've been involved in the
22 regulatory process for a number of years, and
23 generally, as controller of the company, I've been
24 involved in reviewing testimony. I did not
25 specifically go through every line of it, but was

00149

1 generally familiar with the process.

2 Q. So prior to its filing, you reviewed it
3 from a general perspective?

4 A. Yes.

5 Q. You didn't draft it or look at the details
6 of it?

7 A. That's correct.

8 Q. You indicate in Exhibit 2-T, which are your
9 qualifications, that you're the controller for
10 PacifiCorp. Your responsibilities include oversight
11 of all accounting and financial reporting. Can you
12 just elaborate on what your job responsibility is?

13 A. Certainly. As the controller, I'm
14 responsible for the external financial statements of
15 the company, along with the rest of the management,
16 the filings with the Securities and Exchange
17 Commissions. I also am responsible for internal
18 management reporting, if you will, and performance in
19 other categories.

20 Q. So the reports that are filed, for example,
21 with this Commission and other state commissions or
22 with FERC or other federal agencies is within your
23 field of supervision?

24 A. Partially. The FERC Form 1 is my
25 responsibility. The results of operations,

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1 semiannual results of operations that are filed with
2 the Commission are actually handled by our regulatory
3 group. I do have occasion, though, to review those,
4 but I'm not ultimately responsible at this point, but
5 there is a lot of interaction with me and my group.

6 Q. Prior to your taking the stand today, I
7 take it you've had occasion to review the company's
8 -- the testimony and exhibits of the other company
9 witnesses in this case?

10 A. Yes, generally.

11 Q. Do any of those witnesses report to you at
12 all?

13 A. No.

14 Q. Who do you report to?

15 A. I report to the chief financial officer,
16 Karen Clark.

17 Q. And who does she report to?

18 A. Understand the changes. Karen reports to
19 Alan Richardson, who is the chief executive of the
20 company.

21 Q. You indicate, again, in your qualifications
22 testimony in 2-T, that you've previously testified in
23 state regulatory proceedings on behalf of PacifiCorp.
24 Have you testified in this jurisdiction before?

25 A. Made a statement here before, but I've not

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1 testified in a formal rate case.

2 Q. What was the statement about?

3 A. It was regarding a resource acquisition, I
4 believe. Either the Colorado-Ute acquisition or the
5 Arizona Public Service Cholla, C-h-o-l-l-a,
6 acquisition.

7 Q. By a statement, do you mean to this
8 Commission?

9 A. Yes.

10 Q. Was this -- what was the context?

11 A. It was comment related to the application
12 we had filed associated with it. It was very brief.

13 Q. When did that occur, if you recall?

14 A. You're testing my memory. Sometime in
15 1992, I think. Something like that.

16 Q. And what's the general subject matter of
17 the testimony that you've provided in other
18 jurisdictions?

19 A. My experience, as indicated in that
20 exhibit, for a number of years, I was involved in
21 results of operation, revenue requirement-type
22 functions, and so my testimony went to results of
23 operation matters.

24 Q. On page one of Exhibit 1-T, you state, at
25 lines 17 and 18, The purpose of your testimony is to

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1 provide an overview of the company's application and
2 establish the context of the case for other company
3 witnesses.

4 A. Yes.

5 Q. I take it, then, that you're the company's
6 general policy witness in this proceeding?

7 A. Yes.

8 Q. But if there were questions about the
9 detail of some other proposal that I should -- I
10 might want to -- I should ask those other witnesses
11 who are responsible for those specific proposals?

12 A. That would be correct. I might help you in
13 that direction, too.

14 Q. So, for example, with respect to power
15 supply issues and the company's presentation on that
16 subject, Mr. Widmer would be the principal witness?

17 A. Yes, he would.

18 Q. On page two of Exhibit 1-T, lines one
19 through three, you state that the primary objective
20 of this application is to seek a price increase that
21 will enable the company to continue to provide safe
22 and reliable service in Washington and provide a fair
23 return to our shareholders. Do you see that?

24 A. Yes, I do.

25 Q. You make no mention in that testimony as to

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1 providing rates to Washington customers that are
2 just, fair and reasonable. And I just want to -- I
3 guess my question is, do you see that as a primary
4 objective of this case, as well?

5 A. That would be an important objective, as
6 well.

7 Q. Staying on the same page, at line nine, you
8 say that PacifiCorp makes significant expenditures
9 for the benefit of its customers, and then you refer
10 to a \$2.9 billion investment since -- over the past
11 five years?

12 A. Yes.

13 Q. Is it also correct that the company's
14 experienced customer growth during that five-year
15 period?

16 A. Yes.

17 Q. And with customer growth would come
18 additional revenue?

19 A. Yes.

20 Q. With respect to the significant
21 expenditures that you reference on line nine, do you
22 agree that the company has the burden to prove to
23 this Commission that those expenditures are prudent
24 and reasonable?

25 A. Yes, generally so. I think the company has

00154

1 a requirement, as part of the regulatory compact, to
2 provide safe and reliable service. It will require
3 cost, capital to do so, and we believe we've
4 fulfilled that duty, yes.

5 Q. My question, though, is, and I think you
6 agreed, that in this rate case presentation, you
7 understand the company has the burden to demonstrate
8 the prudence and reasonableness of what you call --
9 of the expenditures upon which this rate filing is
10 based?

11 A. The company believes that there is such a
12 responsibility, that it has done so, yes.

13 Q. I take it, then, that in order for the
14 Commission to determine whether or not you've
15 satisfied that burden, you're saying all we need to
16 do is look at the company's direct case, direct
17 testimony and exhibits to reach the same conclusion
18 that you did, that the company's carried that burden?

19 A. The company has provided costs and rate of
20 return information associated with its resources in
21 the application, as required to do so. Obviously,
22 it's been supplemented in response to questions, data
23 responses and other things, yes.

24 Q. Let's back up, though. The significant
25 expenditures that you reference include the cost of

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1 new power resources that have been acquired by
2 PacifiCorp since its last general rate proceeding; is
3 that right?

4 A. This reference in the 2.9 billion refers to
5 the last five years. It's been about 14 years since
6 the company's had a general rate increase in this
7 state, so all the costs associated with capital since
8 that period of time are included, yes, in this
9 filing.

10 Q. That would include new resources, new power
11 resources?

12 A. Yes.

13 Q. And so you would agree, then, that the
14 company has the burden to demonstrate the prudence
15 and reasonableness of the cost of those new
16 resources?

17 A. And it believes it's done so, yes.

18 Q. And you believe it's done so as presented
19 in your direct testimony and exhibits?

20 A. Yes, yes.

21 Q. So that if we wanted to confirm that
22 conclusion, we could look at the direct testimony and
23 exhibits?

24 A. You could look at the direct testimony,
25 exhibits, as well as the information that's provided

00156

1 in response to questions, and supplemental
2 information provided to the Commission Staff.

3 Q. So it's your testimony that if we wanted to
4 confirm your conclusion, we couldn't look just at the
5 direct testimony and exhibits that you presented?

6 A. That isn't what I said.

7 Q. I thought you said that if we wanted to
8 confirm your conclusion, we'd have to look beyond the
9 direct testimony and exhibits?

10 A. We believe the direct testimony, as well as
11 what's been supplemented as part of the requests,
12 stands on its own in terms of meeting those
13 obligations, yes.

14 Q. So again, we would have to look beyond the
15 direct testimony and exhibits to confirm your
16 conclusion?

17 A. No. The point I'm trying to make is that
18 there was information provided in the case, and in
19 response to questions, there was other information
20 provided. That's simply the point.

21 Q. The responsibility of the company to
22 demonstrate the prudence and reasonableness of its
23 new power supply acquisitions was confirmed in the
24 merger with Scottish Power; is that right?

25 A. I'll accept that, subject to check. I

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1 don't recall that right offhand, but I believe that's
2 right.

3 Q. Would you accept, subject to check, that at
4 page two, item three of the stipulation in that case,
5 which the Commission adopted or approved, it states
6 that, as follows: In each rate proceeding filed with
7 the Commission, PacifiCorp/Scottish Power shall have
8 the burden to show that any resource additions,
9 including renewable resources which are included in
10 the rate base or the revenue requirement for the
11 first time in that rate proceeding are reasonable and
12 prudent investments. Do you recall that?

13 A. Yes.

14 Q. Or would you accept that, subject to your
15 check?

16 A. Yeah, I have it here. Let me just read it,
17 just quickly. So I have that in front of me, yes.

18 Q. And the --

19 CHAIRWOMAN SHOWALTER: Mr. Cedarbaum, can
20 you tell me what you're reading from?

21 MR. CEDARBAUM: Sorry. Yes, Chairwoman
22 Showalter. This is the Fifth Supplemental Order of
23 the Commission, accepting stipulations in the matter
24 of the application of PacifiCorp and Scottish Power
25 in Docket UE-981627, which was issued October 14th,

00158

1 1999. And again, that was the stipulation which is
2 attached to the order, item number three. Sorry.

3 Q. Mr. Dalley, the stipulation that was
4 entered into by the company in the Scottish Power
5 merger and its approval occurred before the company
6 filed its direct case in this proceeding; is that
7 right?

8 A. Yes.

9 Q. Are you aware of a proceeding the
10 Commission conducted in 1994, involving Puget Sound
11 Power and Light, with respect to the prudence of that
12 company's acquisition of new power resources?

13 A. I'm generally aware of the matter. I'm not
14 familiar with the order.

15 Q. Would you accept, subject to check, that
16 that proceeding occurred because, in a 1992 rate
17 filing by Puget, the company failed to carry its
18 burden of proof to demonstrate the prudence of its
19 new resources, so the Commission, in essence, spun
20 off this prudence review for Puget?

21 MR. VAN NOSTRAND: I'm going to object to
22 this witness taking a statement like that subject to
23 check. The order speaks for itself. And I don't
24 think this witness should have to agree to that
25 characterization of that order by Counsel.

00159

1 Q. I'll just rephrase the question. Are you
2 aware of that proceeding or do you generally agree
3 with my characterization of it?

4 A. As I said earlier, I'm generally aware of
5 the issue. I'm not familiar specifically with the
6 order.

7 Q. What is your general awareness of it?

8 A. That the Commission has looked into
9 prudency review matters associated with resource
10 additions.

11 Q. Would you accept, subject to check, that
12 the Commission's 19th Supplemental Order in that
13 prudence review for Puget was issued on September
14 27th, 1994?

15 A. I'd like to look at the order, but -- if
16 you want me to answer that, but I don't have any
17 reason to believe that you've mischaracterized it.

18 Q. You'd accept that subject to check?

19 A. Subject to check.

20 Q. Do you know if the company was aware of the
21 Commission's order in the docket concerning Puget
22 before it filed its direct testimony and exhibits in
23 this case?

24 A. I think you ought to refer that question to
25 Mr. Widmer.

00160

1 Q. You don't know one way or the other?

2 A. That's correct.

3 Q. Have you ever read the order?

4 A. No, I have not.

5 Q. Would you accept, subject to check, that on
6 page five of the Commission's 19th Supplemental Order
7 in docket numbers -- consolidated Docket Numbers
8 UE-920433, issued on September 27th, 1994, at page
9 five, the Commission stated, Puget must make an
10 affirmative showing of the reasonableness and
11 prudence of the expenses under review. This is true
12 even in the absence of a challenge by another party.
13 Would you accept that, subject to your check?

14 A. Certainly, but isn't in all orders, there's
15 usually foundations, findings of facts and other
16 things. So to take one item and one paragraph, I'm
17 not particularly comfortable opining about that.

18 Q. I'm not asking you to opine about it; I'm
19 just asking you to accept it, subject to check.

20 A. Subject to check.

21 Q. Would you also accept, subject to check,
22 that at page six of that same order, the Commission
23 required Puget to file a power supply case which
24 demonstrates the prudence of its own resource
25 acquisitions since the last general proceeding. For

00161

1 each contract, the company must describe the resource
2 stack available to it at the time the contract was
3 entered into and describe, at a minimum,
4 dispatchability, transmission impacts, other bids,
5 building options, and financial and rate impacts.

6 Would you accept, subject to check, that the
7 Commission made that statement?

8 A. Yes, yes.

9 Q. Would you also accept, subject to check,
10 that at page 10 of that order, the Commission stated
11 as follows: The company must establish that it
12 adequately studied the question of whether to
13 purchase these resources and made a reasonable
14 decision using the data and methods that a reasonable
15 management would have used at the time the decisions
16 were made. Would you accept that, subject to check?

17 A. Sure.

18 Q. And finally, page 11 in that order, would
19 you accept, subject to check, that the Commission
20 stated, The prudence standard adopted in prior
21 Commission orders is easily applied to any resource
22 decision, whether it is to build or to purchase. The
23 utility must first determine whether new resources
24 are necessary. Once a need has been identified, the
25 utility must determine how to fill that need in a

00162

1 cost-effective manner. Would you accept that,
2 subject to check?

3 A. Yes.

4 Q. Turning to page four of your testimony --

5 JUDGE MOSS: Before you proceed with your
6 questions, Mr. Cedarbaum, I'm going to ask you, for
7 the benefit of the Bench, if you're going to be
8 referring extensively, as you just did, to a
9 document, particularly a document that isn't official
10 and at the Commission, that you furnish that to the
11 Bench, so we can follow along.

12 MR. CEDARBAUM: Thank you. I apologize for
13 that, Your Honor. I can make copies of that during a
14 break, but those were all the questions I had on that
15 particular order.

16 Q. Turning to page four of your testimony, at
17 lines four to seven, you state that PacifiCorp's
18 application does not include the effect of new
19 depreciation rates, which are currently under review
20 in multiple PacifiCorp jurisdictions. Once those
21 proceedings have been resolved, PacifiCorp will
22 include the effects of the new depreciation rates in
23 this filing. Do you see that?

24 A. Yes, I do.

25 Q. And the purpose of some testimony that came

00163

1 in supplemental for Mr. Peterson, which has been now
2 deferred until June for cross-examination, is to do
3 just what you stated in your testimony, and that is
4 to reflect the impact of new depreciation rates that
5 have been resolved in those other jurisdictions?

6 A. That's correct.

7 Q. The company's case, however, doesn't
8 actually include those new depreciation rates. It
9 just includes the revenue requirement impact of those
10 new rates; is that right?

11 A. I think you ought to defer that. I'd like
12 to defer that question to Mr. Larsen. I think he can
13 answer that better. But the point in this testimony
14 that you cited is to be made here, is that we were in
15 the process of working on a depreciation study and
16 then filed that with the staffs of the various states
17 to be reviewing and to put on notice that this was an
18 issue pending. That issue has now come in through
19 Mr. Peterson.

20 Q. I'm not, at least at this stage, not trying
21 to be critical about that. I'm just trying to
22 establish that I believe the company has included in
23 its direct testimony exhibits, through Mr. Peterson's
24 supplemental testimony, an increase in depreciation
25 expense of the \$3.4 million based upon depreciation

00164

1 rates that have not been included in your direct
2 testimony and exhibits.

3 A. And that's why this testimony makes the
4 point. It doesn't reflect it, but it will. Mr.
5 Peterson's testimony reflects that. And Mr. Larsen's
6 supplemental information that's been shared with the
7 Staff also reflects that.

8 Q. There's a distinction between what you may
9 have provided Staff and what is before the Commission
10 and included in your direct testimony and exhibits.
11 Is it your understanding that Mr. Peterson or Mr.
12 Larsen has actually filed testimony and exhibits
13 asking -- with these new depreciation rates, asking
14 for Commission approval of those rates?

15 A. Mr. Larsen's exhibit that was distributed
16 this morning, I'm not sure what the status of that
17 is, an exhibit or an information request, but it
18 includes the impacts of the depreciation. It was one
19 of those adjustments that was being referred to this
20 morning.

21 JUDGE MOSS: Let me interrupt here and be
22 clear. Is this a response to Bench Request Number
23 Two that you're referring to now?

24 THE WITNESS: I believe that's it. Yes,
25 sir.

00165

1 JUDGE MOSS: Okay, thank you.

2 Q. But as I look at Bench Request Number Two,
3 what's included is -- or are some accounting
4 adjustments which reflect -- underlying them, which
5 reflect new depreciation rates, but not the new
6 depreciation rates themselves?

7 A. Again, there's a column there, and I don't
8 have the request in front of me, but there's a column
9 there that reflects depreciation. And the specifics
10 associated with how that was derived, you ought to
11 refer to Mr. Larsen.

12 Q. On page four of your testimony, it switches
13 to a different topic. On page four of your
14 testimony, at line ten, you discuss the company's
15 proposal to phase in its proposed revenue increase
16 over two years?

17 A. Right.

18 Q. And your proposal assumes the full \$25.8
19 million revenue increase; is that right?

20 A. There's an overall revenue requirement
21 found and derived, and we've suggested, because it
22 has been 14 years since the company's been here for
23 an increase, that any kind of an increase of this
24 magnitude, one way of mitigating it is to phase it.
25 So the company's good faith effort was to do such --

00166

1 do that.

2 Q. I guess my question is just more of a
3 policy question about -- is there a level, from the
4 company's perspective, below \$25.8 million, which the
5 company would not be proposing a two-year phase-in,
6 but would want it all in one year?

7 A. Actually, the 25 million's been broken into
8 pieces by the company already. About 14.6 million,
9 plus the system benefits charge, is the proposal for
10 phase one. The combination of those two is about 9.6
11 percent in terms of overall increase. And so the
12 company's recommendation is, to the extent that the
13 finding in this proceeding exceeds 9.6 percent, then
14 that residual over that amount would be phased as
15 part of phase two, a second installment, if you will.

16 Q. Staying on page four, lines 20 to -- the
17 question on line 20 and your answer on line 22
18 indicates that you believe the Commission, if it
19 adopts the two-year phase-in, doesn't have to do
20 anything in the second year to implement year two
21 price changes. And Mr. Griffith, I believe, has, in
22 his testimony and exhibits, the actual tariffs for
23 year one and then for year two; is that right?

24 A. Yes, that's correct.

25 Q. So the company's proposal is not to -- it's

00167

1 to have the Commission actually approve both sets of
2 tariffs for year one and two in this case, but have
3 an effective date for year two that comes at the
4 beginning of year two, as opposed to just approving
5 tariffs for year one and then have a compliance
6 filing come in sometime down the road prior to the
7 beginning of year two?

8 A. Yeah, to be clear, one revenue requirement,
9 two installments to implement it.

10 Q. But there's more than one way of doing
11 that. The company's proposal is to actually approve
12 year one and year two tariffs now, knowing that year
13 two won't become effective until the beginning of
14 year two, as opposed to -- that's what I understand
15 the company's proposal is.

16 A. Yeah, assuming that the finding of the
17 Commission is consistent with the company's
18 recommendation such that it would exceed 9.6 percent,
19 that, in fact, the full 25 million exceeds that, then
20 it would be phased as part of a second installment,
21 if you will. The company's not asking for another
22 finding, it's not asking for cost of money, it's not
23 asking for carrying charges; it's just asking that
24 that incremental amount over and above 9.6 percent be
25 put into place in the second year to mitigate the

00168

1 impact of having been away for about 14 years.

2 Q. I guess my question is more directed to
3 your testimony, that no additional Commission action
4 is required, and that's because what you're asking
5 the Commission to do now is to approve the tariffs to
6 be effective in year one and the tariffs to be
7 effective in year two?

8 A. Based on the revenue requirement that's
9 found in the proceeding, assuming the amount exceeds
10 9.6 percent, yes.

11 Q. And that's a different procedure than if
12 the Commission were to approve the tariffs for year
13 one, and then order the company to make a compliance
14 filing, you know, 30 days or 45 days prior to the
15 beginning of year two, and then approve those tariffs
16 at that time?

17 A. I'm not familiar with the legality, nor
18 should be, about how the compliance filings work and
19 defer that to my lawyer. But I think what you
20 described is something different, yes.

21 Q. But the company -- and if you don't know
22 the answer to this question, that's fine, but do you
23 have any reaction to that type of a process versus
24 the process you're proposing?

25 A. Yeah, a strong reaction. I'd be opposed to

00169

1 it.

2 Q. Why is that?

3 A. We're putting before the Commission, as I
4 said, the first increase in a long, long time. It is
5 a significant one. We understand that. And we're
6 concerned that when you have significant increases,
7 that it has impacts on customers. And therefore,
8 putting forward our case as the Commission makes a
9 finding in this case and the results of that finding,
10 assuming they concur with our recommendation that
11 there is a significant underearning and, therefore, a
12 need for a significant increase, we would request
13 that that be implemented in phases. One finding, one
14 revenue requirement, but two installments, and that's
15 much different, I think, than what you described.

