

BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

THE WALLA WALLA COUNTRY CLUB,) Docket No. UE-143932
Complainant,) Pages 12 - 187
v.)
PACIFIC POWER & LIGHT COMPANY,)
Respondent.)

EVIDENTIARY HEARING, VOLUME II
PAGES 12 - 187
ADMINISTRATIVE LAW JUDGE RAYNE PEARSON

*** PAGE 78/LINE 10 THRU PAGE 83/LINE 8 IS DESIGNATED
CONFIDENTIAL AND SEALED UNDER A SEPARATE COVER ***
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<p>1 OLYMPIA, WASHINGTON; SEPTEMBER 3, 2015</p> <p>2 9:30 A.M.</p> <p>3 --o0o--</p> <p>4</p> <p>5 JUDGE PEARSON: Good morning. Today is</p> <p>6 Thursday, September 3rd, 2015, at 9:30 a.m., and we are</p> <p>7 here today for an evidentiary hearing in Docket UE-143932,</p> <p>8 which is a formal Complaint filed by the Walla Walla</p> <p>9 Country Club against PacifiCorp, d/b/a Pacific Power &</p> <p>10 Light Corporation.</p> <p>11 We took care of some housekeeping matters off</p> <p>12 the record this morning, and the parties have stipulated to</p> <p>13 the admission of all but one of the exhibits, which may or</p> <p>14 may not be offered later this morning, meaning the one</p> <p>15 exhibit that they did not stipu- -- stipulate to, so I will</p> <p>16 read those exhibits into the record now.</p> <p>17 The first exhibits are sponsored by Bradley</p> <p>18 G. Mullins for Walla Walla Country Club. The first is</p> <p>19 BGM-1CT, which is the Confidential Direct Testimony of</p> <p>20 Mr. Mullins. The second is BGM-2, which is the</p> <p>21 Qualification Statement of Bradley Mullins.</p> <p>22 The third is BGM-3, which is exhibit filing</p> <p>23 excerpts from Docket UE-130043. The fourth is BGM-4C,</p> <p>24 which is Confidential Company Responses to Club Data</p> <p>25 Requests. Next is BGM-5C, which is a confidential Club</p>	<p>1 exhibits are sponsored by David J. Marne for the Walla</p> <p>2 Walla Country Club. DJM-1CT, which is Mr. Marne's</p> <p>3 Confidential Direct Testimony. DJM-2, which is his</p> <p>4 curriculum -- I don't know how to pronounce that.</p> <p>5 MR. GREENFIELD: Vitae.</p> <p>6 MS. WALLACE: Vitae.</p> <p>7 JUDGE PEARSON: -- vitae. DJM-3C, which is</p> <p>8 Confidential Company Responses to Club Data Requests.</p> <p>9 DJM-4, which is the NESC rule excerpts, Sections 1, 2, and</p> <p>10 31. DJM-5T, which is Mr. Marne's Rebuttal Testimony.</p> <p>11 DJM-6, NESC rule excerpts, Section 35.</p> <p>12 DJM-7CX, which is an aerial photo of the</p> <p>13 Walla Walla Country Club and surrounding area, with</p> <p>14 indication of the electric facilities. And DJM-8CX, which</p> <p>15 is Club Responses to the Company's Third Set of Data</p> <p>16 Requests.</p> <p>17 The next set of exhibits are sponsored by</p> <p>18 Jeffrey C. Thomas for the Walla Walla Country Club, and the</p> <p>19 first is JCT-1T, which is Mr. Thomas's Direct Testimony.</p> <p>20 JCT-2, which is Club and Company Responses to Data</p> <p>21 Requests. JCT-3, which is an exhibit filing from</p> <p>22 Docket UE-130043.</p> <p>23 JCT-4T, which is Mr. Thomas's Rebuttal</p> <p>24 Testimony. JCT-5, which is an Order re: Defendant's Motion</p> <p>25 to Dismiss from the United States -- States District Court</p>
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<p>1 letter proposing facilities sale.</p> <p>2 The next is BGM-6T, which is Mr. Mullins'</p> <p>3 Rebuttal Testimony. And BGM-7, which is the general</p> <p>4 service contract between Pacific Power and Walla Walla</p> <p>5 School District 140, followed by BGM-8C, which is</p> <p>6 Confidential Company Responses to Club Data Requests.</p> <p>7 The cross-examination exhibits for</p> <p>8 Mr. Mullins are BGM-9C -- CX, excuse me. BGM-9CX, which is</p> <p>9 a January 10th, 2013, e-mail from Jeff Thomas to Scott</p> <p>10 Peters. BGM-10CX, which is a January 7th, 2013, e-mail</p> <p>11 from Michael Gavin to Jeff Thomas. BGM-11CX, which is a</p> <p>12 December 20th, 2012, e-mail from Jeff Thomas to Scott</p> <p>13 Peters.</p> <p>14 BGM-12CX, which is a November 9th, 2012,</p> <p>15 e-mail from Jeff Thomas to Scott Peters. BGM-13CX, which</p> <p>16 is Club Responses to the Company's Third Set of Data</p> <p>17 Requests. BGM-14CX, which is a fair market value</p> <p>18 appraisal. BGM-15CX, which is the Club's Supplemental</p> <p>19 Response to the Company's Data Request No. 58.</p> <p>20 The next set is for -- can you tell me how to</p> <p>21 pronounce David's last name? Is it Marne or Marne?</p> <p>22 MR. MARNE: Silent E.</p> <p>23 JUDGE PEARSON: Okay. Marne?</p> <p>24 MR. MARNE: Marne.</p> <p>25 JUDGE PEARSON: Okay. The next set of</p>	<p>1 for the Eastern District of Washington, which is Exhibit A</p> <p>2 to the Complaint. JCT-6, which is the Declaration of</p> <p>3 Mr. Thomas, and which is Exhibit B to the Complaint.</p> <p>4 JCT-7, which is a December 11th, 2012, letter</p> <p>5 to Pacific Power from Thomas K. Baffney for the Club, which</p> <p>6 is Exhibit C to the Complaint. JCT-8, which is a</p> <p>7 January 25th, 2013, letter to Thomas K. Baffney from Mike</p> <p>8 Gavin for Pacific Power, with attachments, and this is</p> <p>9 Exhibit D to the Complaint.</p> <p>10 JCT-9, a March 18th, 2013, letter to Thomas</p> <p>11 K. Baffney from Michelle Mishoe for Pacific Power with an</p> <p>12 attachment, which is Exhibit E to the Complaint. JCT-10,</p> <p>13 which is a May 3rd, 2013, letter to Michelle Mishoe from</p> <p>14 Thomas K. Baffney for the Club, which is Exhibit F to the</p> <p>15 Complaint. JCT-11, which is a May 23rd, 2013, letter to</p> <p>16 Michelle Mishoe from Thomas K. Baffney for the Club, which</p> <p>17 is Exhibit G to the Complaint.</p> <p>18 JCT-12 is a May 31st, 2013, letter to Thomas</p> <p>19 K. Baffney from Michelle Mishoe for Pacific Power, which is</p> <p>20 Exhibit H to the Complaint. JCT-13, which is Pacific Power</p> <p>21 Tariff WN U-75, Rule 6, which is Exhibit I to the</p> <p>22 Complaint. JCT-14CX is a November 5th, 2012, e-mail from</p> <p>23 Jeff Thomas to Scott Peters.</p> <p>24 JCT-15CX is an October 17th, 2012, letter</p> <p>25 from Scott Peters to Jeff Thomas. JCT-16CX are Club</p>

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<p>1 Responses to the Company's First Set of Data Requests. 2 JCT-17CX is the Club's Responses to the Company's Second 3 Set of Data Requests. JCT-19CX, which is a January 10th, 4 2013, e-mail from Jeff Thomas to Scott Peters. JCT-20CX is 5 a January 7th, 2013, e-mail from Michael Gavin to Jeff 6 Thomas. 7 JCT-21CX, the December 20th, 2012, e-mail 8 from Jeff Thomas to Scott Peters. JCT-22CX, a 9 November 9th, 2012, e-mail from Jeff Thomas to Scott 10 Peters. JCT-23CX, Club Responses to the Company's Third 11 Set of Data Requests. JCT-24CX, which is an aerial photo 12 of the Walla Walla Country Club and surrounding area, with 13 indication of the electric facilities. 14 And for R. Bryce Dalley for Pacific Power, 15 RBD-1T, which is Mr. Dalley's Direct Testimony. RBD-2, 16 which is a map of Walla Walla Electric Service Area in 17 1997, 2007, 2010, and 2013. RBD-3 is page 6 of the Club's 18 Response to the Company's Second Set of Data Requests. 19 RBD-4, the professional profile of Attorney 20 Stanley M. Schwartz. RBD-5, a January 3rd, 2013, agreement 21 between Walla Walla Country Club and Columbia REA. RBD-6, 22 a November 30th, 2012, electric service agreement between 23 Walla Walla Country Club and Columbia REA. RBD-7, a 24 Columbia REA customer-requested work agreement. 25 RBD-8, documents relating to the removal of</p>	<p>1 MR. GREENFIELD: That's correct. 2 JUDGE PEARSON: Okay. So let's start by 3 taking short appearances, so please state your name and who 4 you represent, for the record. 5 MS. WALLACE: Sarah Wallace on behalf of 6 Pacific Power. 7 MR. GREENFIELD: Good morning, Your Honor. 8 Troy Greenfield, Schwabe, Williamson & Wyatt, on behalf of 9 Pacific Power. 10 MR. GROSSMAN: Good morning, Your Honor. 11 David Grossman on behalf of the Walla Walla Country Club. 12 MR. SCHWARTZ: And I am Stanley Schwartz of 13 Witherspoon Kelley on behalf of the Country Club. 14 JUDGE PEARSON: Okay. Thank you. 15 So if you'd like to call your first witness, 16 then we can get started. 17 MR. SCHWARTZ: Your Honor, the Country Club 18 calls Mr. Dalley. 19 JUDGE PEARSON: Okay. Mr. Dalley, if you 20 could step up and take a seat over here. I see you have no 21 chair. 22 MR. DALLEY: Do you want me in this one or in 23 this one? 24 JUDGE PEARSON: If you could move down so 25 that --</p>
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<p>1 conduit on Columbia REA property. RBD-9CX, Company 2 Response to Club Data Request 29. RBD-10CX, Company 3 Response to Club Data Request 40. RBD-11CX, Company 4 Response to Club Data Request No. 52. RBD-12CCX, which is 5 a Confidential Company Response to Club Data Request 65. 6 RBD-13CX, which is a Company Response to Club 7 Data Request 71. RBD-14CX, which is an excerpt of Pacific 8 Power's six-state ESR. RBD-15CX, Pacific Power general 9 service contracts. RBD-16CX, Pacific Power e-mail from 10 Mr. Gavin. 11 And for William G. Clemens for Pacific Power, 12 WGC-1T, which is Mr. Clemens' Direct Testimony. WGC-2, 13 which is Walla Walla safety issue illustrations. And 14 WGC-3CX, which is the Company's Response to the Club's Data 15 Request No. 87. 16 WGC-4CX, which is an aerial photo of the 17 Walla Walla Club property. And WGC-5CCX, which is a 18 Confidential Company Response to Club's Data Request 22, 19 Exhibit G excerpts. And that's what I have for that. 20 Okay. So this morning's proceedings are 21 going to have Walla Walla Country Club's witnesses 22 testifying first, followed by witnesses for Pacific Power. 23 Is that right, or do I have that backwards? 24 MS. WALLACE: That's correct. 25 JUDGE PEARSON: Do I have that --</p>	<p>1 MR. DALLEY: Sure. 2 JUDGE PEARSON: -- I could see you, that 3 would be preferable. When the red light is on, that means 4 the microphone is on. 5 And if you could just stand and raise your 6 right hand. 7 8 R. BRYCE DALLEY, witness herein, having been 9 first duly sworn on oath, 10 was examined and testified 11 as follows: 12 13 JUDGE PEARSON: Okay. Please be seated. 14 Go ahead. 15 MR. SCHWARTZ: Thank you, Your Honor. 16 C R O S S - E X A M I N A T I O N 17 BY MR. SCHWARTZ: 18 Q. Good morning, Mr. Dalley. As you heard, I'm 19 representing the Walla Walla Country Club, and this 20 morning, I'd like to talk a little bit about your 21 testimony, your direct testimony, concerning the terms and 22 application of the Pacific Power Net Removal Tariff, the 23 operational reasons for removing facilities when there was 24 a request for disconnection, and then ask you a little bit 25 about the facts of this case.</p>