16 Q. I guess I'm not placing at issue the
17 conclusion that you would be allowed to collect
18 whatever additional revenues the Commission allows
19 you to collect. It's more how do we process the
20 tariffs that allow that to happen. And you've had
21 your proposal, I described another proposal, and your
22 testimony is that the company's opposed to that other
23 -- the type of process that I described?

24 A. Yes.

25 Q. Are you aware that Puget Sound Energy

00170

1 currently operates under a rate plan in which there
2 are scheduled increases over -- one each year for
3 five years and that the compliance filings come in to
4 allow those increases to go into effect, as opposed
5 to the Commission having approved all of the tariffs
6 at the beginning of the rate plan?

7 A. Generally aware of it, yes. And if the
8 company would have had that in mind, it would have
9 had a different type of a proposal before the
10 Commission. The company has a traditional cost of
11 service, nonperformance-based filing before the
12 Commission, what we believe is a straightforward
13 process to get to an answer. We believe that the
14 Commission will find and agree that there is a
15 significant underearning and, therefore, there could
16 be a mitigating way to implement that. We did not
17 come here with that in mind. If we had, we would
18 have had a different type of proposal.

19 Q. The last area I had for you has to do with
20 the sale of the Centralia steam plant. You're
21 generally familiar with --

22 A. Yes.

23 Q. -- the status of that? Can you, if you
24 know, just run through briefly what the status is in
25 other jurisdictions?

00171

1 A. We believe, for practical purposes, in this
2 state, the matter is cleared. The open state at the
3 moment is Utah. We had asked for rehearing on their
4 order in that particular proceeding dealing
5 specifically with the allocation of the gain. That
6 matter has been set for rehearing, I believe next
7 week.

8 Q. When you say set for rehearing, that would
9 be oral argument on it, or how does that work?

10 A. I'm not sure exactly what the proceeding
11 is. My Counsel could perhaps enlighten you better
12 than I could. But it has been set for rehearing on
13 that issue, allocation of gain.

14 Q. I think it was just last week this
15 Commission issued its order on reconsideration in the
16 Centralia case that was pending in this jurisdiction.

17 A. Right.

18 Q. Have you looked at that order at all?

19 A. I have not specifically, but I've had it
20 represented to me that, as I said, for practical
21 purposes, that will resolve it favorably, in terms of
22 the company's perspective.

23 Q. Let me ask a couple of preliminary
24 questions first. In the Commission's order on
25 reconsideration, and for the record, this is the

00172

1 Commission's Fourth Supplemental Order, issued April
2 21st, 2000, in Docket Numbers UE-991255, 1262, and
3 1409. In that order, the Commission reaffirmed its
4 rejection of the company's depreciation reserve
5 methodology. Do you recall that?

6 A. I have -- as I said, I have not read the
7 order, but I'll accept that, subject to check.

8 Q. The Commission also stated, as a condition
9 to sale, that the company hold ratepayers harmless
10 for any future mine reclamation costs. Does that
11 conform with your understanding?

12 A. No, but I need to -- I would like to read
13 the order if you ask me to opine on it, so --

14 Q. I guess the bottom line question is, and
15 maybe you indicated where you were headed with this,
16 has the company made an assessment whether or not it
17 would proceed with the sale of the steam plant?

18 A. No, it's still working through the issues
19 in the state of Utah. It hopes to move in that
20 direction, but it has to be, as a condition of the
21 sales, have regulatory orders which, in its judgment,
22 are satisfactory. And we still have a fairly
23 significant issue before at least the state of Utah.

24 Q. Are the conditions of the Commission's
25 order in Washington acceptable to the company?

00173

1 A. My understanding, for practical purposes,
2 they are. I'm not speaking from a legal standpoint,
3 and there may be some technicalities that need to be
4 dealt with from that perspective.

5 MR. CEDARBAUM: Thank you, Mr. Dalley,
6 those are all my questions. Your Honor, I do have
7 copies of the Puget prudence order, if you'd like to
8 have them.

9 JUDGE MOSS: If you'll just pass those up.
10 Ms. Davison.

11 MS. DAVISON: Thank you, Your Honor.

12

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

14 BY MS. DAVISON:

15 Q. Good afternoon, Mr. Dalley.

16 A. Good afternoon.

17 Q. I'm Melinda Davison. I represent the
18 Industrial Customers of Northwest Utilities. Mr.
19 Dalley, are your job functions similar to the job
20 functions that Mr. O'Brien had?

21 A. No, Mr. O'Brien was the president, chief
22 executive -- or chief operating officer, excuse me,
23 of the company, and had primary responsibility for
24 the operations. Mine is more of a financial
25 function, accounting function.

00174

1 Q. Who replaced Mr. O'Brien?

2 A. No one has replaced Mr. O'Brien. He's left
3 the company and has not been replaced.

4 Q. Has anyone assumed his job
5 responsibilities?

6 A. The company is going through, as you would
7 expect from the merger, a fairly significant
8 transformation, and there will be some new
9 assignments made for the operating people. That has
10 not been officially completed yet, but it will be
11 soon. So the answer is, as of right now, no.

12 Q. Do you have a date when that will be
13 completed?

14 A. The work the company's doing in terms of
15 this effort is hoping to come to a head next week, at
16 the end of next week.

17 Q. Would that be May 4th?

18 A. Yes. The plan for the transition efforts,
19 which includes the organizational matters we're
20 discussing, is planned to be announced along with
21 Scottish Power's preliminary financial results for
22 their fiscal year, which ended in March.

23 Q. Were you on the transition team?

24 A. I was not, no.

25 Q. Have you seen a draft of the transition

00175

1 report?

2 A. I have not. I have seen an overall early
3 draft and review of it, but I have not -- excuse me,
4 a review of the numbers, but I have not seen any kind
5 of final document that's been approved by the board
6 of directors.

7 Q. Can you give us some kind of general
8 overall sense of the review of those numbers, of what
9 we might be seeing on May 4th?

10 A. No. Number one, the plan has not been
11 finalized. As part of the merger commitment we have
12 made and the stipulation referred to earlier, the
13 company will file with the Commission a complete
14 plan, full analysis of those plans. As I indicated,
15 as of this point, to my knowledge, it's not been
16 approved by the board of directors and it would be
17 inappropriate for me to disclose it, because I
18 believe the impacts could be material and could
19 constitute a selective disclosure by the Securities
20 and Exchange Commission.

21 So we'll do it the right way, after we've
22 briefed our employees first, other public
23 constituents, and then it will go generally public
24 and available around or near the 4th.

25 Q. When will it be presented to the board of

00176

1 directors, the transition plan?

2 A. I am not sure. I think there's a chance it
3 was presented in the last 24 hours, at least to the
4 Scottish Power board.

5 Q. Thank you. Is it safe to assume that this
6 transition plan will contain significant changes to
7 various aspects of the company?

8 A. I mean, the whole part of the transition
9 process is to aggressively look at the company's
10 processes and look for ways that we can approve
11 customer service, company performance, and yes, there
12 is going to be a significant transformation in some
13 of those processes. Some of that transformation
14 we've put into place already with the customer
15 commitments that were put into place recently.
16 That's all part of increasing customer service and
17 performance.

18 Q. Thank you. If you could turn to Exhibit
19 1-T, page three, lines four through seven, please.

20 A. I have it, yes.

21 Q. My question to you is you identify here
22 that there are strategies for creating benefits
23 through cost efficiencies associated with the 1989
24 merger. I'm interested why the Scottish Power merger
25 is not referenced here?

00177

1 A. Well, this test period that was used here
2 is 1998, and it was prior to the completion of the
3 Scottish Power merger. That's one of the reasons.
4 And one of the reasons I wanted to make sure this was
5 mentioned is that there has been significant
6 efficiencies from that merger. It's one of the
7 reasons we haven't been here for 14 years, so --

8 Q. Do you anticipate there will be significant
9 efficiencies from the Scottish Power merger?

10 A. I believe that's the testimony in that
11 proceeding, that the company has made great strides,
12 I think, in recent years. I think we welcome
13 Scottish Power to help us take it a step further, and
14 yes, we expect to have efficiencies, and they will
15 come at some cost.

16 Q. By coming at some cost, you mean that there
17 will be significant cost cutting efforts; is that
18 correct?

19 A. There will be improvement in customer
20 service, improvement in operation, and yes, there
21 will be some cost cuts, there will be some job
22 impacts. I think the company has been up front about
23 that. But what I really was referring to is that to
24 achieve some of those efficiencies, it's going to
25 require some capital, some cost to get that done.

00178

1 Q. Were you involved in the decision to file
2 the rate case at this time?

3 A. As an officer of the company, I certainly
4 weighed into the process on a higher level, as I
5 indicated earlier. I was not specifically involved
6 in the development of the detailed testimony, other
7 than just from a high level review and input, as part
8 of the management team.

9 Q. I'm interested, in light of the newness of
10 the merger, why the company decided to file a rate
11 case at this time and not wait until after things
12 have sort of settled down from the merger?

13 A. As I said earlier, it's been a long time
14 since we've been here, we've been underearning for a
15 period of years, and this has been one of the
16 objectives that PacifiCorp had and discussed in the
17 fall, frankly, of 1998, publicly, that there was a
18 need for us to improve its earnings, and one of the
19 ways to get that done, in concert with cost cutting
20 and refocusing on the electric business, was to look
21 for some rate increases.

22 Q. Earlier this afternoon, Mr. Cedarbaum asked
23 you some questions about the year one price change
24 and the year two price change. And if I understand
25 it correctly, the year two price change will be an

00179

1 automatic increase, as you're proposing it; is that
2 correct?

3 A. Well, automatic may put in my -- you can
4 use those words, but put the wrong spin on it. There
5 will be a finding that would determine as a result of
6 the rigorous public interest investigation, the
7 Commission would make a decision based on that and
8 would phase that second amount, yes, but it would not
9 -- I mean, it would go into place based on an order
10 based on a finding of cost and an appropriate revenue
11 requirement.

12 Q. And this would roughly happen in the year
13 2002, as you proposed; is that correct?

14 A. In rough terms, yes.

15 Q. So as I see it, there will be roughly, as
16 you're proposing it here, I think an 8.1 percent
17 increase that would take place in the year 2002; is
18 that correct, as filed?

19 A. No, I believe it would be somewhat smaller.
20 If the Commission found that the company's revenue
21 requirement was at its filed rate, there would be
22 about a 9.6 percent increase in year one, and
23 something in the range of just under six percent,
24 about 5.7, I believe, in the second year. That's
25 subject to correction by Mr. Griffith. It's in that

00180

1 range.

2 Q. I see, okay. You spoke earlier about the
3 significance of this rate increase, and that was part
4 of the company's decision to phase it in two years.
5 Is that an accurate representation?

6 A. First increase, as I said, in 14 years, and
7 it is significant, in our judgment, at least, and we
8 thought a mitigating factor would be to phase it,
9 yes.

10 Q. Do you consider an 18 percent rate increase
11 to be rate shock?

12 A. Rate shock's always a relative term, but
13 it's a pretty significant amount. It would be in my
14 household budget, perhaps yours.

15 Q. It certainly would be. So I take it, from
16 that answer, that that's a yes?

17 A. Again, it's probably a personal judgment as
18 to whether it's rate shock or not. Not going around
19 any definition. It's just a significant increase.

20 Q. Okay, thank you. When you were listing the
21 areas of responsibility, you mentioned that you were
22 responsible for the FERC Form 1s; is that correct?

23 A. Yes.

24 Q. And is the FERC Form 1 for 1999 done?

25 A. It is not. We are working through a

00181

1 process with FERC. We've received an extension this
2 year. One of the challenges we've got was we have
3 moved to a fiscal year and adopted Scottish Power's
4 fiscal year, which ends in March, and the release of
5 our Form 1 on April 30th, which is the due date
6 normally for all utilities, which we received an
7 extension of to June 30th.

8 The reason we sought that is Scottish Power
9 is releasing their preliminary financial reports on
10 the 4th of May. So if PacifiCorp, which is about 40
11 percent of Scottish Power, released its results in
12 the end of April, we believe that could constitute
13 selective disclosure, and that's one of the reasons
14 why we didn't do it. We're going to have to
15 continue to work with FERC on that and seek a more
16 permanent solution. But this year, it won't be
17 available till about the 30th of June.

18 Q. Do you have a draft 1999 FERC Form 1?

19 A. No, it's not complete.

20 Q. Do you know whether PacifiCorp provided the
21 Utah Staff with a draft FERC Form 1?

22 A. I'm not -- no recollection of that, no.

23 Q. Okay. Do you recall in the merger
24 proceeding that there was substantial testimony on
25 the part of Scottish Power -- and one point of

00182

1 reference I would give you is the direct testimony of
2 Andrew MacRitchie. On page five of his direct
3 testimony, he says that PacifiCorp has higher
4 operating costs than average. It also suggests that
5 a substantial amount of cost reduction would have to
6 occur in order for the company to be ranked as one of
7 the top ten electric utilities in the U.S. Do you
8 recall those statements?

9 A. That sounds about like what Andy would say,
10 yeah.

11 Q. And you recall that we heard a lot about --
12 attached to Mr. MacRitchie's testimony was this
13 exhibit, which is Exhibit 1 to his testimony that
14 talks about comparisons of nonproduction
15 cost/customers for the U.S. utilities, 1996. Do you
16 recall that chart?

17 A. Generally, yes.

18 Q. And on that chart, it has PacifiCorp ranked
19 number 56?

20 A. Mm-hmm.

21 Q. And do you recall that PacifiCorp made a
22 commitment -- or it was not a commitment, excuse me.
23 PacifiCorp stated that it was their goal to have
24 PacifiCorp ranked number ten. Do you recall that?

25 A. Scottish Power made that commitment, I

00183

1 believe.

2 Q. Yes.

3 A. It would move us in the direction of top
4 ten, yes. It's been one of their desires.

5 Q. Is that still the goal of Scottish Power?

6 A. I believe so, yeah, to make us more
7 efficient. At the same time, improving customer
8 service.

9 MS. DAVISON: Thank you.

10 JUDGE MOSS: Does that complete your
11 questions?

12 MS. DAVISON: It does, Your Honor.

13 JUDGE MOSS: Thank you. Mr. Cromwell.

14 MR. CROMWELL: Thank you, Your Honor.

15

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

17 BY MR. CROMWELL:

18 Q. Good afternoon, Mr. Dalley. My name's
19 Robert Cromwell, I'm with Public Counsel.

20 A. Good afternoon.

21 Q. Are you familiar with what's been marked as
22 Exhibit Number 3 in this proceeding?

23 A. I don't believe so.

24 MR. VAN NOSTRAND: That's PC-9. Data
25 request.

00184

1 Q. Let me put it another way. Did Mr. Van
2 Nostrand hand you a document?

3 A. Oh, I'm sorry. I've got it.

4 Q. There you go.

5 A. Yeah, thank you.

6 Q. Are you familiar with what's been premarked
7 as Exhibit Number 3, which is the company's response
8 to Public Counsel Data Request Number Nine?

9 A. Yes, I believe I have it in front of me.

10 Q. And can you identify that exhibit for the
11 Commission, please?

12 A. It is the most recent 10-K provided to the
13 Washington Staff.

14 Q. And are there a number of documents in that
15 stack?

16 A. There's also 10-Qs from 1999, as well. SEC
17 filings.

18 Q. Thank you. And are those documents true
19 and accurate, to the best of your knowledge?

20 A. Yes.

21 MR. CROMWELL: Thank you. At this time,
22 I'd move to admit Exhibit Number Three.

23 MR. VAN NOSTRAND: No objection.

24 JUDGE MOSS: Hearing no objection, it will
25 be admitted as marked.

00185

1 MR. CROMWELL: Thank you, Mr. Dalley. Have
2 a good afternoon.

3 THE WITNESS: Thank you.

4 JUDGE MOSS: Any questions from the Bench?

5 CHAIRWOMAN SHOWALTER: I have a few.

6

7

E X A M I N A T I O N

8 BY CHAIRWOMAN SHOWALTER:

9 Q. Mr. Dalley, on page two of your testimony,
10 on line 15, it says that the company has experienced
11 a decrease on four separate occasions since 1986?

12 A. Yes.

13 Q. Just to fill me in on the history, can you
14 describe what those four occasions were? And I mean
15 only in the most summary form, but maybe either what
16 kind of decrease or what percent decrease or what
17 prompted it?

18 A. Yes, Madam Chair, I can do that. Since the
19 increase that was put into effect in October of '86,
20 in March of 1987, there was a reduction of about --
21 in the base tariffs of nearly one percent that was
22 associated with the tax act that occurred. In about
23 one year later, March of 1988, there was a reduction
24 in base rates of about 3.8 percent, associated,
25 again, with the tax act. In that same year, in

00186

1 October of '88, there was a tracker filing, and I
2 don't recall what that tracker was for, but it
3 reduced rates about 1.7 percent, base rates, and then
4 in June of 1989, there was a merger filing, this was
5 associated with a Utah Pacific merger, which reduced
6 base rates again, about 3.1 percent.

7 Q. Thanks. I want to make sure I understand
8 what your proposal is. I was understanding you to
9 say that -- let's assume that the increase you're
10 requesting is a \$28.5 million?

11 A. 25.8.

12 Q. 25.8 million?

13 A. Yeah.

14 Q. Are you saying that what you're seeking is
15 a finding that the entire amount is justifiable now,
16 but that the company is electing or seeking to have
17 it in two phases, all at the company's expense?

18 A. Yes.

19 Q. In other words, the Commission would be
20 within its rights, according to you, to impose the
21 whole 18 percent as fair, just and reasonable, but
22 you're seeking not to do that?

23 A. Right, and the company would carry the cost
24 of that differential for that one-year period. That
25 would be correct.

00187

1 Q. Then I was trying to understand your
2 resistance to the idea of a tariff filed later, and
3 what I don't understand is whether there's the
4 implication in that that you'd be losing some money
5 in some sense, what you're going to lose anyway,
6 according to your own concept.

7 A. Well, we're losing the cost of money during
8 this period.

9 Q. Right, right?

10 A. Madam Chair, what the issue is here is
11 we're saying here is all of the evidence, here is the
12 justification, make a finding on that. If you agree,
13 as we have sought, that that finding is significant
14 in terms of its bottom line impact, join with us in
15 phrasing that. The difference between phase one and
16 phase two, the carrying cost of money, if you will,
17 the company would absorb that during that period of
18 time. And I think that's something different than,
19 if you will, another case that's, in effect, filed
20 one year later.

21 Q. Maybe it boils down to what a compliance
22 filing is or isn't, and I'm not saying I know, but is
23 the issue simply what evidence has to be presented
24 when it -- if there's a tariff imposed at the
25 beginning and it has one part that starts immediately

00188

1 and one part that starts later, is that different in
2 substance if you say nine percent now and come in
3 later and you have already established the other
4 eight percent, whatever it is. I'm just trying to
5 get what this dispute is about.

6 A. Yes. Well, the point I was trying to make,
7 and perhaps I was being too short about it, is one
8 finding, based on the results in this case, and
9 normally that finding is implemented immediately.
10 What I'm saying is instead of immediately
11 implementing that, is to take a piece of it, the
12 amount that would exceed 9.6 percent, and put it in
13 as a second phase. So thus, no need for an
14 additional finding, because you've already made the
15 finding.

16 CHAIRWOMAN SHOWALTER: All right. That's
17 all I have. Thanks.

18 JUDGE MOSS: Any redirect?

19 MR. VAN NOSTRAND: No, Your Honor.

20 COMMISSIONER HEMSTAD: I don't have any
21 questions.

22 COMMISSIONER GILLIS: I don't have any
23 questions, either.

24 JUDGE MOSS: Oh, I'm sorry. I thought we
25 were done. All right, then. Mr. Dalley, I believe

00189

1 that will complete your time on the stand. I did
2 establish early on that, perhaps at the prehearing,
3 that witnesses in this case are going to be released
4 from the stand subject to recall. So your Counsel
5 will let you know if we need you back, but you're
6 certainly released at this point.

7 THE WITNESS: Right. He knows how to find
8 me.

9 JUDGE MOSS: Thank you very much.
10 Appreciate your testimony. Go ahead and call the
11 next witness.

12 MR. VAN NOSTRAND: Company calls Samuel C.
13 Hadaway.
14 Whereupon,

15 SAMUEL C. HADAWAY,
16 having been first duly sworn, was called as a witness
17 herein and was examined and testified as follows:

18 JUDGE MOSS: Thank you. Please be seated.
19

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

21 BY MR. VAN NOSTRAND:

22 Q. Mr. Hadaway, could you state your name and
23 spell it for the record, please?

24 A. Yes, my name is Samuel C. Hadaway. It's
25 H-a-d-a-w-a-y.

00190

1 Q. And you're a principal in Financo, Inc.?

2 A. Yes, that's right.

3 Q. And do you have before you what's been
4 marked for identification as Exhibit 10-T, the
5 prefiled direct testimony of William E. Peressini?

6 A. I may need to get the marked copy. I'm
7 sorry, I don't see it here.

8 Q. It's the same copy, we've just given it a
9 number.

10 A. Oh, okay. Yes, I have.

11 Q. And included with that are Exhibits 11
12 through 14, and those are the exhibits accompanying
13 the prefiled direct testimony of Mr. Peressini?

14 A. Yes, I have that.

15 Q. And do I understand correctly that you are
16 adopting as your own the testimony of Mr. Peressini
17 in this case?

18 A. Yes, I am.

19 Q. Do you also have before you what's been
20 marked for identification as Exhibit 15-T, which is
21 your direct testimony in this case?

22 A. Yes.

23 Q. And accompanying that are Exhibits 16
24 through 21, which are your exhibits filed with your
25 prefiled direct testimony?

00191

1 A. That's right.

2 Q. And do you have any additions or
3 corrections to make to either Exhibit 10-T or 15-T?

4 A. Yes, I have two brief corrections to
5 Exhibit 10-T. On page five of that exhibit, at line
6 21, the words "both Moody's and" should be stricken,
7 so that the credit rating is from S&P.

8 Q. Any other changes to the testimony?

9 A. Yes, in the exhibits, and you may have to
10 help me with the formal numbering, but it's the
11 exhibit that is typed on there, WEP-2.

12 Q. That would be Exhibit 12.

13 A. Exhibit 12, thank you. At the bottom of
14 that, there is a source that lists the dates from
15 which the data were taken. Those dates are from a
16 prior version. Actually, the numbers are the same,
17 but they're not the correct dates for the actual data
18 that we used in this case. March 12th should become
19 September 10th. April 9th should be October 8th.
20 May 21 should be August -- and I'm sorry, I can't
21 make out the exact day. It's the Value Line Edition
22 for the Utilities West Group in August of 1999. And
23 I apologize for that. I'll have to simply get that
24 in a few minutes for you.

25 Q. Does that complete your corrections?

00192

1 A. Yes, that's right.

2 Q. And as corrected, if I asked you the
3 questions set forth in Exhibit 10-T and Exhibit 15-T
4 today, would your answers be the same as set forth
5 therein?

6 A. With respect to the testimony as filed, at
7 the time it was filed, it would be. With respect to
8 the rate of return information, which was filed in
9 November, I understand in this jurisdiction that you
10 do certain updating of such data, and I can do that
11 with rebuttal testimony or at this point. But the
12 general statement would be that capital costs have
13 gone up, and in similar testimony to this that I have
14 filed more recently --

15 MR. CEDARBAUM: Your Honor, I'm sorry, I'll
16 object to this statement. This is additional direct
17 testimony contrary to what was filed, based on
18 evidence that we don't have as part of this record
19 and won't have as part of this record, and an
20 indication that things will change on rebuttal, which
21 sounds an awful lot like a discussion we had this
22 morning on accounting matters.

23 So if the point of this witness is to offer
24 into evidence the prefiled exhibits and testimony and
25 for us to conduct cross-examination on them, fine,

00193

1 but any additional testimony is basically unfiled
2 direct testimony that we have no ability to respond
3 to.

4 JUDGE MOSS: Mr. Van Nostrand, do you have
5 any response?

6 MR. VAN NOSTRAND: I think Dr. Hadaway is
7 just simply indicating that when the testimony was
8 filed in November, the capital costs are one thing,
9 and if asked would he testify the same way today,
10 he'd have to say no, but there will be an opportunity
11 for him to update the cost of capital in his rebuttal
12 testimony and we can wait then, but technically, he
13 can't say that if he were going to answer the same
14 questions today, he wouldn't, because the capital
15 costs change daily.

16 MR. CEDARBAUM: Your Honor --

17 JUDGE MOSS: Go ahead, Mr. Cedarbaum.

18 MR. CEDARBAUM: This is the moving target
19 strategy of this company. We went through a day and
20 a half of moving target on accounting issues. Now
21 we're going through an afternoon on the moving target
22 of cost of capital. This witness should testify as
23 to his testimony that was prefiled, and that's it.
24 If he tries on rebuttal to put in new evidence that
25 raise new issues, we can deal with that at the time,

00194

1 but we can't be prepared to cross-examine him on
2 testimony that he's essentially prefiling today that
3 says that his testimony that he prefiled is on the
4 low side. This is -- it's more of the same, and it's
5 impossible to conduct a case this way.

6 JUDGE MOSS: Well, Mr. Cedarbaum, I think
7 what we have here is the witness' prefiled testimony,
8 which is the evidence the company is offering in
9 support of its case. It says what it says, and Mr.
10 Hadaway is not proposing to change that testimony
11 today. He's proposing to stand on this testimony.

12 My understanding of what he was saying was
13 he was clarifying that if he was answering these
14 questions in response to oral direct examination
15 today, some of his answers would be different,
16 because circumstances in the marketplace may have
17 changed, for whatever affects cost of capital
18 testimony.

19 But your cross-examination, it seems to me,
20 should go to this testimony, this evidence, which is
21 what the company is going to presumably rely on in
22 part in support of its cost of capital case. Now,
23 and Staff will put on its cost of capital case,
24 presumably using whatever current information is
25 available to Staff at the time it files, and then

00195

1 there will be an opportunity for rebuttal, which
2 presumably will take into account, to the extent
3 market conditions are relevant, whatever those are
4 during the relevant periods. And if Staff wants to
5 argue that some period should be excluded from
6 consideration because it falls after the test period,
7 certainly that's an argument that could be made. Or
8 some other -- if there were some other date after
9 which Staff felt that some changes in the market
10 should no longer be considered as the Commission
11 determines the case, then that's certainly an
12 argument that can be made on brief.

13 But, again, as I understood what the
14 witness was saying just now, I don't think we need to
15 hear anything more about it from the witness. He was
16 simply clarifying that were he answering these
17 questions today, some of the answers might be
18 different because some of the underlying data might
19 have changed. The market changes daily. There have
20 probably been what, two interest rate increases in
21 the federal reserve system since this testimony was
22 filed. Maybe more than that. And those sorts of
23 things that are part of this testimony unquestionably
24 would be different if responded to today, and I think
25 that's all he was saying. Is that all you were

00196

1 saying, Mr. Hadaway?

2 THE WITNESS: Yes, Your Honor. I apologize
3 if I went a little beyond that.

4 JUDGE MOSS: So I think maybe the witness
5 was being a little more expansive than necessary, but
6 that's all I see. So I think we can go ahead with
7 the cross-examination based on the testimony that's
8 filed. That's the evidence the company is offering,
9 or presumably will offer --

10 MR. VAN NOSTRAND: Given an opportunity.

11 JUDGE MOSS: -- momentarily. And we'll
12 take it from there. Okay, go ahead.

13 Q. And with respect to Exhibits 11 through 14
14 and 16 through 21, as corrected, are they true and
15 correct, to the best of your knowledge?

16 A. Yes, with the caveat that I gave before,
17 they sure are.

18 MR. VAN NOSTRAND: Your Honor, I would move
19 the admission of Exhibits 10-T, 11 through 14, 15-T
20 and 16 through 21.

21 MR. CEDARBAUM: I had some questions --

22 JUDGE MOSS: I'm sorry?

23 MR. CEDARBAUM: I'd like to ask some voir
24 dire.

25 JUDGE MOSS: All right, go ahead. Could

00197

1 you pull the mic up, because I lost your voice there.

2 MR. CEDARBAUM: I'm sorry.

3

4 V O I R D I R E E X A M I N A T I O N

5 BY MR. CEDARBAUM:

6 Q. Mr. Hadaway, as I understood your
7 preliminary testimony this morning, if you were to
8 file the testimony and exhibits that you are planning
9 to offer today on cost of capital, capital structure,
10 cost of preferred and cost of debt and cost of
11 equity, you would have a different recommendation?

12 A. I certainly would with respect to the cost
13 of equity, which was -- as far as I believe I had
14 stated earlier. With respect to the other issues,
15 I'm not sure one way or the other.

16 Q. So with respect to your testimony on cost
17 of equity, if you were asked the questions in that
18 testimony today, your answers would be different?

19 A. The rate of return on equity would be
20 higher.

21 Q. So the responses in that testimony on cost
22 of equity would be different?

23 A. I'm sorry, I didn't mean to disagree with
24 you. Yes, they would be different. The rate of
25 return on equity would be a bit higher.

00198

1 Q. You have provided no testimony in your
2 direct testimony as to how much higher?

3 A. I'm sorry. In this written document?

4 Q. Yes.

5 A. I don't believe I could have. No, sir.

6 MR. CEDARBAUM: Thank you. Your Honor, I
7 don't have any objection to the testimony and
8 exhibits with respect to cost of capital -- with
9 respect to capital structure, cost of debt and cost
10 of equity that was prefiled by Mr. Peressini, cost of
11 debt, cost of preferred and capital structure of Mr.
12 Peressini, but I would object to the admission of the
13 testimony and exhibits with respect to Mr. Hadaway on
14 cost of equity as being wrong and inaccurate, based
15 on his testimony today that had he offered prefiled
16 testimony on the subject matter today, his testimony
17 would be different. And I have no basis upon which
18 to cross-examine him on what those differences would
19 be.

20 JUDGE MOSS: I'm not sure I understand the
21 objection, but I'll hear from Counsel.

22 MR. VAN NOSTRAND: I'm frankly at a loss as
23 to the standards by which we're now conducting rate
24 proceedings in this state. This is -- and it's not
25 as though we're going to be able to update the cost

00199

1 of capital information in the rebuttal phase that
2 we're going to be stuck with the cost of capital as
3 of a day and time in November of 1999, when this case
4 was filed. And this is routine updating, which I've
5 seen happen to me several times when a witness takes
6 the stand, says, Oh, by the way, my testimony was
7 filed a month and a half ago, and of course, things
8 have changed and my numbers would be different today.
9 This is the exact same thing.

10 All Dr. Hadaway is saying -- he's willing
11 to stand cross on the testimony that's been filed.
12 He's acknowledged that things are different, and
13 they'll be different again when we file our rebuttal
14 in July. And I'm at a loss as to, if this objection
15 is sustained, how we conduct the rest of this case.

16 JUDGE MOSS: Well --

17 CHAIRWOMAN SHOWALTER: Can you just direct
18 yourself to why we should overrule the objection?

19 MR. VAN NOSTRAND: Dr. Hadaway is willing
20 to stand cross on the testimony as filed, and that's
21 the testimony we are offering in support of the
22 return on equity and the revenue requirement to which
23 we have filed. That's how we got to 25.8 million,
24 was based on the cost of equity, capital structure
25 and debt recommendations of this witness.

00200

1 MR. CEDARBAUM: I think the point of my
2 objection is the witness' admission that if he were
3 asked the questions that are in his cost of equity
4 testimony today, his answers wouldn't be what are in
5 his prefiled testimony.

6 CHAIRWOMAN SHOWALTER: Could I ask Mr.
7 Cedarbaum a question?

8 JUDGE MOSS: Sure.

9 CHAIRWOMAN SHOWALTER: Mr. Cedarbaum, how
10 do you deal, though, with information that does
11 change daily? That is, what are people -- what is
12 the company supposed to do if this is not -- as
13 distinct, perhaps, from mistakes in testimony, if
14 there are numbers that are updated daily, how do you
15 ever get to the beginning point, unless you come in
16 on the day of the hearing with the updated
17 information, which has its other problems?

18 MR. CEDARBAUM: I think what you don't do
19 is come into the hearing room having prefiled
20 testimony months ago that we've been working on for
21 months and then, on the stand, orally tell us that
22 the testimony is inaccurate.

23 CHAIRWOMAN SHOWALTER: But isn't it
24 necessarily going to be true that something that's
25 filed in November that relies on any kind of market

00201

1 information of any kind is going to be, one hopes,
2 accurate on that date, but won't be able to be
3 accurate on this date?

4 MR. CEDARBAUM: I think that's true, but I
5 think that's not our issue.

6 CHAIRWOMAN SHOWALTER: Okay.

7 MR. CEDARBAUM: The issue is on what basis
8 are we going to cross-examine him today? Apparently,
9 it would have been on prefiled testimony, except he
10 now says his prefiled testimony is inaccurate.

11 CHAIRWOMAN SHOWALTER: Aren't you able to
12 cross-examine taking into account that certain types
13 of information or numbers are the types that can be
14 updated over time and necessarily have to be, as
15 distinguished from, you know, errors?

16 MR. CEDARBAUM: I can see I'm losing this
17 one, so --

18 CHAIRWOMAN SHOWALTER: Well, you haven't
19 given an answer of how you deal with testimony that
20 relies on calculations or methodologies that change
21 day-to-day. You're caught between either information
22 either being frozen in time or you get the
23 information on the day of the testimony, which isn't
24 enough time to prepare.

25 COMMISSIONER HEMSTAD: I'd just make

00202

1 further comment. The objection puts the witness in
2 the situation where it's a Catch 22. If he answers
3 the question yes, my testimony would be the same
4 today as when I wrote it, he would be perjuring
5 himself, because of the change in the market
6 situation. So to answer truthfully, surely he has to
7 say that if he were writing it today, it could be
8 somewhat different. But isn't this a snapshot in
9 time, and that's the basis upon which he is now being
10 subjected to cross-examination?

11 JUDGE MOSS: Isn't the fundamental point,
12 Mr. Cedarbaum, that like any other rate case, this
13 one has a test period? That's what we're concerned
14 about. We're concerned about the numbers in
15 existence during the test period and known and
16 measurable changes after the test period and the
17 various types of normalizing and annualizing and pro
18 forma and whatever the litany is of adjustments that
19 take place so that we have a good sense of what's
20 going to occur on a prospective basis and set rates
21 that will capture those admittedly speculative
22 conditions on a going forward basis.

23 The same thing is true with respect to the
24 evidence. The evidence comes in at various points
25 during the case. A witness who is testifying that I

00203

1 rely in part on conditions in the financial markets
2 of the United States and the world is necessarily
3 constrained to testify as to the state of those
4 conditions on the date the testimony is filed. If he
5 is then cross-examined four months later or two
6 months later and those conditions have profoundly
7 changed, we can't expect him to come onto the stand
8 and say, If I was asked these questions today, my
9 answers would be the same as two months ago, when the
10 conditions were profoundly different.

11 That doesn't constitute a moving target in
12 the sense that what your inquiry is about is the
13 evidence the company is proposing to put into the
14 record, which is this testimony.

15 Now, it may turn out that things change so
16 profoundly between now and the end of this case that
17 this testimony is all but useless to us in reaching a
18 reasoned decision at the end of the case, which is a
19 point that you will be free to argue on brief, but I
20 just don't see that this case, in terms of what's
21 occurring here, is any different from any other rate
22 case that I've ever seen either. And often there is
23 some discussion and debate, often handled through the
24 briefs, but sometimes through other forms of
25 argument, that the Commission or the jurisdictional

00204

1 body should base its decision on circumstances as
2 they prevailed as of the end of the test period or as
3 they were believed to be, based on known and
4 measurable changes, 12 months after the test period
5 or what have you. Various arguments have been heard.
6 But how is this case any different?

7 MR. CEDARBAUM: Your Honor, the difficulty
8 that we're in is that we've -- we'd be happy to go
9 forward with the cross-examination of what was
10 prefiled. But the witness' testimony, the statement
11 before his testimony was offered, was that, in his
12 opinion, he has additional evidence or different
13 thought processes, different ideas in mind as to why
14 he believes cost of capital is higher. This is the
15 first we learned about it today.

16 Now, I think we're entitled to be able to
17 test that, but we can't, because we didn't know about
18 it till five minutes ago.

19 JUDGE MOSS: Well, actually you can, at
20 your peril, go into that, if you wish to, on
21 cross-examination. You can ask him, but you'll be
22 doing so at your own risk. You know, I don't frankly
23 care whether you do that or not. My point is that
24 you have this prefiled testimony. That is what Mr.
25 Van Nostrand has just offered into evidence. Your

00205

1 cross-examination should go, I think, to that. And
2 to the extent you think that you can shoot holes in
3 it by exploring with this witness what his answers to
4 some of these questions would be if he were giving
5 them today, then you can do that, although I think
6 the suggestion has been that it might be contrary to
7 your interests to do so.

8 And then, of course, if this witness
9 appears on rebuttal and files testimony that includes
10 reflections of, say, market conditions as they exist
11 at that time, then that will be the additional
12 evidence that the company is offering on this subject
13 matter, and you'll have a chance to take that up at
14 that time on your cross-examination, and if you
15 desire to do so, try to shoot holes in it, or maybe
16 you'll find it to your liking. Who knows what it
17 will be a couple months from now.

18 But I mean, that's just the nature of the
19 case. That's how a case goes forward. Here's the
20 prefiled testimony, here's your chance to inquire
21 about it. That's what we'll have as evidence. We
22 will not have as evidence what is in Mr. Hadaway's
23 mind with respect to what his answers to the same set
24 of questions would be if he were drafting those
25 answers today unless you bring it up, because it

00206

1 certainly wouldn't be allowed on redirect.

2 So I think we need to just go forward and,
3 in terms of the objection, I understand it's sort of
4 a process objection, not really an evidentiary
5 objection, but a process objection in terms of the
6 moving target, which is not unfamiliar. It's
7 certainly an objection I've heard raised in other
8 proceedings many times. But I think we have what we
9 have and we need to go forward with it.

10 So unless there's some other objection, or
11 some evidentiary based objection, then his testimony,
12 these testimonies, actually, two of them, these
13 testimonies and these exhibits will be admitted as
14 marked.

15 MR. CEDARBAUM: Mr. Hadaway -- I'm sorry, I
16 assume the witness is available for cross?

17 JUDGE MOSS: I believe we've established
18 that the witness is available for cross.

19 MR. VAN NOSTRAND: The witness is available
20 for cross, Your Honor.

21 JUDGE MOSS: Okay. Go ahead.

22

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

24 BY MR. CEDARBAUM:

25 Q. Mr. Hadaway, let's start off with the

00207

1 testimony and exhibits of Mr. Peressini that you're
2 adopting. And the subject matter in that testimony
3 is capital structure, cost of debt and cost of
4 preferred; is that right?

5 A. Yes, that's right.

6 Q. Did you have any role in the preparation of
7 that testimony?

8 A. Yes, I did.

9 Q. What was that?

10 A. We provided Mr. Peressini with the group of
11 comparable companies that I was using for the rate of
12 return analysis, the ROE analysis, and then we also
13 made calculations and provided him with Value Line
14 sheets from which the capital structures of those
15 companies were taken. And I believe that is his
16 Exhibit WEP-2. And I also had the opportunity to
17 read several drafts of his testimony, so we developed
18 our testimony side-by-side.

19 Q. So the direct involvement you had, at least
20 in the exchange of information, had to do with the
21 issue of capital structure and the group of 20
22 comparable companies; is that right?

23 A. That and my comments on various drafts of
24 his testimony before it was finalized.

25 Q. Did you have any specific input with

00208

1 respect to his development of the cost of debt or
2 cost of preferred, other than --

3 A. I had copies of the exhibits, and I don't
4 recall, over the period of time of development,
5 whether I was asked about any of that or not. I
6 really doubt it. I think his staff did that.

7 Q. Did you have any role in drafting or
8 reviewing requests -- or excuse me, responses to data
9 requests on the subject matters of capital structure,
10 cost of debt, cost of preferred?

11 A. I did see the questions that were asked,
12 because, typically, the rate of return, the whole
13 cost of money issue, the questions usually came in
14 together. Some of them would be designated to him,
15 some to me. And then I did see the development of
16 the answers to those questions as they went along. I
17 think, with respect to the comparable group that
18 ultimately the capital structure parameters were
19 taken from, I may have even drafted some of the
20 answers that had to do with that part of it.

21 Q. So you're comfortable answering questions
22 with respect to responses to data requests on the
23 Peressini topics?