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CROSS-EXAMINATION OF R. BRYCE DALLEY

1 **So just -- just by way of beginning, have you**
 2 **reviewed the Complaint in this matter?**
 3 A. I have.
 4 **Q. And did you also look at the exhibits that were**
 5 **attached to the Complaint?**
 6 A. I have.
 7 **Q. Are you -- did you also take a look at your**
 8 **testimony?**
 9 A. Yes.
 10 **Q. And --**
 11 A. I prepared it.
 12 **Q. Okay. Thank you.**
 13 **And then how about the testimony of Mr. Clemens?**
 14 A. Yes.
 15 **Q. The testimony of Mr. Thomas? That would be the**
 16 **direct and rebuttal.**
 17 A. Yes.
 18 **Q. The testimony of Mr. Mullins?**
 19 A. Yes.
 20 **Q. And then the testimony of Mr. Marne?**
 21 A. Yes. I reviewed it all.
 22 **Q. Thank you.**
 23 **Including the attached exhibits?**
 24 A. Yes.
 25 **Q. All right. Thank you.**

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CROSS-EXAMINATION OF R. BRYCE DALLEY

1 **Then let me -- let me just jump in and start**
 2 **talking about the setup with regard to this case, and I'll**
 3 **begin by asking you to take a look at Exhibit No. JCT-8.**
 4 A. Can you say it again? JCT- --
 5 **Q. JCT, Jeff --**
 6 A. Yep.
 7 **Q. C. Thomas --**
 8 A. Just the number.
 9 **Q. Yeah. Hyphen No. 8.**
 10 **JUDGE PEARSON: Can you direct me to which**
 11 **exhibit that is --**
 12 A. I don't know if --
 13 **JUDGE PEARSON: -- in the Complaint?**
 14 A. -- I have that.
 15 **MR. SCHWARTZ: Oh, I'm sorry. Excuse me,**
 16 **Your Honor?**
 17 **JUDGE PEARSON: Can you direct me to which**
 18 **exhibit that is in the Complaint?**
 19 **MR. SCHWARTZ: That is Exhibit D as in David.**
 20 **JUDGE PEARSON: Okay. And that might be**
 21 **easier for you, Mr. Dalley, to look at Exhibit D to the**
 22 **Complaint.**
 23 **THE WITNESS: I don't know if I have that in**
 24 **this --**
 25 **MR. GREENFIELD: You know, I don't believe**

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CROSS-EXAMINATION OF R. BRYCE DALLEY

1 they were served when the exhibits were circulated.
 2 **MR. SCHWARTZ: I can hand him the exhibit, if**
 3 **that's --**
 4 **JUDGE PEARSON: That's fine with me.**
 5 **MR. SCHWARTZ: Would that be all right?**
 6 **JUDGE PEARSON: Mm-hmm.**
 7 **BY MR. SCHWARTZ:**
 8 **Q. So here's a -- here's a copy. So have you seen**
 9 **exhibit, I'll just call it, JCT-8 before?**
 10 A. Let me -- give me a moment. I just -- I -- I
 11 believe I've seen it, but I just want to familiarize
 12 myself --
 13 **Q. Absolutely.**
 14 A. -- with it, because it's not in my book here.
 15 **Q. That's fine.**
 16 A. Yes. I'm relatively familiar with this --
 17 **Q. Okay.**
 18 A. -- so yes.
 19 **Q. So I'll represent to you, and if -- if my**
 20 **representation is incorrect, please correct me -- this is a**
 21 **letter from the Company that you represent dated January 25**
 22 **of 2013. It is a letter written to Mr. Jeff Thomas of the**
 23 **Walla Walla Country Club, and I just want to walk through,**
 24 **because I think this is a good setup for why the Country**
 25 **Club is here today.**

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CROSS-EXAMINATION OF R. BRYCE DALLEY

1 **Looking at the second paragraph, you'll see that**
 2 **line -- the first paragraph begins, "While it is**
 3 **unfortunate, we respect the Club's decision to move to**
 4 **another provider. At the same time, we must minimize cost**
 5 **impacts on our business and manage safety and liability**
 6 **issues."**
 7 **Now, your testimony, in part, has been about the**
 8 **safety and liability issues for the Company; correct?**
 9 A. Yes. Mr. Clemens testifies primarily to the
 10 safety concerns, but I address some of the operational
 11 concerns in this case, yes.
 12 **Q. I understand.**
 13 **And then -- and then the letter goes on to say,**
 14 **"And ensure that any investments we have made in capital**
 15 **and operating costs are recovered on behalf of our**
 16 **Washington customers." That's -- that's a correct reading,**
 17 **isn't it?**
 18 A. That's what it says.
 19 **Q. So the third paragraph then begins, "Enclosed**
 20 **is -- enclosed is a final cost estimate for a permanent**
 21 **removal of electric facilities installed for the purpose of**
 22 **providing service to the Country Club," and then there's a**
 23 **cost estimate, which we'll look at in a minute.**
 24 **The cost estimate shows \$66,718 for removal of**
 25 **conduit and vaults; correct?**

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CROSS-EXAMINATION OF R. BRYCE DALLEY

1 **A. Yes.**

2 **Q. And then it goes on. "Because of the Country**

3 **Club's concerns about property damage and permanent repair,**

4 **PacifiCorp offers to sell the Country Club conduit and**

5 **vaults for the same \$66,718"; correct?**

6 A. That's what it says.

7 **Q. Are you aware that the \$66,718 sale price was**

8 **determined based upon a contractor's estimate to remove the**

9 **underground conduit on the Country Club property?**

10 A. That's my understanding, that the -- the estimate

11 here was shown was what it would cost to -- to remove those

12 facilities.

13 **Q. And then the next line shows that, or states, "A**

14 **portion of these conduits were installed in December of**

15 **2007 at a cost of thirty-eight three -- three to Pacific's**

16 **ratepayers." I presume we're talking about the same**

17 **conduit which would be offered for sale for sixty-six**

18 **seven. Would that be your understanding?**

19 A. My understanding of the 38,000 is that that was

20 the cost of some repairs that the Company made on the

21 Country Club property in conjunction -- in conjunction with

22 one of the meters that had a service issue in 2007, and so

23 the Company went in, they dug up the conduit, made the

24 service correction, at that time, at a cost of the 38,000

25 that's referenced here. Yes.

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CROSS-EXAMINATION OF R. BRYCE DALLEY

1 Q. Okay. And that's -- but the 38,000 relates to

2 conduits that were installed in 2007 as the letter states;

3 correct?

4 A. Yes. My understanding is the 38,000 was the cost

5 associated with that repair in 2007.

6 **Q. Of conduit?**

7 A. I -- I am not certain if it's just conduit or if

8 it's other facilities. I believe it's the full cost of

9 that repair.

10 **Q. Okay. Now what you're saying is different,**

11 **though, than what the letter says?**

12 A. Possibly. I did not prepare this letter, but my

13 understanding is that 38,000 is the cost of the repair.

14 **Q. Okay. And are you aware that the Country Club**

15 **also installed some conduit on their property at their**

16 **expense through which your Company provided service?**

17 A. I am not familiar with the details of that. It --

18 it's possible. Customers install equipment at -- on their

19 facilities routinely, so that's -- it wouldn't come as a

20 surprise.

21 **Q. Okay. Let's move down to the next paragraph,**

22 **which begins, "Before Pacific Power can proceed with**

23 **permanent removal, we request the following items: No. 1,**

24 **check in the amount of 104,176," which I presume is the --**

25 **add -- adding up the cost to purchase or remove the conduit**

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1 **plus other removal costs; is that fair?**

2 A. Yes.

3 **Q. And then, "Two signed copies of the**

4 **customer-requested work agreement"; correct?**

5 A. Yes.

6 **Q. And then there's, "Two signed copies of the bill**

7 **of sale for the conduits and vaults, if the Country Club**

8 **decides to take ownership." Again, is that a correct**

9 **reading?**

10 A. Yes. And I think it important to point out that,

11 you know, the -- the application of the Company's Net

12 Removal Tariff has been an evolution. It's a unique

13 circumstance that we have here in Washington that we don't

14 deal with in any of our other states, and even in the State

15 of Washington, we don't have this issue in any other

16 location except for the situation that we have with the

17 Columbia REA.

18 And so as we have gained more experience with

19 the -- kind of the circumstances in Walla Walla and, in

20 particular, with Columbia REA, we -- I would say that the

21 application of the tariff has evolved.

22 And -- and at one point in time, the Company was

23 willing to sell or transfer facilities, but as we've gained

24 experience and learned of operational and safety concerns

25 associated with permanent disconnect requests, we no longer

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1 have that policy, because we believe that any permanent

2 disconnection has safety or operational concerns that would

3 necessitate removal of the facilities.