24 A. I received very late on Friday the cross
25 exhibits that included those, and I've, as best I can

00209

1 since that time period, tried to familiarize myself
2 with the additional information that you focused on.

3 Q. Looking at Exhibit 10-T, page two, line 12,
4 you recommend that the rate-making capital structure
5 should not be developed independent of the company's
6 actual capital structure, so that customers are not
7 adversely impacted or subsidized by nonregulated
8 operations of the company. Do you see that
9 statement?

10 A. Yes, I see it.

11 Q. And in that regard, you recommend a
12 hypothetical capital structure, as opposed to using
13 PacifiCorp's actual consolidated capital structure;
14 is that right?

15 A. I'm not sure if I see it right there, but
16 yes, that's the basic recommendation.

17 Q. If you could turn to what has been marked
18 for identification as Exhibit 22, which is the
19 company's response to Staff Data Request Number 22,
20 do you have that? That was in the packet of cross
21 exhibits that you were provided.

22 A. It will take us just a moment. And may I
23 ask, you're saying that the exhibit numbers that you
24 mentioned would correspond to the data request
25 numbers?

00210

1 Q. Just by happenstance on this one, yes.

2 A. Okay. You may have to bear with me,
3 because these are not actually marked.

4 Q. I'll try to give you the data request
5 number --

6 A. Thank you.

7 Q. -- so that you can find them. But looking
8 at Exhibit 22, Staff Data Request Number 22, do you
9 recognize this as the company's response to Staff
10 Data Request Number 22?

11 A. Yes, it appears to be.

12 MR. CEDARBAUM: Your Honor, I'd offer
13 Exhibit 22.

14 MR. VAN NOSTRAND: No objection.

15 JUDGE MOSS: It will be admitted as marked.

16 Q. The capital structure that you recommend
17 contains 48.8 percent equity, and that's based on an
18 arithmetic average of 20 comparable companies. And
19 those companies are depicted in Exhibit WEP-2, which
20 is Exhibit 12; is that right?

21 A. Yes, that's right.

22 Q. And on page four of Exhibit 10-T, line 12,
23 you discuss Standard & Poor's benchmark ratios for
24 credit ratings, and you state that Standard & Poor's
25 believes that the utilities will exhibit greater

00211

1 dispersion around the A-3 credit rating due to
2 utility-specific business strategies. Do you see
3 that?

4 A. Yes, I think that's actually a quote from a
5 reference, Standard & Poor's Outlook, that's noted
6 there.

7 Q. When you talk about utility-specific
8 business strategies, do you mean -- or do you
9 understand that to mean strategies that concern
10 management decisions regarding investment and assets
11 other than electric and gas properties?

12 A. That's one of the items that's discussed in
13 that article, but the main thing is the basic
14 unbundling of the industry. Sales of generation
15 assets by some companies, those kinds of things.

16 Q. On page five of the Peressini testimony, if
17 I can call it that, lines one through two, you state
18 that Standard & Poor's assessment of debt ratio can
19 be as much as 52 percent for a well positioned
20 company. Do you see that?

21 A. Yes, I do.

22 Q. Is it true, or would you accept, subject to
23 check, that on June 18th, 1999, Standard & Poor's
24 published new benchmarks, and that the total debt for
25 a well positioned company with an A rating can be as

00212

1 high as 60.5 percent?

2 A. I'm quite familiar, although there's a
3 ranking of one ten in those Standard & Poor's June
4 credit levels, and unless you're talking about some
5 companies that are very much different from
6 traditional electric utility companies, I don't
7 believe that number's correct.

8 Q. Well, I'll ask you subject to check, and
9 this, you can check it in response to Staff Data
10 Request 13, in section two of the attachment, that
11 the total debt ratio for a well positioned company
12 with an A rating can be as high as 60.5 percent?

13 A. I'm sorry, we need to look at what you mean
14 by well positioned company.

15 Q. And that would be a company with a position
16 rating of one?

17 A. There are no electric utility companies
18 with position ratings of one, two, and I'm not sure
19 there are even any with three. No, that is not
20 representative of anything that has to do with the
21 appropriate capital structure here.

22 Q. That's not the question I asked you. Would
23 you accept, subject to check, that that was Standard
24 & Poor's debt ratio?

25 A. No, I would say that you're

00213

1 mischaracterizing what Standard & Poor's means by a
2 business position of one. I don't need to check,
3 subject to check. I know that document well.

4 Q. Would you -- that's what the document
5 states?

6 A. The document says that a company, which
7 includes all sorts of companies, not necessarily
8 electric utilities, that has a business position
9 ranking of one, where one is like AAA plus and ten is
10 risky, might have any sort of different
11 capitalization ratios to be rated single A.
12 Sixty-five percent may be the number that's there,
13 but it doesn't have anything to do with electric
14 utility companies.

15 Q. Would you accept, subject to check, that in
16 Standard & Poor's March 1990 report with respect to
17 PacifiCorp, it states that the PacifiCorp's capital
18 structure is projected to contain 55 to 60 percent
19 debt and six percent preferred?

20 A. Sorry, what was the date?

21 Q. March 1999.

22 A. And I'm sorry, what were the numbers again?

23 Q. Fifty-five to 60 percent debt, six percent
24 preferred.

25 A. If you have that document, I'll be happy to

00214

1 look at it, or we may have it in these responses, if
2 you'd like for me to pull it out. It should be
3 placed into context, because those numbers are not
4 consistent with what Standard & Poor's says now are
5 what the company's actual numbers are.

6 MR. CEDARBAUM: If we could just have a
7 moment, Your Honor, so we could direct the witness to
8 a specific document?

9 JUDGE MOSS: While Counsel gets himself
10 organized over there, why don't we take a ten-minute
11 recess. We'll be back at ten before the hour.

12 (Recess taken.)

13 JUDGE MOSS: Let's go back on the record
14 and resume questioning of Mr. Hadaway. Mr.
15 Cedarbaum, are you ready?

16 MR. CEDARBAUM: Yes.

17 Q. Mr. Hadaway, if you could refer to what's
18 been marked for identification as Exhibit 23, which
19 is the company's response to Staff Data Request
20 Number 20 and Data Request Number 43.

21 JUDGE MOSS: Twenty-three and 43, exhibits
22 -- I'm sorry.

23 MR. CEDARBAUM: It's Exhibit 23, and I'm
24 asking the witness to identify the exhibit as the
25 company's response to Staff Data Requests Numbers 20

00215

1 and 43.

2 JUDGE MOSS: Okay, thank you.

3 THE WITNESS: Okay. I have Staff Data

4 Request 20, and I'm sure somewhere here I have 43.

5 Q. Forty-three should be stapled together with
6 20.

7 A. Okay, thank you. Yes, I have those.

8 MR. CEDARBAUM: Your Honor, I would offer
9 Exhibit 23.

10 MR. VAN NOSTRAND: No objection.

11 JUDGE MOSS: There being no objection,
12 they'll be admitted as marked.

13 Q. Referring you, Mr. Hadaway, to Exhibit 24
14 for identification, which purports to be the
15 company's response to Staff Data Request Number 265,
16 do you have that?

17 A. Yes, I do.

18 Q. And can you identify this Exhibit 24 as the
19 company's response to Staff Data Request 265?

20 A. This one is not supplemented. I know that
21 WUTC 275 actually answered this question differently
22 and provided the requested information. But yes,
23 this is the answer to 265, at least as it says right
24 here, but 275 does, in fact, provide the requested
25 information.

00216

1 Q. Okay. Do you have any reason why it wasn't
2 provided in response to 265?

3 A. It was probably overlooked. 275 is a
4 lengthy Standard & Poor's publication, and this asked
5 for data not about PacifiCorp, but about the
6 companies that I had selected. I don't think that I
7 saw this data request to begin with, or if I did, I
8 don't think I was assigned to respond to it.
9 Ultimately, the proper answer was given, and it was
10 number 275.

11 Q. When you were assembling your group of 20
12 comparable companies, did you look at the information
13 that was provided in response to Staff Data Request
14 275?

15 A. I did not.

16 MR. CEDARBAUM: Your Honor, I guess just a
17 question of procedure. I'd like to take a look off
18 the record at what's in 275, and perhaps supplement
19 Exhibit 24 with that information. I just don't know
20 what's there off the top of my head, so if we could
21 just reserve that and I'll let you know first thing
22 in the morning whether we would need to do that or
23 not.

24 JUDGE MOSS: Is it your intention to offer
25 Exhibit 24?

00217

1 MR. CEDARBAUM: Yes.

2 JUDGE MOSS: As I understand it, the full
3 and complete response to the question posed would
4 encompass both this answer and the response to Data
5 Request 275. Is that what you're saying, Mr.
6 Hadaway?

7 THE WITNESS: Yes, Your Honor.

8 JUDGE MOSS: So why don't we just say that
9 you can submit an amended version of this to include
10 the full and complete response.

11 MR. CEDARBAUM: That's fine. Not knowing
12 -- the witness indicated that it's a voluminous
13 document. I just wanted to make sure what we
14 supplemented 24 with was the information that
15 responded to our question and not a lot of
16 information that might be irrelevant to our question,
17 and I just don't know the answer to that statement
18 today.

19 JUDGE MOSS: I appreciate that you would
20 refine in that fashion. All I'm suggesting is that I
21 think we've established what we need to establish in
22 order to let you do this. I think that would be
23 appropriate, and then, of course, whenever we have a
24 partial document offered, then the other parties have
25 an opportunity to suggest there may be other portions

00218

1 we need to look at, and we leave the door open to
2 that, too.

3 CHAIRWOMAN SHOWALTER: Well, I notice that
4 Data Request 275 is Exhibit 45. Are you planning to
5 introduce that?

6 MR. CEDARBAUM: Good catch. Yes, we are.
7 Thank you for catching that. I overlooked it. So we
8 do have, as I understand it, Your Honor, we have
9 Exhibits 23 and 24 admitted?

10 JUDGE MOSS: Well, 24 hadn't been offered
11 yet.

12 MR. CEDARBAUM: Sorry, I'd offer Exhibit
13 24.

14 JUDGE MOSS: Hearing no objection, it will
15 be admitted as marked.

16 Q. Mr. Hadaway, if you look at Exhibit 23,
17 page two, which is the company's response to Staff
18 Data Request Number 43, it lists essentially three
19 factors you use to come up with the 20 comparable
20 companies; is that right?

21 A. That's right.

22 Q. So you didn't analyze directly whether or
23 not the 20 comparables had exposure to stranded cost
24 liability?

25 A. Some of them do. I did read Value Line

00219

1 sheets associated with them. Some of them, I read
2 their annual reports. But I did not make a detailed
3 study of the stranded cost issue.

4 Q. Would your answer be the same for whether
5 or not your company has had exposure to the cost of
6 nuclear generation?

7 A. Some of them do.

8 Q. But did your specific analysis take that
9 into account?

10 A. In the sense that in the Value Line sheets,
11 down in the little box at the bottom, it tells what
12 the fuel mix is for each company. So I would have
13 seen it, but I didn't consider that to be a
14 significant issue and I didn't make a specific study
15 on it.

16 Q. Would the same be true, then, for companies
17 that may or may not have made decisions to sell
18 generation?

19 A. Some of the companies are in the process, a
20 few of them, of divesting themselves of generation.
21 Many of the companies that have were excluded from
22 this group, many of the New York companies, because
23 of that very activity. It skewed their particular
24 1998 results to the point where the model simply
25 didn't have adequate data. That's the third criteria

00220

1 that you asked me about, I think, there.

2 Q. So you're saying, looking at your response
3 to Data Request 483, you're saying that that element
4 of the analysis was captured in the criteria that at
5 least 75 percent of total revenues must be from
6 domestic electric operations?

7 A. No, I'm sorry, Mr. Cedarbaum, I didn't say
8 that very well. Some of the companies, particularly
9 in New York state, and maybe in some of the other
10 states, have had major asset divestitures, have
11 restructured their companies almost entirely. Some
12 of those companies, particularly in 1998, had very
13 unusually high or low, many of them low, because of
14 writeoffs, reported earnings.

15 In the models we used in the testimony, low
16 earnings made for high priced earnings ratio, and
17 that gives you a tremendously high rate of return for
18 the DCF model, one of the versions we use, so we
19 excluded those companies.

20 So what I'm saying is there are few
21 companies in the 20 that you asked me about
22 specifically that still have some divestiture
23 activities going on, and that will probably play out
24 over the next few years, as is the case around the
25 country, but we didn't -- you know, we didn't think

00221

1 that was an issue that was serious enough to exclude
2 them and it did not affect their 1998 earnings, which
3 was the focus of our analysis for this group.

4 Q. So as I understand your testimony, you're
5 saying that divestiture activity for the companies
6 that you looked at was a factor, but it was not
7 included in the three factors that you show in your
8 response to Data Request 43?

9 A. That is probably pretty close to a fair
10 characterization. But what I want to say is that, to
11 the extent that divestiture had not occurred for
12 these companies and it had for a bunch of others or
13 for a few others, the earnings impact was different.

14 Q. Looking back at the response to Data
15 Request 483, and taking the flipside of the 75
16 percent criteria, would it be correct that your
17 comparable companies could have up to 25 percent
18 revenues from unregulated operations?

19 A. I think that's a definition, yes.

20 Q. Did your selection process analyze
21 specifically what the source of those unregulated
22 operations were?

23 A. To the extent, again, reading the Value
24 Line sheets for each company and reviewing some of
25 their annual reports, where there was something that

00222

1 kind of looked funny in the Value Line sheet, more
2 further investigation. What I tried to do was
3 satisfy myself that this was a realistic group, a
4 large enough group, one that did not skew the results
5 one way or the other because of revenues coming from
6 unusual sources.

7 Q. Referring you to what's been marked as
8 Exhibit 25, which is your response to our data
9 Request 47.

10 A. Yes, I have that, I believe.

11 Q. Can you confirm that this is the company's
12 response to Staff Data Request 47?

13 A. Yes, it is.

14 Q. Is it correct that a PacifiCorp has an A
15 rating?

16 A. That's right.

17 MR. CEDARBAUM: Your Honor, if I haven't
18 offered Exhibit 25, I'd like to do that.

19 JUDGE MOSS: You have now offered it. Any
20 objection? No objection. It will be admitted as
21 marked.

22 Q. If you could look at Exhibit 12, which is
23 WEP-2, this is your list of 20 comparable companies;
24 is that right?

25 A. Yes, that's right.

00223

1 Q. And it's based on common equity ratios, as
2 you've indicated at the bottom, that come from
3 information reported by Value Line?

4 A. That's right.

5 Q. So the equity ratios that you show on this
6 page include the impact of unregulated operations on
7 capital structure?

8 A. Since we excluded companies that had
9 substantial unregulated or non-U.S., domestic
10 electric operations, we tried to tone that particular
11 element down as much as we could. But certainly 25
12 percent of the revenues may have come from, in
13 several cases, simply revenues from outside the
14 United States, but some from just purely nonregulated
15 activities, as you suggest.

16 So to the extent that that might affect
17 their capital structures, then I guess the answer to
18 your question is yes.

19 Q. Do you know if any of the capital
20 structures that you show on Exhibit WEP-2 include
21 short-term debt?

22 A. The numbers on WEP-2 do not include
23 short-term debt. Excuse me. They do not exclude
24 short-term debt to the extent that Value Line says
25 it's long-term debt. In PacifiCorp's information

00224

1 that we provided to you, you know that they have
2 transferred some long-term debt into long-term -- I'm
3 sorry, some short-term debt into long-term. I've
4 taken Value Line's characterization of long-term at
5 face value.

6 Q. So are you saying that what you show on
7 WEP-2 in the middle column does contain -- does or
8 does not contain short-term debt?

9 A. It should not. It's characterized by Value
10 Line as long-term debt. If we're going to come back
11 after awhile and talk about PacifiCorp's 10-Q or 10-K
12 or something, we'll come to an item in their notes
13 that says that they have, in fact, put some
14 short-term debt in their long-term balance. But I
15 don't know that being the case for any of these
16 companies.

17 Q. Is it correct, or would you accept, subject
18 to check, that September 30th, 1998, PacifiCorp had
19 access to \$70 million of -- \$700 million of
20 commercial paper with \$445 million outstanding, at a
21 cost of 5.6 percent?

22 A. Mr. Cedarbaum, I'm sorry, but those other
23 subjects to check that we were talking about earlier
24 simply did not comport with the facts. I would like
25 to see the document that you're asking me about, if

00225

1 you could.

2 Q. Okay. If you could turn to what's been
3 marked for identification as Exhibit 30, which is the
4 company's response to Staff Data Request Number 14 --
5 I jumped ahead there, but it would be one of the
6 documents in there.

7 MR. VAN NOSTRAND: About five down.

8 CHAIRWOMAN SHOWALTER: Mr. Cedarbaum, in
9 general, if you're referring to a document, instead
10 of saying subject to check, if the document you're
11 referring to is actually in front of us, can you just
12 point us all to it and then we can follow along more
13 easily?

14 MR. CEDARBAUM: I will.

15 CHAIRWOMAN SHOWALTER: It's hard to hear it
16 all orally.

17 THE WITNESS: And I'm sorry, but I must ask
18 you, what was the data request number again?

19 Q. It's Staff Data Request 14, which was
20 provided to us by the company as a Standard & Poor's
21 Utility Credit Report, March 1999.

22 A. I have it now.

23 Q. This is the document from which I got those
24 numbers of 700 million and 445 million. If you could
25 turn to page 11 of the exhibit. Now can you accept

00226

1 those numbers subject to check, or do you see where
2 the document says PacifiCorp has access to a total of
3 \$700 million in commercial paper, of which about 450
4 million was outstanding as of the end of September
5 1998?

6 A. Yes, I see that.

7 Q. With a weighted average cost of 5.6
8 percent?

9 A. Yes, I see that. That's in the Standard &
10 Poor's report that you referred to.

11 Q. It also states that PacifiCorp's
12 subsidiaries as of the same date had access to 825
13 million, of which 531 million was outstanding. Do
14 you see that?

15 A. Yes, I see that.

16 MR. CEDARBAUM: Your Honor, I would offer
17 Exhibit 30.

18 JUDGE MOSS: There being no objection, it
19 will be admitted as marked.

20 Q. Mr. Hadaway, if you could refer to what's
21 been marked for identification as Exhibit 26, which
22 is, we understand, to be your response to Staff Data
23 Request 107?

24 A. Yes, I have that.

25 Q. We asked you in the response to provide a

00227

1 schedule showing PacifiCorp's actual capital
2 structure for 1998; is that right?

3 A. Well, I'm sorry, maybe I have the wrong
4 one, Mr. Cedarbaum. This says that the data were
5 provided in PacifiCorp's 1998 annual report in
6 response to Data Request 11. And what I have behind
7 here is a Value Line sheet, so I'm not sure.

8 Q. Now, what I have as Exhibit 26, which is
9 your response to Staff Data Request 107, was a
10 request for the company to provide a schedule showing
11 PacifiCorp's actual capital structure for 1998, and
12 then the company indicated that it provided page 49
13 of its annual report, which was provided previously
14 in response to Staff Data Request 11?

15 A. Right, and I'm sorry, but --

16 MR. VAN NOSTRAND: That's the next exhibit.

17 THE WITNESS: I may have gotten them out of
18 order. That's what I'm saying. I don't want you to
19 introduce -- maybe you've got a different one you're
20 going to introduce, but the one I have doesn't have
21 page 49 attached to it. I'm sure we can find it here
22 somewhere.

23 Q. And what was provided in Exhibit 26 is what
24 was provided by the company to us, so I don't want to
25 belabor the point.

00228

1 A. It's just the company's balance sheet out
2 of its annual report. I'm sure it's not
3 controversial.

4 MR. CEDARBAUM: Your Honor, I'd offer
5 Exhibit 26.

6 MR. VAN NOSTRAND: No objection.

7 JUDGE MOSS: There being no objection, it
8 will be admitted as marked.

9 Q. Turning to Exhibit 27 for identification,
10 and this is -- do you recognize this as the last
11 Value Line report for PacifiCorp?

12 A. This was from -- the one I have from
13 November 19th. It's in the lower right-hand corner?

14 Q. Yes.

15 A. So this is a recent Value Line report.
16 They come out every three months.

17 Q. It's my understanding this is the most
18 recent?

19 A. Well, there would have been one at least in
20 March. No, I'm sorry, this one was in November, so
21 December, January -- there would have been a February
22 one that should have included PacifiCorp.

23 Q. Let's just focus on the November 19th, 1999
24 Value Line report. You do recognize Exhibit 27 for
25 identification as that report?

00229

1 A. Yes.

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

3 Exhibit 27.

4 MR. VAN NOSTRAND: No objection.

5 JUDGE MOSS: No objection. It will be

6 admitted as marked.

7 Q. Exhibit 27, if you look on the left-hand
8 side of the page about -- just up from the middle, it
9 indicates a capital structure for PacifiCorp as of
10 the end of June 1999, which includes total debt of,
11 if I had my decimal point in the right spot, \$4.690
12 billion?

13 A. Yes, I see that.

14 Q. And total long-term debt of \$4.466 billion?

15 A. Yes, that's right.

16 Q. If you could turn back to your testimony in
17 Exhibit 10-T, at page six, line nine, you cite Value
18 Line's electric industry capitalization ratios for
19 year end 1998. Do you see that?

20 A. Yes, I do.

21 Q. And the ratios, as reported by Value Line,
22 did not include short-term debt; is that your
23 understanding?

24 A. Yes, based with the minor caveat that I
25 gave you when you asked me that before.

00230

1 Q. Is it correct, to your understanding, that
2 PacifiCorp has relied upon a strategy to include
3 short-term debt in its capital structure as a means
4 to minimize its cost of capital?

5 A. I don't know much about PacifiCorp's
6 strategy, but that certainly is the strategy that
7 most utility companies use.

8 MR. CEDARBAUM: Your Honor, I guess this is
9 a question for Mr. Van Nostrand. I talked with Mr.
10 Van Nostrand about this issue before the case I think
11 last week, or maybe even the week before. This is
12 some information that was provided to us in response
13 to a Staff data request that came in on a
14 confidential basis, and my understanding was that
15 there was some information that I could still ask
16 about that on the issue of short-term debt that
17 wouldn't be confidential. We could do that in open
18 hearing.

19 So I'd like to have the witness accept some
20 statements subject to check based on that
21 confidential information, and I think I can go there,
22 but I'm not sure.

23 MR. VAN NOSTRAND: My recollection was the
24 plan was the witness would be provided with those
25 documents as cross-examination exhibits, but we

00231

1 wouldn't formally make them cross exhibits, but he
2 could look at them and answer your question based on
3 that, without formally offering them as exhibits.
4 That was the way of handling this issue.

5 JUDGE MOSS: I guess the question I have in
6 terms of the confidential nature of the material
7 here, now, there are a couple different ways to
8 approach this. One is to have them marked as
9 confidential exhibits, provide them to the witness,
10 and ask general questions that do not put into the
11 record the figures that the company wishes to keep
12 confidential, and then, of course, the use of the
13 exhibits on brief continues to be treated
14 confidentially. The bench, of course, is free to
15 look at the numbers in the underlying exhibits.
16 That's one way to keep the confidential information
17 out of the public record, if you will.

18 The alternative -- an alternative procedure
19 would be to do as you suggest, but if we do that,
20 then it sounded to me, from what Mr. Cedarbaum said,
21 that he wanted to ask about the specific numbers.

22 MR. VAN NOSTRAND: I thought it was just
23 the general concept, and that's what I thought -- see
24 those exhibits and see if he could answer a question
25 based on that general concept, without the exhibits

00232

1 going any further than this witness being able to
2 respond.

3 JUDGE MOSS: Is that going to work?

4 MR. CEDARBAUM: It's worth a try.

5 JUDGE MOSS: Well, are we going to need the
6 underlying exhibits? Because if we're going to go
7 forward on this understanding, I want to be sure that
8 we have that understanding going in.

9 MR. CEDARBAUM: I guess I'd like to try it
10 the way that Mr. Van Nostrand suggested. If we hit a
11 stumbling block, we may need to make it an exhibit.
12 If I could approach the witness?

13 JUDGE MOSS: All right, sure. Have these
14 been premarked?

15 MR. CEDARBAUM: No, they haven't.

16 JUDGE MOSS: They haven't. So we don't
17 have them at all?

18 Q. The question, Mr. Hadaway, was are you
19 aware of any strategy of PacifiCorp with respect to
20 the use of short-term debt as a way of minimizing the
21 company's cost of capital?

22 A. Would it be permitted for maybe you to
23 point to the part you want me to look at? This page
24 talks about floating rate debt and the amount of
25 floating rate debt that the company would use, and it

00233

1 doesn't --

2 Q. I'm asking you to look at a section of the
3 document that -- with respect to the recommendations
4 by the finance staff. I think we tabbed it for you

5 --

6 A. Yes, I see that.

7 Q. -- with a purple sticky, try to make it
8 easy for you to reference.

9 A. And I think I can say, without divulging
10 any confidences, that the discussion exceeding a
11 certain percentage limit is with respect to floating
12 rate liabilities requiring finance committee consent.
13 Maybe further on, maybe I'm not looking far enough
14 into the document, maybe there's some statement like
15 that about short-term versus long-term, but this is
16 floating rate versus fixed rate. It's right beside
17 your tab there.

18 MR. CEDARBAUM: Thank you. I think we can
19 stick with that answer and not have to actually put
20 the document in.

21 JUDGE MOSS: Okay. Maybe the confidential
22 document can be given to Mr. Van Nostrand for
23 handling.

24 MR. CEDARBAUM: Your Honor, I guess I'm
25 sorry to back up, but I guess on further examination

00234

1 of that document, I would like to make an exhibit of
2 at least -- and I'd be happy to put it all in or just
3 the page that we were referring to, the company's
4 option on that, but the document's a confidential
5 document which was a response to our Data Request 272
6 to 273.

7 My review of the document and the witness'
8 answer, there's a discrepancy between the two, and I
9 don't see the point in fighting with the witness
10 about it. I think I'd just as soon put the document
11 in.

12 JUDGE MOSS: Mr. Van Nostrand, it's a
13 confidential document, so I expect that you would
14 want to speak to that.

15 MR. VAN NOSTRAND: Yeah, I guess we'd have
16 no objection to putting the page in. I'm wondering,
17 for completeness purposes, if that one page standing
18 alone does it. I guess we'd like to have a chance to
19 review the entire document to see if we'd propose, in
20 light of that one page going in, the whole thing
21 should go in or, for an accurate record, the whole
22 document should be in.

23 JUDGE MOSS: Do you have a copy? Mr.
24 Cedarbaum, can you furnish Counsel with a copy, so he
25 can review it for that purpose?

00235

1 MR. CEDARBAUM: And I wonder whether, Your
2 Honor, it might be more convenient to just designate
3 a number for this, and I can give my copy to Mr. Van
4 Nostrand, he can think about it overnight, and we can
5 just put in whatever we agree to.

6 MR. VAN NOSTRAND: Just reserve an exhibit
7 and --

8 JUDGE MOSS: All right. Reserve Exhibit
9 Number 56. What shall we call it?

10 MR. VAN NOSTRAND: Response.

11 MR. CEDARBAUM: This is the --

12 JUDGE MOSS: Response to --

13 MR. CEDARBAUM: Attachment response to WUTC
14 Staff Data Requests 272 to 273.

15 JUDGE MOSS: All right. It's premarked for
16 that purpose. And we'll take it up tomorrow.

17 MR. CEDARBAUM: What number was that, Your
18 Honor?

19 JUDGE MOSS: Fifty-six.

20 MR. VAN NOSTRAND: Would that be C-56, Your
21 Honor?

22 JUDGE MOSS: That would be C-56. I guess
23 -- actually, I apologize. We're following the
24 convention of putting the alphanumeric character
25 second, so it would be 56-C.

00236

1 Q. Mr. Hadaway, if you could turn to what's
2 been marked for identification as Exhibit 28, which
3 is the company's response to Staff Data Request
4 Number 23.

5 A. Yes, I have it.

6 Q. And do you recognize this as the company's
7 response to that data request?

8 A. Yes.

9 MR. CEDARBAUM: Your Honor, I'd offer
10 Exhibit 28.

11 MR. VAN NOSTRAND: No objection.

12 JUDGE MOSS: Hearing no objection, it will
13 be admitted as marked.

14 Q. Turning to Exhibit 29 for identification,
15 do you recognize that as the company's response to
16 Staff Data Request Number 24?

17 A. Yes, sir, I do.

18 MR. CEDARBAUM: I'd offer Exhibit 29.

19 MR. VAN NOSTRAND: No objection.

20 JUDGE MOSS: Hearing no objection, it will
21 be admitted as marked.

22 Q. I think we already have Exhibit 30 in the
23 record. Turning to Exhibit 31 for identification.

24 JUDGE MOSS: Are you going to go through a
25 whole series of these, Mr. Cedarbaum?

00237

1 MR. CEDARBAUM: At least for now.
2 Thirty-one and 32 I can take together.

3 JUDGE MOSS: Yeah, to the extent we can,
4 let's do these in groups, so that we don't have to go
5 through the verbiage for each one of them.

6 Q. Referring you both to Exhibit 31 and 32 for
7 identification, Mr. Hadaway, do you recognize Exhibit
8 31 as the company's response to Staff Data Request 16
9 and Exhibit 32 as the company's response to Staff
10 Request 17?

11 A. Yes, I do.

12 MR. CEDARBAUM: I'd offer Exhibits 31 and
13 32.

14 MR. VAN NOSTRAND: No objection.

15 JUDGE MOSS: Okay. They'll be admitted as
16 marked.

17 Q. If you could turn to Exhibit 33 for
18 identification, and this is -- for your benefit, I
19 guess, it's titled PacifiCorp Electric Operations
20 Cost of Long-Term Debt, June 30, 1999. Do you have
21 that?

22 A. Yes, I do.

23 Q. Is it your understanding that these are
24 essentially the supporting schedules behind your
25 Exhibit WEP-3, which is Exhibit 13?

00238

1 A. That's right.

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

3 Exhibit 33.

4 MR. VAN NOSTRAND: No objection.

5 JUDGE MOSS: It will be admitted.

6 Q. Looking at Exhibit 33, if you'd look at
7 page three of the exhibit, at the top of the page, it
8 shows a Series A, Securities, do you see that?

9 A. Yes, I see those.

10 Q. And the first two of those have a maturity
11 date of August 10th, 1999 and September 1st, 1999?

12 A. Right.

13 Q. So those have been retired?

14 A. Yes.

15 Q. And there are other examples of other
16 securities that have been retired in the exhibit
17 since we've passed their maturity dates?

18 A. Yes, I see four more about two pages over.

19 Q. And going back to those Series A on page
20 three, the last one has a maturity date of March 1st,
21 2001. Do you see that?

22 A. Yes, I see it.

23 Q. So presumably that issue would also be
24 retired during the period of time that rates from
25 this proceeding go into effect?

00239

1 A. If you're assuming they'll be -- if new
2 rates will be in effect by then, I suppose so.

3 Q. And with that same assumption, there would
4 be other series of securities that would also be
5 retired during the rate effective period?

6 A. I don't want to quibble with you, but if
7 you're going to say, like, 12 months from today or
8 something, they have dates on them. I don't know
9 what the rate effective period is. But certainly
10 they're going to -- some of these are going to mature
11 in 2000 and a few in 2001.

12 MR. CEDARBAUM: Your Honor, I'd like to
13 make a record requisition. I think this might be
14 number one.

15 JUDGE MOSS: Go ahead.

16 MR. CEDARBAUM: I'd like the company to
17 revise Exhibit 33, removing all securities that have
18 either matured to date or will mature by June 1st of
19 the year 2001.

20 THE WITNESS: And may I ask a clarifying
21 question about that? Should we add any new series
22 that are put in their place?

23 MR. CEDARBAUM: I guess the answer is no.
24 We would like you just to take Exhibit 33 and remove
25 the ones that have been matured or will mature, but

00240

1 not add any additional.

2 JUDGE MOSS: I want to pause to ask the
3 purpose of the records requisition. As I understood
4 this Exhibit Number 33, it was the backup data that
5 underlies some exhibit that Mr. Hadaway produced.
6 Isn't that how you described it?

7 MR. CEDARBAUM: It's the backup schedules
8 to Exhibit 13.

9 JUDGE MOSS: What do we gain by having him
10 revise something that he previously relied on? It
11 will no longer be what he relied on if we have that
12 information. So I guess I'm just curious as to what
13 the purpose of the information is? What is the point
14 of the records requisition?

15 MR. CEDARBAUM: It's to gain information
16 that we can rely on.

17 JUDGE MOSS: All right. Let me press the
18 point a bit further by saying if all you're asking
19 the witness to do or the company to do is go through
20 the exhibit and remove from it any securities that
21 exhibit maturity dates by a date certain, why can't
22 you just do that yourself?

23 MR. CEDARBAUM: They have the model in
24 which to do it, a way in which to do it. We're
25 asking them to just rerun their model with a

00241

1 different assumption. That seems to be a fairly
2 common practice before the Commission.

3 JUDGE MOSS: I'm just -- it's novel to me.
4 I'm just trying to understand it so that I can do a
5 better job up here, but it seems to me that if this
6 is what the witness relied on, then it is important
7 for us to have it on that basis, but is this sort of
8 in the nature of further discovery, or is there
9 something you don't know at this point about this
10 exhibit or --

11 MR. CEDARBAUM: In my practice before the
12 Commission, we've used record requisitions as a means
13 of discovery.

14 JUDGE MOSS: Right, okay, that's fine. And
15 as I understand it, you're interested only in having
16 him remove any that mature by some dates that you
17 specified, and you're not interested in having him
18 include any other changes that might be pertinent to
19 the document?

20 MR. CEDARBAUM: I guess the witness'
21 statement took me a little by surprise, because in
22 another data request we had asked if there had been
23 any changes, and we were told no. So we were going
24 from that assumption. So that's why.

25 JUDGE MOSS: I just want to be clear what

00242

1 you want.

2 MR. CEDARBAUM: Well, I guess, you know,
3 just to play it safe, then, I think the record
4 requisition should have two parts. One would be as I
5 asked for it, and the other one would be with any
6 additions.

7 JUDGE MOSS: Okay.

8 MR. CEDARBAUM: The news that there were
9 additions was new news to me.

10 JUDGE MOSS: Okay, all right. Is that
11 clear, Mr. Hadaway?

12 THE WITNESS: Yes, Your Honor.

13 JUDGE MOSS: Mr. Van Nostrand, is that
14 clear?

15 MR. VAN NOSTRAND: Yeah, I mean, I
16 understand the convention is to rerun a response to
17 request. The convention is also we've provided Staff
18 with the same model that generated this. The
19 company's being asked to do something based on it
20 having a model that Staff doesn't have. Well, Staff
21 does have the same model. We can certainly perform
22 the exercise, but it should be done on a basis that
23 the company has the model and Staff doesn't. It
24 could just as easily perform this exercise as we can
25 and produce exactly what it wants.

00243

1 MR. CEDARBAUM: Your Honor, I guess, again,
2 we had a prior data request response that told us the
3 company had not issued any new securities. We
4 learned today apparently that they have or expect to,
5 so we really can't run the model based on information
6 that we don't have. The company needs to run that
7 for us.

8 JUDGE MOSS: Okay. Why don't we have the
9 company go ahead and do that in this instance and
10 provide that information. Go ahead and help me out,
11 though. You're going to make this an exhibit or --
12 we do have a special category of documents in the
13 record called record requisitions, as opposed to
14 exhibits.

15 MR. CEDARBAUM: At this point, it is simply
16 a discovery request, again, that I have understood to
17 be pretty common practice for parties to ask records
18 requisitions during the hearing. So at this stage,
19 it may or may not become an exhibit. It's just
20 something that would be provided to Staff and not the
21 Commission.

22 JUDGE MOSS: Okay. I just want to
23 understand. As I said, it's novel, in my experience,
24 so I'm taking a few moments here so that I fully
25 understand this process. I've heard of it before,

00244

1 but I've never seen it done.

2 MR. VAN NOSTRAND: We treat it as a data
3 request on the record, and then, when the transcript
4 becomes available, then that starts the time period
5 within which we have to respond to it as a data
6 request, and then Staff decides whether or not it
7 wants to use it as an exhibit, but it really is
8 treated as just another form of discovery.

9 JUDGE MOSS: Okay, thank you very much. I
10 appreciate the guidance.

11 MR. CEDARBAUM: I'm sorry, I guess when I
12 asked it, I just assumed everybody already knew that.

13 JUDGE MOSS: I said I've heard of them
14 before, but I want to be sure I understand the
15 process, so something doesn't come up after the
16 hearing that I'm unacquainted with and then have to
17 become reeducated, so to speak.

18 Q. Let me just finish up the Peressini topics
19 by having you refer, Mr. Hadaway, to Exhibits 34, 35
20 and 36 for identification. Do you recognize Exhibit
21 34 as the company's response to Staff Data Request
22 27?

23 A. Yes, I do.

24 MR. CEDARBAUM: Move the admission of 34.

25 MR. VAN NOSTRAND: No objection. It should

00245

1 be noted that 27, 28 and 40 are all included in that
2 exhibit.

3 MR. CEDARBAUM: Thank you. I overlooked
4 that. That's correct.

5 JUDGE MOSS: Okay. It's admitted.

6 Q. Referring you to Exhibit 35 for
7 identification, Mr. Hadaway, do you recognize the
8 exhibit as the company's response to Staff Data
9 Request 30?

10 A. Yes, I do.

11 Q. And referring you to Exhibit 36 for
12 identification, do you recognize this as the
13 company's response to Staff Data Request 341?

14 A. Yes, I do.

15 Q. Let me just spend a couple minutes just
16 clarifying 36 for the record. If you look to the
17 first page of the response, which I think is actually
18 the third page of the exhibit, you see the two
19 columns that are labeled pre-tax and after tax.
20 Actually, pre-tax earnings benefit and after tax
21 earnings benefit?

22 A. Yes, I see that.

23 Q. And the page that we're talking about
24 refers exclusively to the company's first mortgage
25 bonds; is that right? That's indicated at the very

00246

1 top of the page.

2 A. That appears to be the case.

3 Q. And at the bottom of the page, in those
4 columns for pre-tax earnings and after tax earnings,
5 there's an amount for pre-tax of 21 -- I assume these
6 are millions -- \$78,000, and then, for after tax
7 earnings, there's an amount of 13,279,000. Do you
8 see that?

9 A. Well, I know it says earnings up at the
10 top, but I think these are costs for reacquiring the
11 debt or loss on reacquired debts, what it says down
12 there at the very bottom part.

13 Q. I guess it says earnings benefit, and then
14 farther along the page there are columns that say
15 expenses and -- as opposed to benefits. So wouldn't
16 the amounts that I referenced be the pre-tax and
17 after tax savings of refinancing all of the
18 securities that are listed here?

19 A. If I might, and I don't mean to delay
20 things here, but again, at the very top, it says
21 unamortized loss on reacquired debt, and I'm sure,
22 with a moment or two, I can figure out just exactly
23 what this schedule is.

24 Q. I guess if you look at the front page of
25 Exhibit 36, the request itself, we asked for a

00247

1 schedule providing the amount of annualized pre-tax
2 and after tax savings for a list of securities. And
3 when we got this document back, we thought that the
4 numbers in the column that referenced pre-tax and
5 after tax earnings benefit referred to the question
6 that we asked.

7 A. And it may. And I would be happy, as I
8 have with the other questions -- I didn't know the
9 exact date on that Value Line thing. I'd be happy to
10 try to clarify this for you. As I sit here, I see it
11 says unamortized loss on reacquired debt. And maybe
12 that means negative earnings, maybe it means a tax
13 benefit accrued from a loss on debt. Typically, when
14 you reacquire debt, you pay a call premium. And
15 you'll notice that that redemption premium is one of
16 the separate items that's listed there. So they may
17 have tendered for some of these bonds, they may have
18 bought some of them above market value and had
19 additional losses. I simply don't know from looking
20 at the document.

21 Q. Let me use the record requisition process
22 again, then, so we don't have to bog this down
23 anymore, to ask you to provide a description of what
24 is contained in each column of Exhibit 36 with
25 respect to the first mortgage bonds listed on page

00248

1 three of the exhibit and the pollution control
2 revenue bonds listed on the last page of the exhibit.

3 A. Thank you. I'm sorry I don't know as I sit
4 here, but we can certainly find that out.

5 Q. Let's turn to the cost of equity issue,
6 which is contained in your testimony, Exhibit 15-T,
7 in the attached exhibits to that.