4 So in this letter that you're referring to here,

5 there was, in January of 2013, an offer to sell a portion

6 of the equipment to the Country Club. The -- the Company

7 no longer has that offer to sell its equipment, and its

8 policy is to not sell or transfer equipment because of

9 safety and operational concerns.

10 **Q. Thank you, Mr. Dalley. Now, that was a very long**

11 **statement that really wasn't related to my question, but --**

12 A. Well, you were asking me specifically about the

13 Company's offer to sell, and so I believe it's important to

14 clarify what -- the context of that offer.

15 **Q. Yeah. And I understand the clarification as of**

16 **20- -- January 25 of 2013, and we'll get to the other**

17 **questions with regard to the interpretation of the Net**

18 **Removal Tariff and what the present posture of -- of the**

19 **Company is.**

20 **I'm simply trying to establish that, on January 25**

21 **of 2013, there was an offer of sale that included a bill of**

22 **sale, and you agree with me on that, don't you? That that**

23 **is what's occurring here?**

24 A. That is what this document is.

25 **Q. Let's turn two pages, now, if you would, to the**

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1 actual removal estimate. Again, this document appears to
 2 have been prepared by Pacific Power, and I really want to
 3 draw your attention to the right-hand column under "Total,"
 4 the number of 66,718, and then the narrative or the
 5 description says, "Removal or sale of conduits and vaults";
 6 correct?
 7 A. Yes.
 8 **Q. And at this point in time, if the Country Club**
 9 **elected to have the conduit removed, the price may have**
 10 **been more or less than 66,718, because this really was just**
 11 **a contractor's estimate and the expectation is the customer**
 12 **would pay the entire removal cost if they elected to have**
 13 **the conduit removed; correct?**
 14 A. Consistent with the Company's Net Removal Tariff,
 15 the actual cost of removal would be charged to the
 16 customer.
 17 **Q. Understood.**
 18 **And that charge to the customer, whether it's**
 19 **66,000, something above, or something below, goes directly**
 20 **to the contractor, not Pacific Power; correct?**
 21 A. The cost would be to cover the removal. Whether
 22 done by the Company or third-party contractor, it would
 23 cover that cost.
 24 **Q. Okay. But in this case, I can represent to you**
 25 **that this is based upon an estimate from a contractor, so**

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1 my understanding is, if your Company has a contractor come
 2 onto the Country Club property in order to remove conduit
 3 and the price is 66,000, then that's what the Company --
 4 that's what the Country Club will pay, and that is to pay
 5 the contractor's cost; correct?
 6 A. I -- I believe I agree with you. The -- the Net
 7 Removal Tariff charges the customer the actual cost of
 8 removal. Whether the Company's removing it or a
 9 contractor, it's the actual cost.
 10 **Q. Okay.**
 11 A. That's why I don't distinguish whether it's the
 12 Company that's actually going in with their employees or if
 13 it's contracted out. It still would be the -- the cost,
 14 the actual cost of the removal, that would be paid by the
 15 customer.
 16 **Q. Perfect.**
 17 **And all I'm trying to establish is that if the**
 18 **Country Club elected to have the conduit removed and you**
 19 **send a contractor, the payment by the Country Club to the**
 20 **contractor is not revenue to your Company, Pacific Power;**
 21 **it's payment for work performed. Correct?**
 22 A. Well, I believe the payment would be to Pacific
 23 Power as part of the Net Removal Tariff, and then the
 24 Company, just as it covers all of its costs, whether
 25 through internal labor or contracting, would then handle

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1 the administration of those payments.
 2 So there would be no payment from the Country Club
 3 to the contractor, if that's what you're asking.
 4 **Q. That's fine. No, no.**
 5 **Really, what I'm trying to get to is it's -- it's**
 6 **a net zero to the Company, because you're just going to**
 7 **take the Country Club's money and pay the contractor, so**
 8 **you don't receive any revenue off of that for the Company;**
 9 **correct?**
 10 A. Well, we're trying to cover our costs of the
 11 removal, and so --
 12 **Q. Sure.**
 13 A. -- there's probably internal labor associated with
 14 tracking, monitoring, hiring the contractor, and so forth
 15 that would also need to be covered as part of the removal
 16 cost associated with the particular removal.
 17 **Q. Sure.**
 18 **And those would be incidental costs related to**
 19 **administration; right?**
 20 A. I am not certain of what -- how much of this would
 21 be third party or internal labor. That's not my area of
 22 expertise, but I do know that we would charge the customer
 23 the actual cost.
 24 Internal labor would be a component of that.
 25 Administration would be an element, but there could also be

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1 field personnel from the Company involved in the removal
 2 process that would also be charged to the Country Club.
 3 **Q. Okay. Suffice it to say, the 66,718 is the**
 4 **contractor's cost; correct?**
 5 A. I do not know.
 6 **Q. Okay. We'll -- we'll get there in a minute.**
 7 **Take a look at the next document, which is the**
 8 **Pacific Power work agreement. And if you go down to the**
 9 **third line, where it says, "Payment to Company" --**
 10 A. Are we -- I'm just making sure.
 11 **Q. It's --**
 12 A. This is the next page? This one?
 13 **Q. No, no. Not the spreadsheet. The next one,**
 14 **please.**
 15 A. Okay.
 16 **Q. The title of the document is "Pacific Power, a**
 17 **Division of PacifiCorp, Customer Requested" --**
 18 A. Okay. I'm with you.
 19 **Q. Okay. Do you see the third paragraph about**
 20 **"Payment to Company"?**
 21 A. Mm-hmm.
 22 **Q. Just read that to yourself for a minute, and I'll**
 23 **ask you a question.**
 24 **So again, this just reiterates, if there's going**
 25 **to be a removal, the customer pays the actual cost after**

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1 **completion of the work, correct, which might be above or**
 2 **below that 66 with regard to removal of the conduit;**
 3 **correct?**
 4 A. Well, in particular, it says, "The customer will
 5 agree to pay the estimate of 104,000" --
 6 **Q. Mm-hmm.**
 7 A. -- and that there will be an adjustment for
 8 anything more or less than that, which is consistent with
 9 our Net Removal Tariff that the actual cost be paid.
 10 **Q. Got it.**
 11 **Okay. Let's keep going. Let's go to the bill of**
 12 **sale, which is another page in.**
 13 A. The final page of that?
 14 **Q. It's actually the final two pages. It's a bill of**
 15 **sale.**
 16 A. Maybe I don't have the final one, because that's
 17 the last page I have.
 18 **Q. You only have one page there?**
 19 A. Yeah.
 20 **Q. Let me see. Here. Let me just hand you a clean**
 21 **copy. All right?**
 22 A. Okay.
 23 **Q. Sorry about that.**
 24 **So I want to walk you through this. So this bill**
 25 **of sale starts -- start at the top. It's dated**

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1 **January 25th of 2013, by and between PacifiCorp and the**
 2 **Country Club, and then there's paragraph 1, "Conveyance."**
 3 **You see that for the sum of 66,718, paid by buyer, which is**
 4 **the Country Club, delivered to seller, which receipt**
 5 **hereby -- which -- receipt of which is hereby**
 6 **acknowledged -- this is important language -- "seller**
 7 **conveys to buyer the following used electric facilities."**
 8 **You understand what the word "conveyance" means in**
 9 **a document like this, don't you?**
 10 A. I do.
 11 **Q. And that's transferring right, title, and interest**
 12 **to the conduit; correct? That's the purpose of this**
 13 **document; yes?**
 14 A. Yes. At that time.
 15 **Q. Okay. And then you'll see there's a listing of**
 16 **the conduit, and then in paragraph 2, there's a number of**
 17 **warranty disclaimers. And I'd just ask you to glance at**
 18 **what's in large cap.**
 19 **I'll summarize: Seller disclaims and excludes any**
 20 **express or implied representation or warranty as to value,**
 21 **condition, design, operation, or quality. It goes on to**
 22 **say, "And defects in the facilities." Do you see that?**
 23 A. Yes, I do.
 24 **Q. Do you understand what that language means in**
 25 **terms of the conveyance and what the Company's attempting**

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1 **to achieve with regard to its future responsibility?**
 2 A. Generally, yes.
 3 **Q. Okay. Under Item No. 3, "Limitation of**
 4 **Liability," take a look at that paragraph, please. You can**
 5 **see that this paragraph is designed, again, to limit**
 6 **liability in connection with transfer of the facilities, et**
 7 **cetera, et cetera; correct?**
 8 A. It is, and in talking about liability, I mean, I
 9 think that's one of the important distinctions that I
 10 describe in my testimony of kind of the evolution of -- of
 11 the Company's application of the Net Removal Tariff in that
 12 the Company does not believe liability associated with its
 13 electric facilities can be transferred.
 14 And I know that you're pointing me to a bill of
 15 sale back from -- I guess this is January 2013. The
 16 Company no longer has an offer to the Country Club or to
 17 anybody else to sell its facilities, and one of the main
 18 reasons for that is because of the liability and whether or
 19 not liability associated with our facilities can be
 20 transferred to another -- a customer or another company.
 21 And -- and so because of that circumstance -- and
 22 the Company believes it cannot be absolved of that
 23 liability -- it no longer offers to sell its facility under
 24 a permanent disconnection request, which is why, in this
 25 instance, and in all instances, we require removal of the

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1 facilities.
 2 **Q. I am crystal clear on that, and we'll get to that,**
 3 **but -- but please do me a favor. I really want to be**
 4 **efficient with your time, and so let's just work on what**
 5 **was happening in 2013, because I want to show a chronology**
 6 **to you, and then absolutely, we'll get to a discussion**
 7 **about what your present practice is.**
 8 A. Yeah. And I just wanted to clarify on the
 9 liability that it is the Comp- -- was the Company's intent
 10 at that time, 2013, to limit the liability associated with
 11 the transfer that was being proposed. The Company's
 12 experience today is that we don't believe we can absolve
 13 ourself of that liability.
 14 **Q. Thank you, and I know that's in your testimony, so**
 15 **let me keep going.**
 16 A. Okay.
 17 **Q. Item No. 4, "Indemnity." This is an indemnity.**
 18 **Indemnity is saying that "The buyer" -- that's the Country**
 19 **Club -- "expressly assumes all risk in connection with**
 20 **buyer's purchase and use of the facilities." And then,**
 21 **"Buyer further agrees to indemnify, protect, and hold**
 22 **harmless the seller," which is your Company.**
 23 A. Mm-hmm.
 24 **Q. Final page, under the second paragraph,**
 25 **"Additionally, buyer shall assume sole and exclusive**