8 JUDGE MOSS: We're looking at what, now?

9 MR. CEDARBAUM: Exhibit 15-T is Mr.
10 Hadaway's testimony on cost of equity.

11 JUDGE MOSS: Okay. Before we turn to that,
12 it probably would be prudent for me to acknowledge
13 the Record Requisition Number Two with respect to
14 this Data Request Number 341. And Mr. Hadaway, you,
15 or you, with the assistance of others, then, will
16 respond to this record requisition request by
17 identifying in a more descriptive fashion what each
18 of these columns represents?

19 THE WITNESS: Yes.

20 Q. With respect to the cost of equity, Mr.
21 Hadaway, your recommendation is 11 and a quarter
22 percent, based upon a multi-staged discounted cash
23 flow analysis -- you testified to a cost of common
24 equity of 11.25 percent based upon a multi-staged DCF
25 analysis and a risk premium analysis; is that right?

00249

1 A. Those are the two models that I use, and
2 then I also apply my review of the industry and other
3 things that are going on, but those are the two
4 quantitative models that I use, and I do arrive at
5 11.25 percent as my recommendation.

6 Q. On page 20 of your testimony, again, this
7 is Exhibit 15-T, line nine, you state that on
8 balance, allowed rate of returns have changed very
9 little over the past five years. And I guess the
10 first question is when you say allowed rates of
11 return, you mean Commission-established rates of
12 return?

13 A. That's correct, yes.

14 Q. Would you accept, subject to your check,
15 the last time the Commission established a rate of
16 return for an electric company subject to its
17 jurisdiction was for Puget Sound Power and Light
18 Company in 1992, at a cost of equity of ten and a
19 half percent?

20 A. I will accept that is your statement. I
21 don't have that order and I don't know if I have a
22 way of checking it or not. But if that's your
23 statement, I won't dispute it with you.

24 Q. We can provide you the order. Is it
25 correct that ten and a half percent is the same

00250

1 return upon equity that was set for PacifiCorp last
2 year before the Utah Commission?

3 A. It was, when interest rates were at least
4 200 basis points lower than they are now.

5 Q. On page 20, again, you show the average
6 authorized return on equity for 1998 as 11.74
7 percent, based upon the Regulatory Research
8 Associates' survey results; is that right?

9 A. That's right.

10 Q. Is it correct that Regulatory Research
11 Associates has updated or provided a return on equity
12 figure for 1999 of 10.77 percent?

13 A. For electric companies, yes.

14 Q. The information that you show in your
15 exhibit is based on a simple average of all
16 Commission decisions for all companies; is that
17 right?

18 A. It's for all the ones that the Regulatory
19 Research Associates people put in their publication.
20 They do the averaging. I didn't, but I have actually
21 checked them sometimes, and it is a simple average.
22 I have seen people argue about what they consider to
23 be -- what RRA considers to be major rate cases, and
24 I've had people bring some other cases that were not
25 included in RRA. It is the widely reviewed -- most

00251

1 widely reviewed source of this kind of data, and I
2 believe they state that cases have to be \$5 million
3 or more to be included, rate changes of \$5 million or
4 more to be included in theirs.

5 Q. So once you reach the \$5 million amount,
6 however high it might go, it's a simple average of
7 all the companies that RRA gathers in its survey?

8 A. That's right.

9 Q. The DCF formula, generally speaking, is a
10 yield plus dividend growth formula; is that right?

11 A. The basic model, the so-called constant
12 growth DCF model, is just that. Various other
13 versions that are somewhat more complicated are more
14 than simply yield plus dividend growth.

15 Q. And the yield part of that equation relates
16 to the cash flow that shareholders receive from the
17 dividends that they receive from the company?

18 A. Yes, that's right.

19 Q. And the growth part would come from the
20 cash flow they receive from their appreciation in
21 their share price?

22 A. If all the assumptions of the model were
23 valid or if they all held, that would be the case.
24 The textbook description of it is that it's growth
25 expected in dividends to perpetuity, not change in

00252

1 share price. But to get to dividend growth to
2 perpetuity, the assumptions typically are made the
3 share price, dividends, earnings, all grow at the
4 same rate. So the practical application is that the
5 answer is yes, but that's not what you read out of a
6 textbook.

7 Q. In your analysis, you do calculate a
8 constant growth DCF of 10.6 percent for the 20
9 comparable companies, but your recommendation of 11
10 and a quarter doesn't give any weight to that
11 conclusion?

12 A. That's right.

13 Q. And that's because, as I understand your
14 testimony on page 25, you believe that the constant
15 growth DCF model isn't reliable because dividend
16 policies have changed by many electric companies
17 either to reduce or eliminate dividends which, in
18 your opinion, undermines the assumptions of that
19 constant growth model?

20 A. Well, sort of on its face, it does. There
21 I'm explaining --

22 Q. Can you -- you're welcome to explain your
23 answer, but it's always nice to get a yes or a no
24 first, if possible.

25 A. I'm sorry, I thought I said on its face,

00253

1 that is true, yes. But a little farther down on the
2 page, I explain that the cost of growth model does
3 not pass a test of reasonableness, because it
4 produces a risk premium of only 2.63 percent above
5 the recent cost of debt, which is almost eight
6 percent. Therefore, I don't give any weight to that
7 model. It does not pass the test of reasonableness.

8 Q. With respect to your testimony, though, on
9 changes in dividend policy, isn't it correct that
10 there are utilities that haven't reduced or
11 eliminated dividends over the past ten years?

12 A. There are some, yes.

13 Q. Are some of those utilities in your
14 comparable group?

15 A. We tried very hard to get companies that
16 had not eliminated their dividends. I believe we
17 only looked back five years, companies that had not
18 had a dividend cut within the most recent five years.

19 Q. If we look at your Schedule Four, which is
20 Exhibit 19, and it would be page four. Looking at
21 what are labeled Columns 33 and 34, I guess, just to
22 back up, this is your -- you did a multi-staged DCF
23 analysis, and also a transition to competition DCF
24 analysis; right?

25 A. Yes, those are both non-constant growth

00254

1 models. One is a market price based model; the other
2 one is a transition to competition model.

3 Q. And what's shown on page four of your
4 Schedule Four is the transition to competition
5 approach; is that right?

6 A. Yes, sir, that's right.

7 Q. And what's labeled Columns 33 and 34 show a
8 -- I guess that's a transition growth in year ten and
9 a long-term growth in years eleven and onward. Do
10 you see that?

11 A. Actually, in the transition model, we
12 assume that by year ten, the long-term growth rate
13 has been established, so that's -- and from year
14 eleven and forward, it goes on that way.

15 Q. So within your transition to competition
16 approach, beginning at year ten and after, you've
17 assumed a constant growth at the 6.26 percent?

18 A. That's right.

19 Q. If you could look at page three of this
20 same exhibit, which is your market price non-constant
21 growth analysis -- are you on that page?

22 A. Yes, I'm with you.

23 Q. Looking at the last column, Column 26, you
24 show a return on equity for Pinnacle West at line 17
25 of 5.8 percent, and for Kansas City Power and Light,

00255

1 I assume that is, of 19.7 percent; is that right?

2 A. Yes, that's right.

3 Q. So the spread of the 20 comparables that
4 you show on this page, that represents the high and
5 low of the spread?

6 A. Well, it's mechanically what comes out of
7 the model, but I certainly wouldn't say that's the
8 range of the cost of equity. It's printed there on
9 the page, 5.8 is the lowest one and 19 is the highest
10 one, but most of them are in the 10.6 to 11.6 range,
11 as you can see.

12 Q. But your model produces a high end of a
13 return on equity of 19.7 percent and a low end for
14 return on equity of 5.8 percent?

15 A. Yes, mechanically, those two numbers do
16 result, but they're the only outliers. And I started
17 to eliminate both of them and decided I didn't want
18 to have to explain that, so I just left them both in
19 there.

20 Q. If you could turn back to page four. I'd
21 asked you some questions about Columns 33 and 34. Do
22 you know what payout ratio you assumed for the growth
23 rates that are -- the growth rate that is listed in
24 those columns?

25 A. The way this growth rate is calculated is

00256

1 not related to a specific payout. I understand how
2 that relationship works, but here we simply use, for
3 half the growth rate, the long-term growth projected
4 for the Standard & Poor's 500 companies, which
5 represent the unregulated half of the industry, and
6 the IBES or Zack's Analyst Forecast for Electric
7 Utilities, which represent the other half, the part
8 that's assumed to remain regulated in this kind of
9 business, the distribution part, we average those two
10 together, and that's how you get the 6.26.

11 Q. So as I understand your testimony, there
12 was no assumption of payout ratio?

13 A. Not in this specific model. Back in the
14 constant growth model, we show the so-called BR
15 approach to retention rate and earned rate of return
16 approach. I think it's on page two of the exhibit,
17 if you want to refer to that.

18 Q. Looking at Column 27 on this page, you show
19 dividend yields that were used in the model. Is
20 there any assumption of a payout ratio in that
21 column?

22 A. It's simply the dividend that is projected,
23 in this particular case, for the 12 months probably
24 after June of 1999. It's what's called D1 in the
25 model, dividends expected over the coming 12 months.

00257

1 Q. If we go back into your testimony on cost
2 of equity, Exhibit 15-T, page 25, line seven, your
3 testimony regarding the transition to competition
4 model relies upon long-term growth in gross domestic
5 product as a surrogate for investor long-term
6 dividend per share growth; is that right?

7 A. I make the analogy that as the industry
8 moves to be more like other industries in the
9 economy, a six percent growth rate, four percent
10 growth in real gross national product and two percent
11 inflation would give you a six percent growth rate.
12 So what I'm saying, I'm referring back to that other
13 exhibit. One column past the 6.26 percent growth
14 rate you asked me about, I showed a 5.8 to 6 percent
15 implied growth rate in the DCF model, as I'm using
16 It.

17 And this is a discussion of that, saying it
18 could be three percent inflation and three percent
19 real growth, or it can be four percent real growth
20 and two percent inflation, but that's consistent with
21 what people see and what investors would reasonably
22 expect.

23 Q. Okay. So I think the answer to my question
24 was that you did rely upon long-term growth and gross
25 domestic product in your analysis?

00258

1 A. Not really in the analysis. I'm simply
2 saying here in the testimony that the results of the
3 analysis, which are 5.8 to 6, are consistent with the
4 gross domestic product growth rates that I discuss
5 right there on page 25.

6 Q. If you could turn to Exhibit 37 for
7 identification, which is a graph labeled Real GDP and
8 Total Kilowatt-Hour Sales, do you have that?

9 A. Yes, I have it.

10 Q. This was not a document provided by the
11 company in a Staff data request response, but do you
12 recognize this document as being an accurate
13 reflection of real G -- what did I say, GPD and
14 kilowatt-hour sales?

15 A. I have seen graphs like this since back in
16 the '80s, when I was the chief economist at the Texas
17 Commission. Sometimes the relationship looks like
18 this and sometimes it doesn't, so I really wish we
19 had the document to look at. I don't doubt that this
20 is something -- you know, it's a page out of a
21 particular article or something. And I think, up at
22 the top, they do say GDP, not GPD. It's just a typo.
23 So I don't have any trouble with that, but I would be
24 careful about how it's used.

25 Q. But you do recognize the document as

00259

1 sources of the U.S. Department of Commerce, the U.S.
2 Department of Energy? Do you see that in the
3 footnotes?

4 A. Yes, I see those in the footnotes.

5 Q. So --

6 A. May I just ask, is this a Standard & Poor's
7 document?

8 Q. Yes, it is.

9 A. It does the industry survey?

10 Q. Yes.

11 A. If it's identified as that, then I think
12 it's probably a reliable document.

13 MR. CEDARBAUM: Thank you. I'd offer
14 Exhibit 37.

15 MR. VAN NOSTRAND: No objection.

16 JUDGE MOSS: It will be admitted as marked.

17 MR. CEDARBAUM: Your Honor, if I could --
18 it would be helpful if I had a couple minutes off the
19 record to weed back questions. That might save us
20 more time in the long run anyway.

21 JUDGE MOSS: Let me ask you first what you
22 were going to do about Exhibits 35 and 36?

23 MR. CEDARBAUM: If I hadn't offered them, I
24 would offer them now. That was an oversight.

25 JUDGE MOSS: Any objection?

00260

1 MR. VAN NOSTRAND: No.

2 JUDGE MOSS: Being none, they'll be
3 admitted as marked. All right. What do you need,
4 about five minutes?

5 MR. CEDARBAUM: That would be fine.

6 JUDGE MOSS: Actually, we'll make it about
7 seven, so we'll get back about 4:15.

8 (Recess taken.)

9 JUDGE MOSS: Let's go back on the record.
10 And off the record, we discussed just briefly, I
11 think Mr. Cedarbaum, you said that to wrap your
12 examination of this witness up at this time, you
13 would just want to offer the balance of your
14 exhibits, either by through questions to the witness,
15 or if there was some other more expedient way to do
16 that, you could do that?

17 MR. CEDARBAUM: Yes, Your Honor. We had
18 premarked for admission Exhibits 38 through 45, which
19 are remaining exhibits yet to be offered, so --

20 JUDGE MOSS: So I'll put the question to
21 Mr. Van Nostrand. Do we need to go through all the
22 foundation with respect to each of these and all the
23 formalities, or can we simply have you take a quick
24 look at these and see if you might have objections?

25 MR. VAN NOSTRAND: We have no objection to

00261

1 the extent -- which one is that?

2 THE WITNESS: That's the one they attached.

3 MR. VAN NOSTRAND: I guess we do have a
4 question as to Number 46, which is Exhibit 39. The
5 article which is attached is not part of the
6 company's response. I don't think we have any
7 problem with respect to stipulating as to responses
8 that are complete and full responses and nothing more
9 by the company, but it looks as though Exhibit 39
10 contains a Wall Street Journal article which was not
11 attached by the company.

12 MR. CEDARBAUM: Your Honor, I would just
13 note, in response to that, that I would agree that
14 the Wall Street Journal article that's attached to
15 Exhibit 39 was not provided by the company, but in
16 the company's response to Staff Data Request Number
17 46, which was the first part of Exhibit 39, Dr.
18 Hadaway indicates that he refers to publications such
19 as the Wall Street Journal and other publications in
20 his analysis, so here's an article from the Wall
21 Street Journal.

22 JUDGE MOSS: Well, let's just clarify this
23 as quickly as we can. For what purpose is this
24 particular article from the Wall Street Journal
25 attached to this particular exhibit? Is it offered

00262

1 for the truth of the matters asserted in some of the
2 articles or one of the articles, or is it just to be
3 illustrative of a Wall Street Journal publication?

4 MR. CEDARBAUM: Part of Dr. Hadaway's
5 testimony includes a risk premium analysis. The
6 second page of the article has a graph, where the
7 source is Goldman, Sachs & Company, that shows a
8 downward trend in equity risk premiums, so that's the
9 focus of the article.

10 JUDGE MOSS: And would you want the
11 Commission to consider that chart in some fashion?
12 I'm just trying to understand why you attached it,
13 made it part of this exhibit?

14 MR. CEDARBAUM: Yes, we would like the
15 Commission to consider it. Again, this witness has
16 proposed a risk premium analysis as part of his cost
17 of equity recommendation. This is evidence on equity
18 risk premiums in a Wall Street Journal publication,
19 which the witness testifies is a newspaper that he
20 reads and relies upon.

21 JUDGE MOSS: All right. I'm going to make
22 you prove up 39 with the witness, then.
23 Thirty-eight, 40 through 45, no problem with any of
24 those, Mr. Van Nostrand?

25 MR. VAN NOSTRAND: No, Your Honor.

00263

1 JUDGE MOSS: Okay. Those will be admitted
2 as marked. If you have questions about 39, go ahead
3 and pose them.

4 Q. Dr. Hadaway, referring you to Exhibit 39
5 for identification, do you recognize the first part
6 of the exhibit as being your response to Staff Data
7 Request 46, followed by your response to Staff Data
8 Request 356?

9 A. Yes.

10 Q. And the last part of the exhibit is an
11 article from the Wall Street Journal, which is a
12 publication upon which you rely in doing your cost of
13 capital analyses?

14 A. Not articles like this, no.

15 Q. But the Wall Street Journal is something
16 that you do review in the course of your work?

17 A. Yes.

18 MR. CEDARBAUM: Your Honor, again, I would
19 offer Exhibit 39.

20 MR. VAN NOSTRAND: We don't object to the
21 first two pages. We do object to the inclusion of
22 this particular Wall Street Journal article, which
23 this witness has expressly stated was not the type of
24 information to which he was referring in response to
25 that data request.

00264

1 JUDGE MOSS: Any response?

2 MR. CEDARBAUM: Yes, Your Honor. The
3 witness, in the first part of the exhibit, indicates
4 that he relies upon the Wall Street Journal and other
5 industry publications. We found an article in the
6 Wall Street Journal that is contradictory to his
7 testimony. And although he may not like that, we
8 feel it's relevant to this case.

9 JUDGE MOSS: Well, that might be. But the
10 question is not one of relevance, but whether it has
11 any pertinence to this witness' testimony. And this
12 witness says this is not the type of article he would
13 rely on. So while it may be relevant and there may
14 be a legitimate means to get it in, it does not
15 appear that this witness is the appropriate one.

16 MR. CEDARBAUM: The scope of my
17 cross-examination and cross exhibits shouldn't be
18 limited by what this witness may or may not rely
19 upon. If it's within the scope of his testimony,
20 particularly if it's contradictory to his testimony,
21 I think it's admissible.

22 JUDGE MOSS: Well, I've given you the
23 opportunity to ask him questions about it, and I
24 haven't heard any questions that would make it
25 relevant to this witness' testimony, anyway. It

00265

1 doesn't pertain to his data request responses because
2 he said, insofar as they're concerned, this isn't the
3 type of article he would rely upon. And you haven't
4 asked him any questions about the substance of the
5 article.

6 Q. Mr. Hadaway, do you recognize Goldman,
7 Sachs & Company as a reliable source of information
8 in the area of cost of equity?

9 A. Not on risk premiums, I do not. Basically,
10 because of this article. I recognize them as
11 certainly an outstanding Wall Street firm, but this
12 article is very farfetched.

13 MR. CEDARBAUM: Your Honor, then I'll just
14 withdraw that piece of Exhibit 39.

15 JUDGE MOSS: All right. Then with those
16 two pages deleted, it will be admitted as marked.
17 And I believe, then, that concludes your
18 cross-examination, and we can move on to Mr.
19 Cromwell.

20 MR. CEDARBAUM: Right.

21 JUDGE MOSS: Okay. Go ahead.

22

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

24 BY MR. CROMWELL:

25 Q. Good afternoon, sir. My name's Robert

00266

1 Cromwell. I'm Public Counsel.

2 A. Good afternoon, Mr. Cromwell.

3 Q. I'm going to skip some of the
4 preliminaries, so we can save some time here. Is it
5 your position, sir, that rates for PacifiCorp should
6 be set on a hypothetical capital structure?

7 A. Yes.

8 Q. And is it true that Mr. Peressini
9 recommended that the company's rates be based on a
10 capital structure that contained 48.8 percent of
11 common equity?

12 A. Yes.

13 Q. And that is the average equity ratio, the
14 sample group of electric companies; correct?

15 A. Used to calculate the rate of return on
16 equity, yes. There's a matching between those two.

17 Q. Thank you. Do you know what PacifiCorp's
18 consolidated equity ratio is?

19 A. It's in the range of 43 percent. It
20 depends on what components debt you put in.

21 Q. Just -- you started to give me a range.
22 Forty-three to what?

23 A. Forty-three to 44 and a half percent.

24 Q. Thank you. I'd like you to take a look at
25 what's been marked as Exhibit Number 46. Do you have

00267

1 that, sir? It's a one-page --

2 A. Yes, I've seen it.

3 Q. -- landscape format sheet?

4 A. Yes.

5 Q. In response to Public Counsel Data Request
6 Number Nine, you provided PacifiCorp's SEC Form 10-Q
7 filing, and that document indicated that the company
8 was capitalized with about 42.2 percent common
9 equity. Exhibit Number 46 shows that capital
10 structure in comparison to the capital structure Mr.
11 Peressini recommended in this proceeding.

12 Do you need to refer to that 10-Q document
13 to determine the accuracy of the numbers or are you
14 willing to accept them, subject to check?

15 A. I'm not willing to accept them subject to
16 check, but I looked at the document this morning, and
17 these are accurate. But they include additions to
18 debt that typically would not be included in many
19 regulatory analyses.

20 Q. All right. Thank you, sir. So your answer
21 to my actual question was that the numbers in this
22 document are accurate?

23 A. The numbers are taken from the 10-Q that's
24 referenced below.

25 MR. CROMWELL: Okay. Your Honor, at this

00268

1 time, I would move to admit Exhibit 46.

2 MR. VAN NOSTRAND: No objection.

3 JUDGE MOSS: It will be admitted as marked.

4 Q. Sir, would you agree that the hypothetical
5 common equity ratio, which Mr. Peressini recommended
6 rates be set in this proceeding, is greater than
7 PacifiCorp's actual common equity ratio?

8 A. Yes, for its consolidated operations. They
9 do not have electric operations capital structure
10 that is explicitly stated.

11 Q. Is it also true, then, is it not, that over
12 the past five years, PacifiCorp has been capitalized
13 with an equity ratio which is similar to the 42
14 percent shown in that Exhibit Number 46?

15 A. Only if you consider its consolidated
16 numbers, which include very significant unregulated
17 operations, changes that occurred recently in sales.
18 All those things get caught up in the consolidated
19 numbers, and they're not appropriate as the capital
20 structure on which electric rates should be set.

21 Q. I think that was a long way of answering
22 the question, but I appreciate your answer. Would
23 you please turn now to Exhibit Number 49, which was
24 previously admitted by this Commission as Exhibit 31.

25 MR. CROMWELL: Your Honor, would you prefer

00269

1 that I just refer to that as Exhibit 31?

2 JUDGE MOSS: Yes, I don't want it in twice.

3 MR. CROMWELL: Thank you.

4 JUDGE MOSS: So 49 was a duplicate?

5 MR. CROMWELL: Forty-nine was and is the
6 same as what was admitted by the Commission as 31.

7 JUDGE MOSS: All right.

8 Q. And it's Staff DR Number 16, for your
9 records there, which probably don't have the exhibit
10 numbers on them.

11 A. Yes, I have it.

12 Q. And that's the same document that you
13 looked at earlier?

14 A. Yes, it is.

15 Q. And if we look at the first page of the
16 Moody's Investor Service September 1999 credit rating
17 report for PacifiCorp, which was provided in response
18 to this data request, we see an average common equity
19 ratio of 40.6 over the past five years. Is that
20 correct?

21 A. It appears that, yes, that was the
22 consolidated number. But, again, that includes 35
23 percent in '95, 37 percent in '96, that had to do
24 with restructuring activities that had absolutely
25 nothing to do with the electric operation.

00270

1 Q. I'm sorry, sir. So your answer is yes?

2 A. Mechanically, you can add those numbers up
3 and get 40 percent.

4 MR. CROMWELL: Your Honor, at this time,
5 I'm going to move to strike the rest of the witness'
6 answer as nonresponsive.

7 JUDGE MOSS: That's just going to be
8 overruled. Let's move on.

9 MR. CROMWELL: Thank you, Your Honor.

10 Q. So according to the data that is published
11 there by Moody's, it's true, is it not, that the
12 manner in which PacifiCorp is currently capitalized
13 is similar to the manner in which it --

14 COURT REPORTER: I'm sorry, could you slow
15 down?

16 MR. CROMWELL: I'm sorry. I knew I was
17 going to offend her, but I'm trying to be quick
18 here.

19 Q. Did you hear me, Dr. Hadaway?

20 A. Yes, but --

21 Q. I'm sorry, let me just restate it for the
22 court reporter, so we get a good record. According
23 to the data published by Moody's, it is true, is it
24 not, that the manner in which PacifiCorp is currently
25 capitalized is similar to the manner in which it has

00271

1 been capitalized over the past five years?

2 A. It is if in your exhibit you add in the
3 short-term debt and use the consolidated numbers the
4 way you did, and if you recognize that Moody's is
5 talking about the whole PacifiCorp consolidated
6 entity, not the electric operations.

7 Q. I think we all get that point. Thank you.
8 Is it true also that at no point over the past five
9 years has PacifiCorp's actual common equity ratio
10 approached 48.8 percent?

11 A. At the consolidated level, that's correct.

12 Q. Thank you. And could you tell me what
13 happens in a regulatory setting when an allowed rate
14 of return is set on an equity ratio which is higher
15 than the equity ratio actually utilized by that
16 regulated firm?

17 A. I'm sorry, I missed part of that.

18 Q. Okay. Well, let me say it another way.
19 For example, if a ten percent equity return on a 50
20 percent equity base is applied to a smaller equity
21 base, the return on that smaller equity base has got
22 to be higher, doesn't it?

23 A. If you assign cost of debt to a portion of
24 the firm's assets that are actually financed with
25 equity, then they have an earnings shortfall, if I

00272

1 understood what you're saying.

2 Q. I think you do. If this Commission allowed
3 PacifiCorp an 11.25 return on a capital structure
4 containing 48.8 percent of equity and the company
5 earns that return, isn't it true that that dollar
6 return applied to an equity base representing 42
7 percent of total capital would result in an equity
8 return greater than the 11.25 percent requested?

9 A. I'm sorry, yes. I think the answer to
10 that, if that was the electric operations equity
11 balance. I think maybe before either I misunderstood
12 or you may have said it the other way around. If you
13 apply a higher equity ratio than the company actually
14 has supporting electric operations, then they have
15 the opportunity to earn more. If you assign a cost
16 of debt to a portion of their equity which they're
17 supporting their electric operations with, which is
18 barely over seven percent, instead of 11 and a
19 quarter, then obviously they're underearning. And
20 the company hasn't even come close to earning 11
21 percent in any of the past years.

22 CHAIRWOMAN SHOWALTER: Mr. Cromwell, I'm
23 just going to ask you to slow down, just because my
24 brain can't follow the words quite as fast you're
25 speaking.

00273

1 MR. CROMWELL: I know, I'm just trying to

2 --

3 CHAIRWOMAN SHOWALTER: I know that you are.

4 You don't have to slow too much, but --

5 JUDGE MOSS: No, we appreciate you being

6 mindful of the time, but the reporter, also, it's a

7 long day and --

8 MR. CROMWELL: I know she's going to beat

9 me up.

10 JUDGE MOSS: It would be better if we ran

11 over 15 minutes than --

12 MR. CROMWELL: Okay. I'll slow down.

13 JUDGE MOSS: Thank you.

14 MR. CROMWELL: I just had a Coke. Probably

15 a bad idea.

16 Q. Dr. Hadaway, at page five, lines six

17 through 13 of Mr. Peressini's testimony, he discussed

18 PacifiCorp's capital structure policies. And that

19 anticipated a changing marketplace, did it not?

20 A. Yes, it did.

21 Q. And have you reviewed all of the responses

22 to Public Counsel's data requests that were prepared

23 by the company?

24 A. I think that I have, but some of them that

25 I received late Friday didn't have all of the

00274

1 attachments with them, so I may not have found them
2 all this morning.

3 Q. Okay. We'll keep that in mind. I'd ask
4 you to please turn now to Exhibit Number 48-C, which
5 is the company's response to Public Counsel Data
6 Request Number 15.

7 A. Yes, I have it.

8 MR. CROMWELL: And just for the record,
9 this was a confidential document provided by the
10 company to Public Counsel in response to its data
11 request.

12 JUDGE MOSS: All right. And you understand
13 our convention as to proceeding without getting into
14 the specific data that's intended to be protected?

15 MR. CROMWELL: Yes, and I spoke briefly to
16 Mr. Van Nostrand at the break and asked if he had any
17 objection with how I intended to proceed, and I
18 haven't heard back from him, so --

19 MR. VAN NOSTRAND: Do you intend to
20 actually use these figures or do you intend to ask
21 the questions in a way that you don't divulge these
22 figures?

23 MR. CROMWELL: The latter, and then seek
24 admission of the document.

25 MR. VAN NOSTRAND: That's fine.

00275

1 JUDGE MOSS: Okay, that works.

2 Q. Dr. Hadaway, can you identify this exhibit?

3 A. Yes, it's an August 1994 presentation,
4 PacifiCorp board of directors finance committee
5 capital structure presentation.

6 Q. And to your knowledge, is it true and
7 accurate?

8 A. It may have been in 1994. I doubt that it
9 would be now.

10 Q. Certainly. Do you know who prepared the
11 document?

12 A. Mr. Peressini or some of his staff people
13 actually prepared the response. I'm not sure who did
14 the capital structure study.

15 Q. Was Mr. Peressini an officer of the company
16 at that time?

17 A. I saw in his qualifications that he had
18 been with the company for 15 years, but I don't know
19 if he was in the electric part of the company at that
20 time or not.

21 Q. So you wouldn't know whether he was
22 involved in the preparation of this particular
23 document?

24 A. I don't know.

25 Q. Okay. Mr. -- excuse me, is it Dr. Hadaway

00276

1 or Mr. Hadaway?

2 A. Doctor.

3 Q. Thank you, Dr. Hadaway, would you please
4 take a look at page 13 of the document, and focusing
5 on that first bulleted paragraph.

6 A. Yes, I see that.

7 Q. Would you tell me if Mr. Peressini's
8 recommended debt to capital ratio for PacifiCorp is
9 higher than the 47.4 percent debt to capital ratio he
10 recommended for setting rates in this proceeding?

11 A. The lower end of it is very close to that.
12 Again, this is a 1994 document, based on data
13 certainly no later than 1993, so I'm not sure I see
14 the comparison.

15 Q. In the last -- well, let's say this.
16 There's a number -- or let's say there's a percentage
17 that's referred to at the end of that sentence. Do
18 you see that, sir?

19 A. I'm sorry?

20 Q. There's three bulleted paragraphs on the
21 left --

22 A. Yes.

23 Q. -- hand side of that document?

24 A. Yes, I see those.

25 Q. In the first bulleted paragraph, there's a

00277

1 number at the end of the sentence, a percentage?

2 A. Oh, yes, okay.

3 Q. And just for the record, is that percentage
4 higher or lower than the 47.4 percent that Mr.
5 Peressini recommended in this case?

6 A. It's higher.

7 Q. Thank you. Is it also true that
8 PacifiCorp's capital structure at year end 1999
9 contained a debt to capital ratio that was very
10 similar to the recommendation contained in this
11 report to the company's board of directors?

12 A. Again, you're referring back to the exhibit
13 -- I don't have the number on here, but that you
14 introduced earlier, and it includes short-term debt
15 and adding those kind of things in that I've already
16 disagreed with, but the two numbers are fairly
17 similar.

18 Q. Okay. Understanding we have a difference
19 in assumptions, but I guess what I'm asking is
20 whether it is similar?

21 A. It's similar.

22 Q. With those assumptions that we --

23 A. That's right.

24 Q. Thank you. Would you please turn to
25 Exhibit 50, which is the company's response to Public

00278

1 Counsel Data Request Number 20?

2 A. Yes, I have it.

3 Q. Can you identify that exhibit?

4 A. That's just one page?

5 Q. And is that true and accurate, to the best
6 of your knowledge?

7 A. I think it's a pretty good assessment, yes.

8 Q. And I'd like you to turn now to Mr.
9 Peressini's testimony at page seven, lines four
10 through eight, and looking also at that data request
11 that we just identified. In Mr. Peressini's
12 testimony, he stated that unregulated operations
13 could cause consolidated equity ratios to overstate
14 or understate an equity ratio appropriate for a
15 utility operation; is that correct?

16 A. That's what he says, yes.

17 Q. And in your response to Public Counsel Data
18 Request 20-A, you admit that PacifiCorp's
19 consolidated equity ratio is below that of a group of
20 electric utilities, and you reiterated your position
21 that rates ought to be based on hypothetical capital
22 structure; is that correct?

23 A. I mean, paragraph A speaks for itself. It
24 doesn't say exactly what you just said. It says that
25 the average equity ratio of comparable utilities,

00279

1 referring to my group, is indeed higher than the
2 consolidated PacifiCorp (combined regulated and
3 nonregulated) equity ratio.

4 Q. Well, let me ask the question a different
5 way, perhaps. If electric operations are capitalized
6 with a 47 percent equity, would a consolidated equity
7 ratio of 43 and a half percent for PacifiCorp
8 indicate that the company's unregulated operations
9 are capitalized with much less equity than is
10 appropriate for a utility?

11 A. All those numbers are within striking
12 distance now of industry averages. The industry
13 average in the Value Line group that I'm using is
14 projected by Value Line to go to 51.8 percent in
15 their three to five-year forecast period. So the
16 direction the industry is moving is that way, not
17 down.

18 Now, whether 43 percent is the right target
19 or whether 42 percent is the right target, they're
20 both on the low end. They're both triple B bond
21 ratings, not single A.

22 Now the unregulated piece that's left has a
23 negative equity balance. Mr. Cedarbaum introduced an
24 exhibit that said there was a debit balance of
25 300-something million dollars in the equity retained

00280

1 earnings of the unregulated subs. If you add that in
2 to the equity of the consolidated company, you pull
3 the whole house down in terms of equity. The equity
4 supporting the electric operations is higher than
5 that, and that's why the consolidated is not the
6 right way to go.

7 The very exhibit that was introduced shows
8 that, and it says debit balance. Maybe that wouldn't
9 be read as negative, but it is. So I don't disagree
10 with anything this response says, and I don't --

11 Q. Thank you, sir. That's fine. I think
12 you've given enough explanation for us.

13 A. Okay.

14 Q. I'd like to focus your attention on the
15 response at 20-B. Twenty-B asks whether or not a 43
16 and a half percent common equity ratio is reasonable
17 for an electric utility. And your response was that
18 reasonable depends on many factors and reiterated
19 your position regarding the impact of unregulated
20 operations; is that a fair summary to that response?

21 A. I suppose so. B is a fairly short
22 paragraph.

23 Q. And you're aware of, generally speaking, of
24 the capital structures that exist in the electric
25 utility industry, are you not?

00281

1 A. Yes.

2 Q. And is an equity ratio of 42 to 43 percent
3 about average?

4 A. No, it's not. Below the average now. It
5 is certainly below the trend in the industry.

6 Q. And I'd ask you to now turn to Exhibit 51,
7 which is the company's response to Data Request
8 Number 34 by Public Counsel.

9 A. Yes, I have it.

10 Q. Could you identify it for us, please?

11 A. Yes, this is where we were asked to tell
12 the S&P bond rating in percentage of electric
13 revenues.

14 Q. And is that true and accurate, to the best
15 of your knowledge?

16 A. It is.

17 Q. And it was provided by you -- I guess I
18 should say you, as yourself, as opposed to you, Mr.
19 Peressini?

20 A. That's right.

21 Q. And it consists of a couple pages from a
22 C.A. Turner's Utility Reports?

23 A. That's right.

24 Q. From May 1999. I'd like you to look at the
25 second page of that data response. And down at the

00282

1 bottom there, could you tell us what the average
2 common equity ratio is for that group of 45 electric
3 companies?

4 A. It's 42 percent.

5 Q. And now look up that column of names and
6 tell us what equity ratio is reported by this
7 investor service for PacifiCorp?

8 A. Forty-three percent.

9 Q. And isn't it true, sir, that you relied on
10 C.A. Turner's in developing your own testimony as Dr.
11 Hadaway, not as Mr. Peressini?

12 A. We relied on it for the bond ratings and
13 the percentage of revenues that came from domestic
14 electric operations. And again, these are
15 consolidated companies, not electric operations.

16 Q. Well, then, perhaps I can ask the question
17 posed in 20-B again in a different way. Is an equity
18 ratio of 43 and a half percent outside what you would
19 consider in your opinion to be the range of
20 reasonableness for an electric utility operation?

21 A. It's not outside the range, but it is not
22 consistent with the direction of the industry. It is
23 not consistent with one of the lowest debt costs that
24 exists in the country, because of the sound single A
25 bond rating. It is consistent with moving the

00283

1 company toward a triple B bond rating.

2 Q. Thank you, sir. I'd ask you to refer back
3 again to what was marked as Exhibit 31, which is
4 Staff Data Request 16. We've looked at that a couple
5 times, which is the Moody's September '99 report.

6 A. Yes, I have it.

7 Q. Would you please read for us the second
8 sentence of that opinion in the narrative at the
9 bottom of the page?

10 A. Does it begin with, The company has
11 embarked on?

12 Q. It does, sir.

13 A. The company has embarked on a low-risk
14 strategy focused on returning to the core utility
15 business and calling for an exit from its
16 nonregulated businesses.

17 Q. And if you would turn now to page three of
18 that report, and under the heading of Opportunities
19 and Strengths, it says, does it not, at the second
20 bullet, Exiting of its nonregulated businesses
21 reduces risk in the company's overall profile?

22 A. Yes, I agree with that.

23 Q. Do you agree, generally, that this company
24 is moving to a less diversified position and is
25 getting back to its core business in running an

00284

1 electric utility?

2 A. Everything I've read said that, yes.

3 Q. Do you have any information, other than
4 what you have read, upon which to base your opinion?

5 A. Oh, no, I do not.

6 Q. Thank you. Second, do you agree with
7 Moody's, that such a strategy would lower the
8 company's overall risk profile?

9 A. At the consolidated level, yes. At the
10 electric operations level, it won't have any effect.

11 Q. I understand that, thank you. Going back
12 to page four, lines 16 through 19 of Mr. Peressini's
13 testimony, you referenced an October 1999 Moody's
14 publication. Do you see that?

15 A. I'm sorry, what line?

16 Q. Page 14, lines 16 -- sorry, page four,
17 lines 16 through 19.

18 A. Yes, the average rating is A minus, or A-3.

19 MR. CROMWELL: Your Honor, at this time
20 we'd like to make a records request of a copy of that
21 -- do we have that already?

22 JUDGE MOSS: A copy of Moody's industry
23 outlook?

24 MR. CROMWELL: Yeah, I was just checking to
25 see if we had that.

00285

1 MR. VAN NOSTRAND: We provided that.

2 MR. CROMWELL: I'm told we probably have
3 that already, so I'll strike that request, Your
4 Honor.

5 Q. Let me see if I have that here. Dr.
6 Hadaway, would you turn to what we have marked as
7 Exhibit 47, which is Public Counsel Data Request 13?

8 A. Yes, I have it.

9 Q. And is that, in fact, sir, the document
10 referred to by Mr. Peressini in his testimony?

11 A. Yes.

12 Q. My apologies for the confusion. That was
13 entirely my fault.

14 A. I'm sorry, wait just a moment. No, I'm not
15 sure this is the right article. The one that's
16 attached here is stamped 1999, but it appears to be
17 dated October '98.

18 Q. So it's not the one relied upon by Mr.
19 Peressini?

20 A. Just like that exhibit that we were looking
21 at awhile ago said GPD or GDP, it could be a typo.
22 There is a clear statement of that A-3 fact in a
23 Moody's publication, and we certainly could get that
24 for you if you want to do it as a data request.

25 MR. VAN NOSTRAND: I've been informed that

00286

1 there is a typo in the testimony, line 17. That
2 should be October '98, so this would be the document.

3 MR. CROMWELL: So this is the appropriate
4 document?

5 MR. VAN NOSTRAND: Yes.

6 MR. CROMWELL: We'll just consider that a
7 correction to the direct testimony, Your Honor, and
8 I'll move along.

9 Q. If you turn to page seven of that document,
10 Dr. Hadaway, and taking a look at that first
11 paragraph, under sales of generating assets reduces
12 business risk, would you please go ahead and read
13 that first paragraph, please, for me?

14 A. Starting at the very top of the page?

15 Q. No, sir, in sort of the middle to bottom,
16 there's a heading, Sale of Generating Assets?

17 A. Oh, yes, I'm sorry. I see that.

18 Q. The paragraph begins, Moody's believes.

19 A. Moody's believes that the electric
20 utilities that divest their generating assets, either
21 by choice or regulatory mandate, will substantially
22 reduce their business and financial risks, allowing
23 for the possibility of strengthening their balance
24 sheets and increasing free cash flow.

25 Q. And would you agree with that opinion by

00287

1 Moody's?

2 A. Moody's has softened that opinion a little
3 bit because of the way some of the divestitures have
4 worked out, but generally people believe that
5 generation is more risky, particularly after it's
6 deregulated, than distribution and transmission that
7 remain regulated.

8 Q. Thank you, sir. Would you now turn farther
9 back to page ten of that report. There's a section
10 where Moody's discusses the risks inherent in the
11 distribution and transmission portion of the electric
12 utility business, as you've just described for us.
13 Would you please read that paragraph just above the
14 heading, Pure Wires Companies?

15 JUDGE MOSS: Mr. Cromwell, I'm going to
16 interrupt you here just for half a second. I don't
17 really like to have a witness reading extensively
18 from documents into the record. The documents are
19 there, they speak for themselves. If you have a
20 question about it, then frame the question and ask
21 it, instead of having the witness simply read a
22 portion of the exhibit into the record. That takes
23 up a lot of time.