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1 responsibility and legal liability for design, location,
 2 repair, construction, installation, and maintenance" -- an
 3 important word -- "of the facilities transferred to it by
 4 seller."
 5 **And then look at the very last sentence in that**
 6 **paragraph, "Obligation to indemnify and hold harmless**
 7 **specifically includes any claims or actions which might**
 8 **arise because of the seller's" -- which is Pacific**
 9 **Power's -- "own negligence."**
 10 **Do you agree with me that, at least as of**
 11 **January 25, 2013, Pacific Power had determined in this**
 12 **context that there was no safety or operational reason to**
 13 **remove the facilities under Rule 6, and thus, there was a**
 14 **clear offer to sell them for 66,000? Agree with me as of**
 15 **this point in time, is all I'm trying to establish.**
 16 A. Well, I think it's clear from the letter that the
 17 Company in -- in January of 2013 had an offer to sell those
 18 facilities at a price and attempted, in this bill of sale,
 19 to limit the Company's, PacifiCorp's, liability in the
 20 transaction.
 21 **Q. Okay. And presum-** --
 22 A. The Company no longer believes that that can be
 23 done.
 24 **Q. And presumably, that was compliant with Rule 6;**
 25 **correct?**

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1 **A. The Company always strives and the -- it is my job**
 2 **at Pacific Power to make sure that we're in compliance with**
 3 **our tariffs and -- and the rules as dictated by this**
 4 **Commission, and so our intention is always to comply with**
 5 **the tariffs.**
 6 **Q. Which means, at this point in time, there was no**
 7 **operational or safety reason, according to Rule 6, that**
 8 **would have prohibited this offer to sell --**
 9 A. As I --
 10 **Q. -- correct?**
 11 A. And as I mentioned before, the Company's
 12 application and interpretation of this tariff has changed
 13 as we've gained experience and as we've learned of the
 14 circumstances.
 15 **Q. I understand that, but please, just -- just answer**
 16 **the question as -- as --**
 17 A. At this time, the Company made an offer to sell
 18 and tried to absolve itself, as much as it could, through
 19 this bill of sale, of the liability.
 20 **Q. Because there was no safety or operational reason**
 21 **present at that time to prohibit the sale; correct?**
 22 A. I don't believe it says anywhere in here that
 23 there is no safety or operational concerns.
 24 **Q. Where -- isn't that what you would infer, though,**
 25 **based upon your understanding of Rule 6? If the Company is**

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1 **going to offer a facility for sale, they must have made**
 2 **that determination with regard to operations or safety;**
 3 **correct?**
 4 A. I -- I do not believe so.
 5 **Q. Okay. Let's move on.**
 6 **Would you please take a look at the -- the next**
 7 **exhibit I want to ask you about, which is JCT No. --**
 8 **No. 12, please. I think I put that one in -- oh, you know**
 9 **what? I -- would you like me to give you a copy?**
 10 A. Yeah. I don't -- I don't have -- I have JCT-4T,
 11 and then I don't -- I jump to the cross-exhibits, so I
 12 don't know if --
 13 **Q. That's all right. I -- it still wasn't clear to**
 14 **me, so -- how this was going to work, but there you go.**
 15 A. Thank you.
 16 **Q. I hope that one's complete.**
 17 A. It's just one page?
 18 **Q. It should be two pages, isn't it?**
 19 A. I think it's just one --
 20 MR. COWELL: Just one.
 21 A. -- letter.
 22 MS. WALLACE: Your Honor, can I bring the
 23 witness a full --
 24 JUDGE PEARSON: Sure.
 25 THE WITNESS: Thank you.

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1 MR. SCHWARTZ: Yes. It is just one. Thank
 2 you.
 3 MS. WALLACE: And this is Exhibit H to the --
 4 JUDGE PEARSON: Thank you.
 5 MR. SCHWARTZ: That's correct. It is H to
 6 the Complaint.
 7 BY MR. SCHWARTZ:
 8 **Q. And what -- what you're looking at now is a May 31**
 9 **letter from Pacific Power to Thomas Baffney, one of the**
 10 **attorneys representing the Country Club at this point in**
 11 **time. And I'll just -- I'm just going to walk you through**
 12 **it, and then I'll ask you some questions about the last**
 13 **paragraph.**
 14 **So as you can see, the first sentence would**
 15 **lead -- shows that Pacific Power's in receipt of your**
 16 **letters dated May 3rd, May 23rd, explaining the Country**
 17 **Club's position with regard to treatment.**
 18 **So there's correspondence, I'll represent to you,**
 19 **that was going back and forth. The third paragraph talks**
 20 **about when there is a request for a removal; you can see**
 21 **that. Pacific Power's acknowledging that the tariff**
 22 **governs such removal.**
 23 **The fourth line down to the left begin -- begins**
 24 **with the word "describes," and then if you go to the end of**
 25 **that sentence -- and this is under Rule 6, Section I, as**

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1 stated in the preceding sentence -- it says, "To
 2 accommodate your request to avoid disruption to the Country
 3 Club grounds and activities, Pacific Power's offered to
 4 sell the conduit and vault to the Country Club at the
 5 estimated cost of removing the facilities."
 6 **That's what we just talked about, isn't it? Yes?**
 7 A. Yes.
 8 **Q. And so the letter that we previously looked at was**
 9 **dated January 25 of 2013, and here we have, essentially**
 10 **four -- four months later, Pacific Power's still holding**
 11 **the position that the conduit and vault are for sale.**
 12 **And the way that they're going to determine the**
 13 **sale price is "Pacific Power's received bids" -- and I'm**
 14 **reading from the document -- "from outside contractors for**
 15 **the costs to remove." I've read that accurately, didn't I?**
 16 A. Yes.
 17 **Q. And then it goes, "Pacific Power selected the**
 18 **lowest bid." And then here's the sentence I want you to**
 19 **look at. So "Pacific Power makes this offer in order to**
 20 **allow the Country Club to transition its service to CREA**
 21 **while protecting Pacific Power's customers from paying**
 22 **these costs."**
 23 **Now, that's an interesting statement, because**
 24 **what's really happening here -- well, let me go on. The**
 25 **final sentence is, "Pacific Power stands firm on its offer**

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1 **to sell the vault and conduit for 66,718." See that?**
 2 A. Yes.
 3 **Q. This statement is based upon Rule 6, and clearly,**
 4 **at this point in time -- this point in time -- Pacific**
 5 **Power has still determined there's not an operational or**
 6 **safety reason under -- it says right here -- the tariff,**
 7 **Rule 6, Section I, that would prohibit this transfer for**
 8 **the cost to remove; correct? I'm just asking you what this**
 9 **document is saying.**
 10 A. It -- it provides an offer to sell at \$66,718.
 11 **Q. And as I pointed out to you, the third paragraph**
 12 **talks about, this is in connection with Tariff Rule 6,**
 13 **Section I. Do you see that first sentence in the third**
 14 **paragraph?**
 15 A. Well, it refers to -- I -- I agree that it refers
 16 to Rule 6. It doesn't say anything in here about safety or
 17 operational concerns.
 18 **Q. Allow me to just point something out to you.**
 19 A. But it did say, "Tariff 6." I mean --
 20 **Q. Tariff 6, and then --**
 21 A. -- I'll acknowledge that it says that.
 22 **Q. And then the line continues, "Describes permanent**
 23 **disconnection and removal."**
 24 **A. Yes. And our tariff clearly describes that**
 25 **situation.**

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1 **Q. And if you don't remove it, it's because you've**
 2 **determined there's no operational or safety reason**
 3 **necessitating removal; correct? That is -- it's in our**
 4 **tariff, isn't it?**
 5 A. Well, the tariff describes that if there are
 6 safety or operational concerns, the Company will remove.
 7 The tariff is silent as to what happens if there are no
 8 safety or operational concerns.
 9 **Q. Sure. There's --**
 10 A. There's nothing in the tariff or in Rule 6 that
 11 describes what would happen in the instance there aren't
 12 safety or operational concerns. And I believe, in a
 13 thorough review of that tariff, there is nothing in the
 14 tariff that describes a transfer of the facilities to a
 15 customer or to a competitor.
 16 **Q. There's no question, though, that around this time**
 17 **and prior to, you were leaving conduit in place and you**
 18 **were selling to customers; correct?**
 19 A. As I mentioned, the Company has gained experience
 20 as we've moved from 2002, when the tariff became effective
 21 to today, on how this should be applied, and there have
 22 been instances, as I mentioned one in my testimony with the
 23 City of Walla Walla, where we have transferred the
 24 facilities.
 25 In that instance, there was a franchise agreement

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1 that required the transfer, and the Company did its best to
 2 protect its remaining customers from the liability
 3 associated with that transfer. And in the actual document,
 4 it says that that -- those pieces of equipment cannot be
 5 used by another provider.
 6 **Q. Are you willing to answer my question?**
 7 A. Will you repeat it?
 8 MR. GREENFIELD: Your Honor, I've kept quiet
 9 for some time. I'd ask that counsel direct his concerns to
 10 you rather than be argumentative with the witness.
 11 JUDGE PEARSON: Okay. I agree with that.
 12 And Mr. Dalley, if you could just answer the
 13 question, it is a yes-or-no question.
 14 A. Will you please repeat the question, Mr. Schwartz?
 15 MR. SCHWARTZ: Do you mind reading it back?
 16 (Question was read back.)
 17 A. I am not famil- -- I am not familiar with all of
 18 the circumstances of other removals. I -- I would
 19 acknowledge that there have been circumstances where we
 20 have transferred facilities.
 21 JUDGE PEARSON: So the answer is yes. That's
 22 what we're looking for here is a yes-or-no answer to the
 23 question.
 24 A. Yes.
 25

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1 BY MR. SCHWARTZ:

2 **Q. Okay. Thank you.**

3 **You also acknowledge, if you will, that really**

4 **what also occurred between January and May of 2013, you**

5 **know, given the language in this May 31 letter with regard**

6 **to "offer," that there was a negotiation taking place here,**

7 **don't you agree, between the Country Club and Pacific --**

8 **Pacific Power?**

9 A. Yes. There were definitely discussions.

10 Negotiations, I was not involved.

11 **Q. Okay. That's fair enough.**

12 **Would you take a look at the next exhibit, which**

13 **is -- that I'd like to talk about, BGM-7? So on -- I'll**

14 **walk you through this. There's really only a couple key**

15 **things that I'd like to point out to you. First of all,**

16 **this -- this document appears to be a contract that your**

17 **Company let with the Walla Walla School District; correct?**

18 A. Yes.

19 **Q. And up in the upper left corner, there's a small**

20 **little box, and it says, "(WA May2013)." Do you see that?**

21 A. Yes.

22 **Q. And then on the date of the contract, which is in**

23 **the first line, this general service contract, this is**

24 **dated June 23rd of 2013; correct?**

25 A. Yes.

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1 Q. And it's with the Walla Walla School District;

2 yes?

3 A. Yes.

4 **Q. Second paragraph says, "The Company's filed**

5 **tariffs," and then there's two terms of art, which is are**

6 **quote -- quotes -- "and the rules of the Washington**

7 **Utilities and Transportation Commission, as they may be**

8 **amended, regulate the contract and are incorporated into**

9 **this contract." Do you see that?**

10 A. Yes.

11 **Q. That would include Rule 6 that we're talking about**

12 **today; correct?**

13 A. Presumably, yes.

14 **Q. Okay.**

15 A. I mean, it's -- I don't think it specifies the

16 exact rules, but it says, "The rules by the UTC."

17 Q. Paragraph 6, please. Next page.

18 A. Mm-hmm.

19 **Q. This is a five-year contract, which means it's**

20 **going to run through 2018. Do you see that?**

21 A. Yes, I see the five-year term. I want to see the

22 start date, I guess.

23 **Q. Sure. Go ahead.**

24 A. Yes. But yes, it says, "Five years."

25 Q. Same page, paragraph 9, please.

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1 A. Mm-hmm.

2 **Q. Would you just take a minute and read that, and**

3 **then I've got a couple questions for you.**

4 A. Okay.

5 **Q. So the -- the first sentence is talking about, if**

6 **service is provided, the customer is going to provide, at**

7 **its expense, all trenching, backfilling -- backfilling,**

8 **conduit, and duct, and furnish and install -- and install**

9 **equipment foundations as designed by Company; correct?**

10 A. Yes.

11 **Q. And that's at the customer's expense?**

12 A. Correct.

13 **Q. Which is a cost that the customer incurs?**

14 A. Correct.

15 **Q. Then it says, "Company may abandon in place any**

16 **underground cables installed under this contract that are**

17 **no longer useful to the Company." Do you agree with me**

18 **that that statement from your contract complies with the**

19 **NESC, which you've testified to, and would be an accepted**

20 **good practice under the NESC?**

21 A. If the Company -- the NESC requires that the

22 Company either remove its facilities or maintain them in a

23 safe condition, and so if the Company is going to abandon

24 in place underground cables, it would have to, in

25 compliance with the NEA- -- NESC, maintain those facilities

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1 in a safe condition, and the Company would be responsible

2 to maintain those facilities.

3 **Q. But clearly, in this agreement, you're -- you're**

4 **reserving -- your Company's reserving the right to abandon**

5 **underground facilities in place; correct?**

6 A. That's what it states, and what I'm clarifying is

7 that we would have to still maintain those facilities in a

8 safe condition.

9 **Q. And when we looked at the preamble to the contract**

10 **that wa- -- that made it subject to the WUTC rules --**

11 A. Mm-hmm.

12 **Q. -- we assume that those rules include Rule**

13 **No. 6.I.; correct?**

14 A. Correct.

15 **Q. Okay. Thus, if you were going to abandon this in**

16 **place, you would find that there would not be an**

17 **operational or safety reason for such abandonment; correct?**

18 A. No. I would not agree with that. We would have

19 to, if we were to abandon, maintain those facilities in a

20 safe condition or remove them.

21 **Q. Then that's your position today?**

22 A. Yes.

23 **Q. Okay. That position is not stated in this -- in**

24 **this document, though, from May of 2013, is it?**

25 A. This is our -- in this particular contract?

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1 Q. Yes.

2 A. It states that we have to comply with all the

3 Washington Utilities and Transportation -- Transportation

4 Commission rules, and if we are to abandon -- that we are

5 able to abandon, but what I'm clarifying is that NESC

6 requires that those facilities either be removed or

7 maintained in a safe condition.

8 **Q. Right.**

9 **And are you familiar with the term "accepted good**

10 **practice" under the NESC with regard to abandonment of**

11 **conduit?**

12 A. I'm familiar with the term, but I'm not an expert

13 on the NESC. I would have to defer to -- to others, but --

14 **Q. And that's --**

15 A. -- generally good practice, yes.

16 **Q. That's fair.**

17 **So you can't really testify whether this is a,**

18 **quote, "accepted good practice," under the NESC? Is that**

19 **what you're telling me?**

20 A. What I'm telling you is that my understanding of

21 the NESC is that we have to either remove or we have to

22 maintain in a safe condition.

23 **Q. Okay. Okay. Let's keep going.**

24 **The next document I'd ask you to look at is your**

25 **cross-examination document, RBD-15CX. I'll walk you**

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1 **through these real quick. There's three -- three contracts**

2 **here. I presume these are form contracts that your Company**

3 **uses for specific situations; correct?**

4 A. Correct.

5 **Q. And in paragraph No. 2, again, you'll see, it**

6 **says, "The Company's filed tariffs and rules regulate this**

7 **contract"; correct?**

8 A. Correct.

9 **Q. And this is an irrigation service contract as set**

10 **forth in the title?**

11 A. Yeah. The first one is, and then I think you've

12 got residential and subdivision contracts that follow.

13 **Q. Absolutely. Page 2, please.**

14 A. Mm-hmm.

15 **Q. Same language. "Company may abandon in place**

16 **underground cables installed during this contract that are**

17 **no longer useful to the Company"; right?**

18 A. Yes.

19 **Q. Okay. I'll take you through quickly, and then**

20 **I'll only have one question. So take a look at the next**

21 **contract, which is a residential service contract. Again,**

22 **same boilerplate, second line, "Filed tariffs and rules of**

23 **the WUTC regulate this contract." See that?**

24 A. Yes.

25 **Q. Again, page 5, same boilerplate that we saw in the**

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1 **Walla Walla School District contract; right?**

2 A. Yes.

3 **Q. And finally -- and I know that this is a little**

4 **bit ad nauseam, the subdivision contract. The second**

5 **paragraph, a little more extensive, but it says the same**

6 **thing, that this contract is governed by the WUTC rules and**

7 **tariffs; right?**

8 A. Yes.

9 **Q. And finally, Item No. 4, same boilerplate.**

10 **"Company may abandon in place any underground cables";**

11 **right?**

12 A. Yes.

13 **Q. So you would agree with me, then, that at least**

14 **during the time that this contract was written, and even as**

15 **late as June 3rd of 2013, Pacific Power certainly reserved**

16 **the right to abandon facilities on property in place;**

17 **correct?**

18 A. Yes.

19 **Q. Okay. Thank you.**

20 **Let's take a look at the next exhibit, and this**

21 **is -- let me see what it is. Excuse me. This is your --**

22 **this is actually Brad Mullins' Exhibit No. 3, please.**

23 A. Which is the rebuttal testimony of Bill Clemens?

24 Is that --

25 **Q. No.**

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1 **A. No? BGM-3?**

2 **Q. BGM-3.**

3 MR. GREENFIELD: I think that's accurate.

4 MS. WALLACE: That's correct.

5 MR. GREENFIELD: That's Mr. Clemens' rebuttal

6 testimony.

7 THE WITNESS: From a proceeding in --

8 JUDGE PEARSON: From a previous docket.

9 MR. GREENFIELD: From a --

10 THE WITNESS: -- Docket UE- --

11 MR. GREENFIELD: -- different proceeding,

12 yes.

13 THE WITNESS: -- -001734 is what I have.

14 MR. SCHWARTZ: Do you have it? Well...

15 THE WITNESS: Well, I have what I think is

16 BGM-3.

17 JUDGE PEARSON: I think maybe the exhibit is

18 mislabeled, because it was labeled as, "Exhibit Filing

19 Excerpts from Docket UE-130043," and it appears to be from

20 Docket UE-001734. Is that correct? That's what I have as

21 BGM-3 in front of me. It's --

22 MR. SCHWARTZ: Oh.

23 JUDGE PEARSON: -- Mr. Clemens' rebuttal

24 testimony from --

25 MR. SCHWARTZ: That's correct.

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1 JUDGE PEARSON: -- that docket.

2 MR. SCHWARTZ: That's correct. Your Honor,

3 I -- I'm sorry. I've -- I've only got one page in here,

4 so --

5 JUDGE PEARSON: Okay.

6 MR. SCHWARTZ: -- I'm going to make this

7 really simple.

8 BY MR. SCHWARTZ:

9 **Q. Would you please turn to page 7 of this multipage**

10 **exhibit?**

11 A. Okay.

12 **Q. I -- I'm sorry about that. You will see that this**

13 **apparently was related to a proceeding, UE-130043,**

14 **involving PacifiCorp, May 2nd of 2013.**

15 A. Yes.

16 **Q. And under the Data Request 2.4, the question asks,**

17 **"Where facilities have been left in place, identify" -- and**

18 **I want to focus on Subsection C -- "charges, fees, or other**

19 **costs paid by the customer or property owner for the value**

20 **of the facilities." Do you see that?**

21 A. Yes.

22 **Q. And I want you to go to the last paragraph in the**

23 **answer that your Company delivered.**

24 A. I've read the response.

25 **Q. Okay. So it says, "In addition, even if there is**

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1 **a safety or operational issue, the Company may negotiate**

2 **with an individual customer to leave certain facilities in**

3 **place." I read that correctly, didn't I?**

4 A. It says that.

5 **Q. Okay. So clearly, again, now in May of 2013, you**

6 **have told the Commission that what you're going to do is**

7 **you're going to negotiate to leave facilities in place. Do**

8 **you agree with -- correct?**

9 A. That's what it says, but the end of that sentence

10 says, "Provided the customer agrees to purchase and assume

11 liability for those facilities."

12 Q. I'll get to that in a minute.

13 A. Okay. I just want it to be clear that that's the

14 complete sentence.

15 **Q. We're going to go through the whole thing.**

16 A. Okay.

17 **Q. So the first phrase that we just talked about,**

18 **that really -- that really relates to what was occurring**

19 **between the Country Club from January to May? That was --**

20 **that was the negotiation; right?**

21 A. Again, I was not involved in the negotiation. I

22 know there was discussions.

23 **Q. Well, it looks like a negotiation, doesn't it,**

24 **when there's letters and they use words like "offer,"**

25 **things like that, from your Company?**

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1 **A. Fair. Yes.**

2 **Q. And the language "safety or operational issue,"**

3 **that ties into Rule 6, doesn't it?**

4 A. Yes.

5 **Q. And it says -- now, the proviso, let's talk about**

6 **that. "Provided the customer agrees to purchase and assume**

7 **liability for those serv- -- for those facilities." So if**

8 **the customer agreed to purchase and assume liability, you**

9 **were willing to sell -- May 2nd, 2013 -- according to this**

10 **testimony that was delivered -- or excuse me, the answer**

11 **that was delivered in this data request; correct?**

12 A. Well, it says we may negotiate, not that we will.

13 **Q. You were negotiating with the Country Club, which**

14 **is really what we're talking about today, during the**

15 **period; correct?**

16 A. Sorry. Your question confused me. I thought you

17 said that we -- we would sell, but I think I -- the

18 clarification I'm trying to make is that that would -- at

19 this time, that was an option, provided we could agree --

20 "The customer agrees to purchase and assume the liability,"

21 yes.