24 Q. Dr. Hadaway, would you please read that
25 last paragraph above pure wires to yourself, and

00288

1 answer the question about whether or not you agree
2 with that opinion?

3 A. No, I do not.

4 MR. CROMWELL: Thank you, Dr. Hadaway. At
5 this time, Your Honor, I'd move for admission of -- I
6 believe we already have 46 in the record -- 47, 49,
7 50, 51 --

8 JUDGE MOSS: Wait, wait, wait. Slow down,
9 Mr. Cromwell. You're asking for the admission of
10 what, 47?

11 MR. CROMWELL: Exhibits 47, 48-C, 49 --

12 JUDGE MOSS: Wait a minute. Forty-nine was
13 the same as 31. We decided we weren't going to have
14 that.

15 MR. CROMWELL: You're right. My apologies.
16 Fifty and 51.

17 JUDGE MOSS: Any objection to any of those?

18 MR. VAN NOSTRAND: No, Your Honor.

19 JUDGE MOSS: All right. They'll be
20 admitted as marked.

21 Q. Dr. Hadaway, I'd like to take off your Mr.
22 Peressini hat now and put on your Dr. Hadaway hat.
23 I've just got a couple of brief questions on your own
24 testimony. In response to Public Counsel Data
25 Request Number 26, you provided us copies of some of

00289

1 your previous testimony. Do you recall that
2 response?

3 A. Yes, I did.

4 Q. And turning to what's been marked as
5 Exhibit Number 54, which is the company's response to
6 that data request, can you identify those exhibits --
7 I'm sorry, those documents?

8 A. Yes, they're various pieces of testimony.
9 Some of which going back to 1982.

10 Q. And to avoid putting all that in the
11 record, we've produced an exhibit which has been
12 marked as 53. Is that an accurate summation of your
13 testimony provided in response to PCDR 26?

14 A. Numbers in the exhibit are taken from the
15 testimony, I would warn that the FERC case, with some
16 updated testimony that we were asked to do a certain
17 way, and it's in no way out-of-date. So if it's the
18 one that says E-L something on your exhibit --
19 doesn't it say it's a FERC case?

20 Q. I'm sorry, sir. My only question was
21 whether the information on Exhibit 53 accurately
22 reflects those documents you have in front of you?
23 Yes or no?

24 A. It does for three of the cases. The SWEPCO
25 FERC case, it's questionable about whether it does.

00290

1 Q. It's questionable about whether the numbers
2 on this exhibit accurately reflect the numbers in
3 those documents?

4 A. No, I'm sorry. No, you transcribed the
5 numbers correctly, but I'm saying that there's a
6 context that testimony was done in. So it's not
7 comparable to the others.

8 Q. I appreciate that. I was only asking a
9 more limited question. And from looking at that
10 Exhibit 53, we see that since December of 1998, your
11 discounted cash flow results ranged from a low of 9.7
12 to a high of 11.7, and your risk premium results
13 ranged from a low of 11.2 to 11.9 at the high. But
14 your return on equity recommendation has been
15 identical in each case of 11.25; is that correct?

16 A. Again, the numbers are correctly
17 transcribed.

18 Q. Thank you. And one of the methods that you
19 rely on is a risk premium analysis, which is based on
20 an average allowed return and average interest rates;
21 is that correct?

22 A. That's right.

23 Q. And the study contained in your testimony
24 goes through 1998, but you've provided us data from
25 Regulatory Research Associates regarding the average

00291

1 allowed return for electric utilities in 1999; is
2 that correct?

3 A. Yes, I have.

4 Q. And turning to Exhibit Number 55, which is
5 Public Counsel Data Request Number 33, do you have
6 that in front of you? It should be the only one
7 left.

8 A. Oh, it's probably on the bottom of all the
9 testimony. I'm sorry.

10 Q. It's just two or three pages.

11 A. Maybe if you could show it to me or --

12 MR. CROMWELL: May I approach the witness,
13 Your Honor?

14 JUDGE MOSS: Sure.

15 THE WITNESS: Sorry. I'm sure I have it
16 here, but I've got a lot of pieces of paper spread
17 around.

18 MR. CROMWELL: May the record reflect that
19 I'm handing the witness a document which has been
20 marked -- premarked as Exhibit 55, which is the
21 Public Counsel Data Request Number 33. Does the
22 Bench have that?

23 JUDGE MOSS: Yes, we have it.

24 THE WITNESS: Thank you, Mr. Cromwell.

25 Q. And can you identify that exhibit, sir?

00292

1 A. Yes, it's a summary from the Regulatory
2 Research Associates rate of return survey that they
3 did.

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

6 A. With the caveats I gave about this same
7 data before, that it's generally just major cases,
8 yes.

9 Q. And the average allowed return on equity
10 for electric utilities in 1999 was 10.77 percent; is
11 that correct?

12 A. Yes, and again, when interest rates were
13 much lower than they are now.

14 MR. CROMWELL: Thank you, Dr. Hadaway. I
15 appreciate your time. At this time, Your Honor, I
16 would move to admit -- I believe it's Exhibits
17 Numbers 54 -- no, I'm sorry, I got that wrong. It's
18 Exhibits Numbers 55 and 53.

19 JUDGE MOSS: Okay. Fifty-five and 53 are
20 moved for admission. Any objection?

21 MR. VAN NOSTRAND: No, Your Honor.

22 JUDGE MOSS: Those will be admitted as
23 marked. Now, you're not going to offer 54, as I
24 understood it?

25 MR. CROMWELL: No, Your Honor. I think the

00293

1 summary provides the evidence we wish to present at
2 this time.

3 JUDGE MOSS: All right. I also show 52 as
4 not having been offered.

5 MR. CROMWELL: Fifty-two, which would be
6 Public Counsel DR 78. I'll pass on that one at this
7 time, Your Honor.

8 JUDGE MOSS: That's fine.

9 MR. CROMWELL: If I may reclaim my only
10 copy of that exhibit from the witness.

11 JUDGE MOSS: I have a 56-C down here on my
12 exhibit list.

13 CHAIRWOMAN SHOWALTER: That's the pending
14 one.

15 JUDGE MOSS: Oh, that's the one we reserved
16 a number. Thanks very much. I guess I am getting
17 tired. All right. Our intervenor's counsel, who was
18 with us earlier, appears to have left, so I believe
19 we're to the point of questions from the Bench.

20

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

22 BY CHAIRWOMAN SHOWALTER:

23 Q. I would like to inquire on one subject, and
24 I think if you turn to Exhibit 12, which is also
25 Peressini 2 -- it's the list of your comparable

00294

1 companies.

2 A. Yes, ma'am, I have it.

3 Q. I'm just trying to get a sense of how this
4 particular list was put together. I understand that
5 these are companies with at least 75 percent domestic
6 electric business, I think is what you said.

7 A. Yes, that's right.

8 Q. Twenty-five percent regulated. Now, after
9 that, how did you establish this particular list?

10 A. Value Line follows all the major electric
11 utility companies in the country, so we start with
12 Value Line. And we used to use maybe less
13 restrictive screens. We used, in the Utah case about
14 two years ago for this company, single A rated
15 companies. We did not restrict 75 percent electric.
16 We simply used as big a group as we could find to
17 represent the industry.

18 It was pointed out in that case, and I've
19 seen this same criticism elsewhere, if one now, with
20 the electric industry the way it is, doesn't refine
21 the sample a little bit better than that, you get
22 some companies that are not representative. So to
23 keep the group at at least 20 companies, or certainly
24 bigger than 15, so that no one company has a giant
25 effect on the averages, we went to single A and

00295

1 double A, or single A and higher, really, and a 75
2 percent electric utility screen.

3 Q. Okay. But so with those two -- those
4 screens, this is the universe? You didn't pick and
5 choose after that?

6 A. Well, we did a little bit.

7 Q. Okay.

8 A. And we gave an exact listing of everything
9 else that happened. Some companies, as I mentioned
10 before, that have divested assets and had major
11 restructuring charges in 1998, reported very low
12 earnings because the price earnings ratio was to be
13 very high.

14 Q. So you threw them out. They're not in this
15 list?

16 A. They're not in this list. We looked at
17 companies that had cut dividends within the last five
18 years. They are not in this list. Those kinds of
19 data availability things were also included.

20 Q. Okay. That was actually, though -- your
21 last statement was what prompted my question. I just
22 didn't understand it the first time and I didn't
23 understand it this time. What did you do about
24 dividends in the last five years?

25 A. If companies have reduced or eliminated

00296

1 their dividend payments to shareholders in the last
2 five years, we exclude them from the group.

3 Q. And why?

4 A. Because they are companies, typically, that
5 are going into a different approach to running their
6 businesses. When we first started using this screen,
7 it was companies that were in fairly dire straits in
8 many cases, back when some of the construction
9 programs were just winding down. But, basically, for
10 the constant DCF model, one makes the assumption that
11 dividends are going to grow steadily at the same rate
12 from now on.

13 Q. Okay. So does this mean that you are
14 thinking of yourself or the company is thinking of
15 itself as a more traditional dividend-giving type
16 company, as opposed to some of the other companies
17 who are changing their strategy?

18 A. I think that's a fair assessment, yes.

19 Q. Okay. So then, if you get to the DCF or
20 constant growth model, I had understood your
21 testimony or Mr. Peressini's testimony to be
22 skeptical that that's relevant anymore. And when I
23 was reading it, I was thinking, oh, well, yeah,
24 that's because more and more companies are not giving
25 dividends, but now you're putting yourself back in

00297

1 the camp of those who are giving dividends, so
2 clarify for me --

3 A. Two points. One is just basic issue, if a
4 company cuts its dividends and then resumes it, the
5 percentage growth rate changes dramatically when it
6 cuts it, and sometimes it jumps up when they resume
7 the dividend. That happened particularly back in the
8 '80s, when the companies were distressed about their
9 dividends. That's not been so much the case.
10 Companies now are more reorienting their businesses.

11 But then, secondly, companies that had
12 dividend growth rates projected by analysts, this
13 IBES, the Institutional Brokers Estimation System,
14 it's kind of the place to get earnings estimates,
15 because of restructuring and other activities going
16 on in the utility industry, growth rates were
17 estimated to be about three percent, and from many
18 companies, even lower than that.

19 When interest rates declined, as they did
20 all throughout the late part of 1998 and until March
21 of 1999, dividend yields on utility stocks went way
22 down, because utilities stock price popped up. So
23 for many companies, the constant growth model
24 literally gave you a six or seven percent rate of
25 return on equity.

00298

1 Q. So your critique of the constant growth is
2 independent from whether PacifiCorp or comparable
3 companies are planning to distribute dividends and be
4 that sort of company; am I right?

5 A. It's two-pronged. One, we always do a test
6 of reasonableness. Is the result reasonable. And
7 the courts and others have required that and other
8 kinds of valuation analysis. So it's a routine thing
9 to do. If a company has indicated it's providing
10 only six or seven percent rate of return on equity
11 and its debt costs are in the six to six and a half
12 percent range, that simply doesn't pass the basic
13 smell test.

14 So that's the key to why people have
15 stopped using the constant growth model as much. You
16 look for, well, why is that the case. Well, the
17 model doesn't fit the reality of the transition in
18 the electric industry that we're seeing. That's
19 represented by dividend cuts, but it's also
20 represented by low analyst growth rates and high
21 dividend yields -- or low dividend yields, because of
22 high prices.

23 Some of that has corrected itself. Value
24 Line's growth estimates have improved very much over
25 the past 12 months, as a lot of the transition and

00299

1 restructuring is getting done. And analysts begin to
2 recognize that and utility stock prices have come
3 down substantially over the last 18 months. They
4 popped back up when interest rates dipped, that sort
5 of thing.

6 But with interest rates going up, people
7 have very clearly placed less emphasis on their
8 expectations for utility price increases. So
9 dividend yields are now higher than they were and
10 analyst growth rates are now higher, so some people
11 are again giving some weight to the constant growth
12 model.

13 At the time I did this analysis, though,
14 it's clear that the risk premium that's implied was
15 barely over two and a half percent, 2.63, or whatever
16 Counsel asked me about.

17 Q. Okay. So I'm really clearing up my own
18 misconception, which is what I think, when I was
19 reading that to begin with, I was thinking that part
20 of the unreliability, as you would put it, of the DCF
21 was because it assumes kind of a constant dividend
22 practice, and that that kind of practice wasn't
23 realistic for an electric utility anymore.

24 But I think that was a misconception, that
25 it's not realistic for some utilities, but it is

00300

1 realistic for others, including PacifiCorp, and there
2 are other reasons that you are skeptical of the DCF
3 model, or were when you wrote it. Is that right?

4 A. I think --

5 Q. I'm just trying to get this right in my
6 head.

7 A. I think that's the bottom line, but the
8 issue really is, for example, the FERC, and goodness
9 knows we don't all agree with everything they do, but
10 they decided some years ago that the constant growth
11 model simply gave such low results that even they
12 wouldn't use it. So they decided they would take
13 this long-term gross domestic product growth rate and
14 average it 50/50 with these IBES growth rates.
15 That's the way they would get their growth rates.

16 So some of these models that those of us
17 that work on these kinds of problems are an attempt
18 to reflect that uncertainty. Nobody knows exactly
19 what the right answer is. These are just models, not
20 reality. When they don't meet basic reasonableness
21 tests, then you look for something else.

22 CHAIRWOMAN SHOWALTER: Thanks.

23

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

25 BY JUDGE MOSS:

00301

1 Q. I just want to clarify one aspect of the
2 testimony, and this is what was your prefiled
3 testimony, Dr. Hadaway. I'm looking at page 20, and
4 there's a chart there, and the testimony concerns the
5 allowed rates of return and the changeover --
6 stability, really, over a period of years.

7 I was just wondering, looking at this data
8 and thinking about the fact that this is the first
9 PacifiCorp rate case here in 14 years or something,
10 whether these data might be reflecting nothing more
11 than the fact that there haven't been very many rate
12 cases in the last five years in any jurisdiction?

13 A. That is always the problem with these kinds
14 of studies. The number of observations for '98, and
15 I believe they're actually listed in that exhibit Mr.
16 Cedarbaum, I believe, may have introduced at the very
17 last, or maybe it was Mr. Cromwell, the one that has
18 the Regulatory Research Associates.

19 MR. VAN NOSTRAND: Exhibit 55.

20 THE WITNESS: Exhibit 55. I believe they
21 put in parentheses the number of cases. But these
22 are clearly -- they're definitely current cases.
23 They're not cases from 14 years ago.

24 Q. Okay.

25 A. So these are cases decided in the years

00302

1 stated there.

2 Q. And you're correct, it does appear that
3 those numbers of cases -- number of observations they
4 described.

5 A. But it is much smaller these days than it
6 was maybe five, six years ago.

7 JUDGE MOSS: That helps me understand the
8 testimony and the chart, so that's all I need. Okay.
9 If there's nothing further from the Bench, then I'll
10 ask if there's any redirect?

11 MR. VAN NOSTRAND: I just have a couple of
12 areas I'd like to cover with you.

13

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

15 BY MR. VAN NOSTRAND:

16 Q. Dr. Hadaway, if you could refer back to
17 Exhibit 31, which is the Moody's October 1998
18 industry outlook. Do you recall that?

19 A. Yes, I do.

20 Q. Do you have that before you?

21 A. Yes, I have it here somewhere.

22 Q. You were asked in particular to read a
23 paragraph on page ten and indicate whether or not you
24 agreed with the statements in that paragraph. Do you
25 recall that?

00303

1 A. Yes.

2 Q. And at issue was whether or not -- the
3 relative risk of the transmission and distribution
4 business; is that correct?

5 A. Yes.

6 Q. Can you indicate why you disagree with the
7 statement in that exhibit?

8 A. Well, I answered very quickly and simply
9 said no. Moody's has, since this 1998 publication,
10 came out and modified their views very substantially
11 on this issue. They have an article that says
12 distribution is less risky, but it's not free, some
13 things like that, that are much more mellow views.
14 And certainly the resulting bond ratings of companies
15 that have divested have not reflected much higher
16 debt proportions at this point in time. They may in
17 the future.

18 I disagreed with the statement very
19 quickly. I don't mean to say that I don't think that
20 Moody's is a good authority or anything like that,
21 but I'm just saying that's a 1998 article and there
22 have just been a number of things that have happened
23 in 1999, and now in 2000, that are a little different
24 than that.

25 Q. One last thing, Dr. Hadaway. If you could

00304

1 refer to Public Counsel Exhibit 53, which was the
2 summary of Hadaway testimony, do you have that before
3 you?

4 A. I don't have a copy of it, but I've looked
5 at it a lot.

6 Q. You indicated that the FERC testimony in
7 the SWEPCO case needed to be put in context. Would
8 you provide the context which you wanted to explain?

9 A. Yes. The testimony in that case had been
10 prepared in response to a complaint by some wholesale
11 customers. It was a different kind of rate of return
12 analysis. If you look at the testimony in this
13 stack, it uses a different averaging period, it uses
14 different things because those were the FERC methods
15 we were asked to redo as sort of a supplement. So
16 it's not done exactly the same way as the others.

17 The other three pieces of testimony are
18 verbatim, with the exception of the time period, and
19 the methods were exactly the same.

20 MR. VAN NOSTRAND: Thank you. I have no
21 further questions.

22 MR. CROMWELL: Brief re-cross, Your Honor.

23 JUDGE MOSS: Yes.

24

25

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

00305

1 BY MR. CROMWELL:

2 Q. Dr. Hadaway, just to clarify on that
3 Exhibit 53, which of the two SWEPCO ones --

4 A. It's the one that's styled E-L something.

5 Q. Is it ER 983177?

6 A. Yes, I'm sorry, ER.

7 MR. CROMWELL: Okay. I have nothing
8 further. Thank you.

9 JUDGE MOSS: All right. Then, Dr. Hadaway,
10 I believe you will be able to catch that early flight
11 back to Austin, so we appreciate having you here and
12 having your testimony. And all witnesses are being
13 released subject to recall, but your Counsel will
14 inform you if we need you back at some point in the
15 future.

16 THE WITNESS: Thank you very much for your
17 accommodation.

18 CHAIRWOMAN SHOWALTER: What's the order for
19 tomorrow?

20 JUDGE MOSS: All right. For tomorrow, I
21 guess we'll be starting with Widmer, and then moving
22 to Rockney, and then Hedman. And it appears, from
23 the cross-examination exhibits, that we should be
24 able to complete those witnesses tomorrow, and I
25 suppose that's all that needs to be said about that.

00306

1 MR. CEDARBAUM: My recollection is we don't
2 start till 1:30 tomorrow; is that --

3 JUDGE MOSS: That's right. Tomorrow's
4 Wednesday, isn't it?

5 MR. CEDARBAUM: I just wanted to confirm
6 that that's still the plan.

7 JUDGE MOSS: All right. We'll start at
8 1:30, as planned, and again, I think, even having
9 said that, even with just the half a day, it looks
10 like we'll finish easily, based on the
11 cross-examination estimates, with those witnesses.
12 So that's what we'll do.

13 Any other housekeeping matters we need to
14 take up here at the close?

15 MR. CEDARBAUM: I just had one. On Exhibit
16 56-C, which you reserved --

17 JUDGE MOSS: Oh, yes.

18 MR. CEDARBAUM: My intention was to copy
19 just a cover page, so we know what it is, and then
20 just the page that I discussed with Dr. Hadaway.
21 That's what I'll present, unless the company wants to
22 tell me --

23 MR. VAN NOSTRAND: Is that page 28?

24 MR. CEDARBAUM: Yes.

25 MR. VAN NOSTRAND: That's fine.

00307

1 MR. CEDARBAUM: So as long as we're
2 limiting the exhibit to those two pages, I can have
3 that ready tomorrow, then.

4 JUDGE MOSS: Mr. Van Nostrand, did you have
5 an opportunity to consider whether you would want
6 additional pages? We can do that overnight.

7 MR. VAN NOSTRAND: Let's do that.

8 JUDGE MOSS: We'll have time. We can take
9 it up in the afternoon tomorrow. Okay. Anything
10 else? All right. Thank you all very much. Have a
11 pleasant evening, and we'll see you here tomorrow at
12 1:30.

13 MR. CROMWELL: Thank you, Your Honor.

14 JUDGE MOSS: We're off the record.

15 (Proceedings adjourned at 5:18 p.m.)

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