22 **Q. Okay. So -- got it.**

23 **And then it says, "The amount to be paid for the**

24 **facilities" -- the last line -- "would be negotiated with**

25 **the customer"; right?**

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1 **A. Yes.**

2 **Q. And that negotiation, as we previously saw, was**

3 **really based upon a contractor's estimate? If the customer**

4 **wanted to keep the conduit, they simply had to pay whatever**

5 **it cost the conduit -- or whatever it cost the contractor**

6 **in their estimate; right? That was the price to keep it?**

7 A. No. I believe that the cost in this circumstance,

8 going back to -- if you're talking about the early part of

9 that year of -- to sell, was for 104,000, which was the

10 equivalent to the cost of removal.

11 **Q. Yes. But 66,000 of that, if the Country Club**

12 **wanted to keep the conduit, was to pay a contractor, was**

13 **basically to pay you the 66,000 that was your estimate that**

14 **you received from a contractor.**

15 **So you -- you were asking the Club, essentially,**

16 **to pay you 66 grand for work you didn't do, which would**

17 **have been pulling out the conduit. You said the purchase**

18 **price was 66 grand, which was the contractor's estimate;**

19 **correct?**

20 A. Well, it's -- it was -- yeah. That the

21 purchase -- at that time, the cost was \$104,000. Of that,

22 66,000 was associated with the underground conduits and so

23 forth.

24 **Q. If the contrac- -- yes. Correct.**

25 **And two things could have happened. Contractor**

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1 could have removed, in which case, the 66,000, you would
 2 have paid to the contractor. If the contractor didn't
 3 remove, then the deal was, the Country Club pays Pacific
 4 Power 66,000 for not removing the conduit, and then they
 5 get to keep it; correct?

6 A. The first part of your question, the answer would
 7 be yes; but as far as "The Company would be able to keep
 8 it," no. That would be returned to other Pacific Power
 9 customers. And so it wouldn't be a shareholder windfall.
 10 Any dollars received associated with removal or sale would
 11 be provided back to other Pacific Power customers.

12 **Q. And that's fine for your internal accounting**
 13 **purposes.**

14 A. I don't think it's just internal accounting
 15 purposes. I think it has impacts on potential
 16 cost-shifting associated with net removals, which is why we
 17 have a Net Removal Tariff.

18 **Q. Okay. And I understand that interpretation.**
 19 **I'm only trying to establish that the price, at**
 20 **that point in time, was simply the contractor's estimate.**
 21 **You deem that to be fair, and if they entered it --**
 22 **executed the bill of sale, then your Company apparently**
 23 **felt relieved of operational and safety concerns at that**
 24 **point in time; right? That's really what the story's**
 25 **telling so far?**

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1 **A. I think what it's showing is that, at this time,**
 2 **the Company provided an opportunity to sell, provided that**
 3 **offer to the Country Club, at the cost equivalent to the**
 4 **removal. And in that instance, all other Pacific Power**
 5 **customers would be unharmed by the transaction.**

6 **Again, the Company no longer offers to sell its**
 7 **equipment, because the premise in this response says**
 8 **provided that the customer assumes liability. The Company**
 9 **does not believe, based on its analysis and investigation,**
 10 **that it can be absolved of the liability associated with**
 11 **those facilities.**

12 **Q. Sure. But that's not what this document said as**
 13 **of May 2nd, is it?**

14 A. It does not say that as of May 2nd.

15 **Q. And just to be clear, if the Country Club had**
 16 **said, "You know what? Take out the conduit, and we'll pay**
 17 **you that 66,000," then that 66,000 is not returned to your**
 18 **ratepayers; right? Or excuse me, to your customers, to**
 19 **your investors, wherever that money would go.**

20 A. Repeat that.

21 If -- sorry. It just was -- I'm trying to make
 22 sure I'm --

23 **Q. I just --**

24 A. -- tracking.

25 **Q. -- want to make it crystal clear. The deal was,**

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1 **the Country Club can pay 66 grand and you'll take out the**
 2 **conduit, and you're going to use that money and just give**
 3 **it to the contractor, so that's not returned to your**
 4 **customer base or your investor base; right? Because you're**
 5 **paying the contractor.**

6 A. We'd be paying for the removal.

7 **Q. Yeah. Paying the contractor who would do it on**
 8 **your behalf.**

9 A. Yeah. We'd be paying the actual cost of the
 10 removal.

11 **Q. Okay. That's all I --**

12 A. I think -- I mean, you keep going back and forth.
 13 The -- I just want to be clear that it was 104,000. 66,000
 14 was associated with certain underground facilities, but
 15 there was also approximately 38,000 associated with other
 16 facilities that would also be removed.

17 **Q. Yeah. There's --**

18 A. And so the total is 104.

19 **Q. And, Mr. Dailey, it's already in the rec- --**
 20 **Dalley -- it's already in the record. The Country Club**
 21 **agreed to pay the 38. That's never been in dispute.**
 22 **They --**

23 A. I just want to be clear that the -- the cost that
 24 the Company was quoting was the total cost to remove --

25 **Q. Oh, that's clear. That's clear.**

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1 **A. Okay.**

2 **Q. And you understand, the 38 has never been in**
 3 **dispute?**

4 A. Yeah. But I know you keep bringing up the 66,000.
 5 I just want the record to be clear that the total was 104
 6 for all the facilities.

7 **Q. I agree.**

8 A. Okay.

9 **Q. Let's move on.**

10 **I'd like you to take a look at the next exhibit,**
 11 **which is your exhibit for cross-examination No. 11CX.**
 12 **Okay? Just take a minute and read -- read it, and I'll ask**
 13 **you some questions.**

14 A. Okay.

15 **Q. So the question begins, "Please refer to**
 16 **PacifiCorp's Report," capital R. You probably recall**
 17 **that's a report that you presented to the Commission on**
 18 **November 20 of 2013. If you don't remember the date, I'll**
 19 **represent that was the date. And you're familiar with that**
 20 **report that you presented, aren't you?**

21 A. Yes. I believe that's our thoroughgoing report.

22 **Q. Right.**

23 **And you're actually listed on the cover as the**
 24 **contact person if anybody has information. Do you remember**
 25 **that?**

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1 A. Yes.
2 Q. So it says, on page 17, "Company states in regard
3 to facility purchases or facility purchase option of the
4 removal, the sale price offered by the Company would be the
5 estimated removal cost for the underground facilities.
6 Prior to this statement, had the Company" -- this is the
7 question -- "ever stated it would negotiate the amount to
8 be paid for fac- -- facilities purchased by a customer? If
9 yes, please indicate the date on which the Company adopted
10 or switched the policy in the quoted statement."

1 look at the letter from January 23rd, their cost is they
2 have to pay you \$66,000, if that offer was still standing,
3 on top of all of the other costs for the privilege of
4 disconnecting; correct?

5 A. I'm not sure I follow the question.

11 You've clearly indicated you've changed the policy
12 now, really, during the proceeding here with the Country
13 Club.

6 Q. If you're not going to sell facilities as you've
7 declared in here, and we use the Country Club as -- as an
8 example, and we use the \$100,000 that was shown in the
9 January 2013 letter, if they come to you tomorrow and say,
10 "We want to disconnect," if the letter was still in effect,
11 it would be \$100,000 charge to them, because you're not
12 going to sell those facilities, so they're going to pay you
13 66,000 for ripping them out. That's the deal now; correct?

14 So the response. First, the response begins, "No.
15 Pacific Power never purchased -- pre- -- excuse me --
16 "never previously stated that it would negotiate an amount
17 to be paid for a facilities purchased by a customer."
18 That's actually not a correct statement, given the DR that
19 we just looked at previously where you were negotiating;
20 correct?

14 A. I think what this is saying is that the Company
15 would require the customer to pay the cost of removal. It
16 would not sell those facilities.

17 Q. And the removal would be --

18 A. The --

21 A. I think that we've shown that we have made offers,
22 negotiate -- to sell certain facilities at -- as we just
23 went through, but the second part of this statement, this
24 response, describes exactly what I've been describing
25 today, is that as the Company has gained experience and

19 Q. -- the ripping out the conduit per a bid from a
20 contractor with regard to the Country Club property;
21 correct?

22 A. It would be the total cost of removal. Whether
23 it's internal PacifiCorp labor or contracted labor, it
24 would be that actual cost.

25 Q. And do you agree with me that that would include

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1 learned of the particular circumstances, it no longer
2 offers to sell its facilities because of the safety and
3 operational concerns associated with the electric
4 infrastructure.

1 the conduit on the Country Club property that would have to
2 be removed now because you won't sell it?

5 Q. Right.
6 All I'm trying to establish is that this statement
7 doesn't square with your answer to the May 2nd DR where you
8 say, "In addition, even if there's a safety or operational
9 issue, the Company may negotiate."

3 A. Yes.
4 Q. Okay.
5 A. It -- all the facilities would be removed.
6 Q. And the last estimate was 66,000?

10 Now, you're saying here, "The Company never stated
11 it would negotiate." That -- that's just not a correct
12 statement. Do you agree with me?

7 A. Well, again, the total was 104 for removal of all
8 the facilities on the --
9 Q. I'm only worried about the conduit.

13 A. I agree that that is confusing.
14 Q. Okay. So then it says, "Subsequent to submittal
15 of reference report, Pacific Power has ultimately concluded
16 totality of the safety and operational reasons for removal
17 necessitates further revision of the policy. Accordingly,
18 as of the date of this -- this DR, it's been stated, it no
19 longer offers to sell facilities to customers requesting
20 permanent disconnection," and that's what you've testified
21 to today; correct?

10 A. I know, but you keep going back and forth between
11 the 160- -- 104 and 66, so I just want to make sure. The
12 Net Removal Tariff specifics that it's the actual cost of
13 removal, and the actual cost of removal in this instance
14 was estimated at \$104,000.

15 Q. Right.

16 A. And so that's what that the Country Club would
17 pay.

22 A. That is correct.
23 Q. So then if a customer like the Country Club comes
24 to you and says, "We would like to disconnect," you will
25 not sell those facilities? So for the Country Club, if we

18 Q. The 66. So -- so basically, the purchase price
19 for this conduit or the -- the way to walk away from
20 services is they have to pay you the contractor's cost to
21 rip out this conduit, as well as a 38, which is not in
22 dispute; right?

23 A. Yes. They would have -- the Country Club would
24 have to pay the full cost of the removal, and then the
25 Company would remove the facilities, including the conduit.

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1 I think that's your question.
 2 **Q. Yes. Yes. That's fine.**
 3 A. The Company would remove it.
 4 **Q. Right.**
 5 **And I just want to establish one more time that,**
 6 **with regard to the cost of removal in this instance, the**
 7 **Country Club would pay whatever the contractor charges in**
 8 **order to remove the conduit as part of the overall**
 9 **disconnection cost; right?**
 10 A. Okay. So it would be -- the \$100,000 was the
 11 removal cost, and the removal cost is calculated per
 12 tariff, which includes the cost of removal, plus any net
 13 book value, minus salvage, and so that is how it's
 14 determined.
 15 So to keep going back to the contractor amount,
 16 I'm not involved directly on how we go about removing the
 17 facilities, whether we're doing that with our own personnel
 18 or others. But what we would charge a customer, in this
 19 instance, the Country Club, would be the total cost of that
 20 removal, per tariff, which would include the net book value
 21 associated with the facilities less any salvage. That's
 22 what the Country Club would pay.
 23 **Q. You're aware that the facilities were installed**
 24 **for a lot less money than that \$66,000 quote that you**
 25 **obtained in January of 2013, aren't you?**

1 Q. Can --
 2 A. -- what --
 3 **Q. Can you just answer my question?**
 4 MS. WALLACE: Your Honor, the Country Club
 5 had listed 30 minutes of cross-examination for Mr. Dalley.
 6 We've gone well over that amount. I'm just wondering if we
 7 could find out how much more time we have.
 8 JUDGE PEARSON: Do you have an estimate?
 9 MR. SCHWARTZ: Yes. I -- I have one more --
 10 no more than five minutes.
 11 JUDGE PEARSON: Okay.
 12 MR. SCHWARTZ: But I do -- I just would like
 13 an answer to this question.
 14 A. Okay. Will you please repeat your question? I'm
 15 not trying to be argumentative or difficult here,
 16 Mr. Schwartz. I'm just trying to understand the question.
 17 BY MR. SCHWARTZ:
 18 **Q. We have just discussed the cost of removal with**
 19 **regard to the Walla Walla Country Club. So if they came to**
 20 **Pacific Power, you would give them an estimate for the cost**
 21 **of removing the facilities?**
 22 A. Correct.
 23 **Q. We know that it's -- a part of it is 38,000 to**
 24 **remove the wires and meters and other things that are on**
 25 **the property --**

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1 **A. I don't know what the facility --**
 2 **Q. The conduit. The conduit.**
 3 A. I don't know what the facility costs were at the
 4 time, but I know that we have conducted -- and it's part of
 5 cross-exhibit here today -- what it would cost to install
 6 the facilities that we're talking about, and the fair
 7 market value installed associated with these facilities
 8 would be \$108,000.
 9 **Q. So then the price today, if the Country Club wants**
 10 **to disconnect, is going to be \$100,000, because that's the**
 11 **fair market value, plus whatever cost you incur in order to**
 12 **remove those facilities; correct?**
 13 A. Well, the cost that -- I'm not sure I follow.
 14 The -- the cost the Country Club would pay would be the
 15 removal cost per tariff --
 16 **Q. Sure.**
 17 A. -- \$104,000. What the Country Club pays on top of
 18 that for other service from another provider, I -- I'm not
 19 certain, but that's what the Country Club would be required
 20 to pay under the Net Removal Tariff.
 21 **Q. Well, if they're only required to pay the cost of**
 22 **removal, then your \$100,000 appraisal has nothing to do**
 23 **with the cost of removal, does it?**
 24 A. Well, I -- the approval, I think, is important
 25 because --

1 **A. Uh-huh.**
 2 **Q. -- and then you had an estimate, at least in 2013,**
 3 **for 66,000, so those are the components of the estimate.**
 4 **If the Country Club comes to you and says, "Remove it,"**
 5 **that's what they're paying for. The \$100,000 valuation**
 6 **question has nothing to do with their cost of removal;**
 7 **correct?**
 8 A. It has nothing to do -- yes. It has nothing to do
 9 with that, because -- but I want to clarify this for a
 10 second, because I think it's important. The Country Club
 11 would pay the cost of removal of the facilities.
 12 But if the Commission, in this instance, takes
 13 Mr. Mullins' recommendation, which is that the Country Club
 14 or Columbia REA should be able to acquire PacifiCorp's
 15 facilities at net book value, which is approximately
 16 24,000, that would be a clear competitive advantage for the
 17 Country Club and a disadvantage to Pacific Power's
 18 remaining customers, because the fair market value
 19 installed price of that equipment is \$108,000.
 20 And so the cost of removal, which is your -- your
 21 specific question, would be the \$104,000. Part of that
 22 \$104,000 includes the net book value associated with those
 23 facilities.
 24 So the Company would go in, and we would remove
 25 those facilities; but if, as Mr. Mullins is advocating, the

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1 Commission allows a transfer of facilities from Pacific
 2 Power to Columbia REA for net book value, then there is a
 3 clear disadvantage to Pacific Power's customers, because
 4 the difference -- because the net book value of 24,000 and
 5 the fair market value installed is 108,000, which is what
 6 the appraisal shows.

7 **Q. But you see, Mr. Dalley, that's all interesting,**
 8 **but I was just trying to follow your testimony, because**
 9 **you've said facilities are not for sale.**

10 **So if they're not for sale, the choice that the**
 11 **customer has, in this case, the Country Club, is they will**
 12 **pay you the 38,000 with regard to removal of the wires and**
 13 **facilities, plus whatever it costs in order to get the**
 14 **other facilities out, the conduit, which means that**
 15 **\$100,000 valuation has nothing to do with your present**
 16 **position that it's not for sale; correct?**

17 A. Correct. The Company is not -- is not advocating
 18 to sell or transfer its facilities to a competitor and does
 19 not agree with Mr. Mullins' proposal for the Company to
 20 transfer those facilities at net book value, which is a
 21 fraction of the fair market value installed of those
 22 facilities. The Company's position is, is that the
 23 facilities should be removed at the actual cost of removal.

24 **Q. I understand.**
 25 **Let's do the last one. Okay?**

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1 **A. Okay.**

2 **Q. This is actually an exhibit that was meant for**
 3 **Mr. Clemens. It is WGC-5CCX.**

4 A. Okay. Let's see if I have that.

5 **Q. I can give you a copy if you --**

6 A. Yeah. I've got it.

7 **Q. Okay. Thank you.**

8 A. It's just got tabs on both sides --

9 **Q. That's fine.**

10 A. 5CX?

11 **Q. Yeah. Take a look at this, please. And I'll --**
 12 **and I'll represent to you that you'll see the first page is**
 13 **a copy of one page of data responses. It's Item No. 22**
 14 **that we're really referring to.**

15 A. The Question 22 on the first page?

16 **Q. Yeah. And it's --**

17 A. Okay.

18 **Q. It's the attachment that I want to talk about that**
 19 **was provided by your Company in discovery.**

20 A. Mm-hmm.

21 **Q. That's the setup. So turn -- turn to the first**
 22 **page. You'll see that there's a document which, in the**
 23 **upper left corner -- actually, about -- top third of the**
 24 **page says, "T D Operations Processing." I believe that**
 25 **means transmission and distribution; right?**

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CROSS-EXAMINATION OF R. BRYCE DALLEY

1 **A. Correct.**

2 MS. WALLACE: And, Your Honor, this is
 3 confidential, so -- this, obviously, isn't, just the title,
 4 but if he's getting into the material, we would need to
 5 mark this portion of the transcript.

6 JUDGE PEARSON: Are you going to be getting
 7 into the material?

8 MR. SCHWARTZ: I -- I do have some questions
 9 on this, yes.

10 [CONFIDENTIAL EXCERPT PAGES 78-83]

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(Nonconfidential portion of the transcript
 resumed and is as follows.)

1
2
3
4
5
6
7
8 [CONFIDENTIAL TRANSCRIPT EXCERPT]

9 JUDGE PEARSON: And Ms. Wallace or
 10 Mr. Greenfield, did you want to redirect?

11 MR. GREENFIELD: Thank you, Your Honor. Very
 12 few questions.

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

14 BY MR. GREENFIELD:

15 **Q. Mr. Dalley, did you review the rebuttal testimony**
 16 **submitted by Mr. Mullins?**

17 A. Yes, I did.

18 **Q. What was your takeaway on the issue of purported**
 19 **fair compensation in the event Pacific Power is required to**
 20 **sell its facilities to the Club and Columbia REA?**

21 A. Well, I found that piece a bit confusing in that
 22 Mr. Mullins discusses that the Company should be required
 23 to transfer its facilities to Columbia REA at the net book
 24 value and -- but then he uses the term that that's the fair
 25 value.

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REDIRECT EXAMINATION OF R. BRYCE DALLEY

1 I want to be clear that the -- the fair market
 2 value installed of those facilities is not the net book
 3 value. In fact, the net book value's a fraction of the
 4 cost. The appraisal that was conducted for those
 5 facilities, which is the fair market value installed, which
 6 includes the depreciated context of those assets, is
 7 \$108,000.

8 And so my reaction to Mr. Mullins' testimony is
 9 that the fair value is not -- is definitely not the net
 10 book value.

11 **Q. Did you note that Mr. Mullins was in some way
 12 critical in his rebuttal testimony that the Company, at
 13 that point, had not obtained an appraisal of fair market
 14 value?**

15 A. Yes. I noted that comment in his testimony, and
 16 so what the Company did is we undertook a process to obtain
 17 an appraisal.

18 And so we reached out to a firm, a nationally
 19 recognized firm that has extensive experience in the
 20 utility field with machinery and other equipment, and had
 21 them conduct an appraisal of the specific equipment that
 22 we're discussing here today.

23 **Q. When was that appraisal completed?**

24 A. I believe it was August 26th.

25 **Q. And I'll refer you to BGM-14CX. Is that the**

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REDIRECT EXAMINATION OF R. BRYCE DALLEY

1 **appraisal that you've been referring to?**

2 A. Yes. That is the appraisal from Appraisal
 3 Economics, Inc.

4 **Q. What conclusion did the valuation professional
 5 reach regarding the fair market value of the subject
 6 facilities that we're discussing today?**

7 A. That appraisal, as shown in that same exhibit,
 8 shows that the fair market value installed is \$108,000.

9 **Q. -263?**

10 A. Yeah. To be precise, 108,263.

11 **Q. Okay.**

12 A. It's shown on, I think it's, BGM page 8. It's
 13 that 14CX --

14 **Q. Is it the first page --**

15 A. -- page --

16 **Q. -- of the appendix?**

17 A. -- 8 of 40, and I think it says -- the appraisal
 18 document itself is page 5.

19 **Q. Okay.**

20 A. It says 108 at the bottom.

21 **Q. And I think you indicated earlier that you
 22 understand that that included depreciation of the
 23 facilities; correct?**

24 A. It does. In fact, if you turn back a couple more
 25 pages, you could see that, on page 14 of 40 of that

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REDIRECT EXAMINATION OF R. BRYCE DALLEY

1 exhibit, it shows that the fair market value installed that
 2 we're talking about, the 108,263, that is -- that does
 3 include a depreciation component.

4 The fair market value new is two columns to the
 5 left, which would be \$142,588.

6 **Q. There was quite a bit of discussion regarding the
 7 cost of removing the conduit. Mr. Schwartz was referring
 8 to a \$66,000 number that you indicated included the cost to
 9 remove and -- and net book value.**

10 He made a point that some of those funds would
 11 ultimately throw -- flow to a third-party contractor;
 12 correct?

13 A. Yes. I remember that line of questioning.

14 **Q. If Pacific Power did not charge the departing
 15 customer, in this case, the Country Club, for that cost of
 16 physically removing the conduit, what would be the effect
 17 upon its remaining customers and ratepayers?**

18 A. Well, if that cost were not borne by the specific
 19 customer, then those costs would then be spread to Pacific
 20 Power's remaining customers.

21 **Q. Thank you, Mr. Dalley. That's all I have.**

22 **JUDGE PEARSON: Okay. I just had a couple of
 23 questions --**

24 THE WITNESS: Sure.

25 **JUDGE PEARSON: -- that I wanted to clarify.**

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EXAMINATION BY THE JUDGE

1 BY JUDGE PEARSON:

2 **Q. So first of all, when I was looking at BGM-3 and
 3 that response to the data request in Docket UE-130043, and
 4 it talks about, the Company doesn't remove facilities if
 5 there's no safety or operational reason to remove
 6 facilities serving the customer.**

7 **In addition, even if there is a safety or
 8 operational issue, the Company may negotiate with an
 9 individual customer to leave those facilities in place.**

10 **So my question is, and when I read your testimony
 11 and Mr. Clemens's testimony -- and this may be more
 12 appropriately directed towards him, so just let me know --
 13 it seems that the Company's policy has changed and now it's
 14 just across the board, you've deemed there are operational
 15 and safety reasons to always remove underground facilities;
 16 is that correct?**

17 A. That is correct. As we've gained experience and
 18 conducted additional analyses, primarily respect -- with
 19 respect to the liability associated with those facilities,
 20 that has been a change of our policy, and we no longer
 21 would offer to sell our facilities.

22 **Q. Okay. I understand that.**

23 **So at the time that this offer was made to the
 24 Country Club to -- for a price to leave those facilities in**

25

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EXAMINATION BY THE JUDGE OF R. BRYCE DALLEY

1 place, I'm inferring from this data request response, that
 2 there must have been deemed a safety or operational issue
 3 at that time which then led the Company to negotiate with
 4 the Country Club for a price to leave those facilities in
 5 place, because had there not been a safety or operational
 6 reason to remove them, you would have just abandoned them;
 7 is that correct?
 8 A. Yes.
 9 **Q. So were there different safety or operational**
 10 **concerns back in 2013 when that offer was made, other than**
 11 **the across the board safety and operational concerns that**
 12 **are cited in yours and Mr. Clemens's testimony?**
 13 A. I'd defer some of this to Mr. Clemens, because
 14 he's more familiar with the circumstances at that time than
 15 I am, but I think that the further investigation into the
 16 liability issue is one that I would say, more recently, the
 17 Company has struggled with as a concern of -- of how do you
 18 and can the Company be absolved of that liability.
 19 **Q. Okay.**
 20 A. So Mr. Clemens might be able to address more at
 21 the particular time of that offer --
 22 **Q. Right. I was --**
 23 A. Because I know --
 24 **Q. -- wondering if there were --**
 25 A. -- he was closer --

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EXAMINATION BY THE JUDGE OF R. BRYCE DALLEY

1 Q. -- issues specific to the Club and that situation,
 2 rather than this kind of broader, general --
 3 A. Yeah.
 4 **Q. -- policy.**
 5 A. And I think Mr. Clemens could probably speak to
 6 kind of more of the safety concerns that we're experiencing
 7 in that area and as -- specifically with duplication of
 8 facilities.
 9 **Q. Okay. And then I have another question, and**
 10 **again, this may also be more appropriately addressed to**
 11 **Mr. Clemens, because it sounds like you don't have a lot of**
 12 **information about past transactions where facilities were**
 13 **abandoned upon permanent disconnection.**
 14 **But my question is -- because I saw a number of**
 15 **those in -- in reading the reports that the Company has**
 16 **filed over the years, that there have been a number of**
 17 **instances where -- where underground facilities were**
 18 **abandoned, and so my question is, when that occurred, were**
 19 **there any terms in place that prohibited other providers**
 20 **from using those facilities when they were abandoned?**
 21 A. Well, the one I'm most familiar with is the City
 22 of Walla Walla, which in that instance, there was a
 23 franchise agreement and -- where -- that allowed them to
 24 acquire those facilities.
 25 But in the -- the transaction document, the

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EXAMINATION BY THE JUDGE OF R. BRYCE DALLEY

1 execution document itself, it says that those facilities
 2 could no long- -- could not be used by --
 3 **Q. Right. And I saw --**
 4 A. -- another provider.
 5 **Q. I saw that. But do you know if that was the**
 6 **practice across the board when Pacif- -- underground**
 7 **facilities were abandoned?**
 8 A. I do not know.
 9 **Q. Or is there a way that I can get that information?**
 10 A. We could take that as a bench request and --
 11 JUDGE PEARSON: I would like to do that. So
 12 as Bench Request No. 1, I'm looking for information about,
 13 each instance in the past when PacifiCorp has abandoned
 14 underground facilities, whether there has been terms
 15 associated with that abandonment that specify that no other
 16 provider can use those abandoned facilities.
 17 And this would be whether or not there was a
 18 sale of those facilities or just strict abandonment because
 19 there was no operational or safety reason to remove them at
 20 the time.
 21 BY JUDGE PEARSON:
 22 **Q. And then my last question is, just for**
 23 **clarification, because I wasn't clear what date the**
 24 **Company's policy changed with respect to, "Just across the**
 25 **board, we will remove all underground facilities."**

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EXAMINATION BY THE JUDGE OF R. BRYCE DALLEY

1 **I didn't see it in the thoroughgoing report from**
 2 **November of 2013. It was not in that report; is that**
 3 **correct?**
 4 A. I don't --
 5 **Q. Did it happen after that report?**
 6 A. Yes.
 7 **Q. Okay. And do you know about what date the Company**
 8 **decided to make that change?**
 9 A. I do not know. I think Mr. Schwartz was
 10 referencing a document that was dated January of 2014, so
 11 it was between January 2014 and January 2015, but --
 12 **Q. Okay.**
 13 A. -- I could take that as a bench request as well.
 14 JUDGE PEARSON: I would like to -- yeah. So
 15 let's label that as Bench Request No. 2, and those are all
 16 the questions that I have.
 17 MS. WALLACE: May I ask --
 18 JUDGE PEARSON: Do you have something for
 19 him?
 20 MS. WALLACE: Just a couple follow-up
 21 questions.
 22 JUDGE PEARSON: Sure.
 23 **C O N T I N U E D R E D I R E C T E X A M I N A T I O N**
 24 **BY MS. WALLACE:**
 25 **Q. Mr. Dalley, when the Company abandons facilities**

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CONTINUED REDIRECT EXAMINATION OF R. BRYCE DALLEY

1 in place, does the Company continue to track and maintain
 2 those facilities?
 3 A. Yes. In fact, we track, maintain, and -- those
 4 facilities just as we would with any of our other
 5 facilities, and so it's not as if they're abandoned and we
 6 forget about them. We still have an obligation to maintain
 7 those in a safe condition consistent with the NESC.
 8 **Q. And if there were an emergency or some sort of**
 9 **dig, somebody needed to call the dig, would our Comp- --**
 10 **would Pacific Power be identified as the owner of those**
 11 **facilities and notified?**
 12 A. Yes, we would.
 13 **Q. And if there was an issue, we would be responsible**
 14 **to come out and respond; correct?**
 15 A. That is correct.
 16 MS. WALLACE: Thank you. That's all.
 17 JUDGE PEARSON: Thank you.
 18 Okay. If there's nothing further for
 19 Mr. Dalley, you can go ahead and step down.
 20 THE WITNESS: Thank you.
 21 JUDGE PEARSON: And then, Mr. Schwartz, if
 22 you'd like to call your next witness.
 23 MR. GROSSMAN: Your -- Your Honor, I'll be
 24 questioning Mr. Clemens. We'd call --
 25 JUDGE PEARSON: Okay.

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1 MR. GROSSMAN: -- Mr. William --
 2 JUDGE PEARSON: If you could turn the
 3 microphone towards you --
 4 MR. GROSSMAN: Certainly.
 5 JUDGE PEARSON: -- that would be helpful.
 6 MR. GROSSMAN: Is that better?
 7 JUDGE PEARSON: Yes. Thank you.
 8 Good morning, Mr. Clemens.
 9 MR. CLEMENS: Good morning.
 10 JUDGE PEARSON: If you could please stand and
 11 raise your right hand.
 12
 13 WILLIAM G. CLEMENS, witness herein, having been
 14 first duly sworn on oath,
 15 was examined and testified
 16 as follows:
 17
 18 JUDGE PEARSON: Thank you. You may be
 19 seated.
 20 C R O S S - E X A M I N A T I O N
 21 BY MR. GROSSMAN:
 22 **Q. Good morning, Mr. Clemens.**
 23 A. Good morning.
 24 **Q. I understand you're the senior regional business**
 25 **manager for Pacific Power?**

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1 A. Correct.
 2 **Q. And is -- what is the region that is covered by**
 3 **that?**
 4 A. Northeast Oregon and southeast Washington.
 5 **Q. Okay. And are you based in Walla Walla?**
 6 A. I am.
 7 **Q. Okay. And you listed in your direct testimony**
 8 **your former positions as including customer service**
 9 **representative, con- -- conservation inspector, industrial**
 10 **account manager, program field manager, area energy and**
 11 **community service manager, and a general business manager.**
 12 **Is it fair to say that -- that most of your**
 13 **service with Pacific Power has been in -- in a**
 14 **customer-service capacity?**
 15 A. That, and public relations.
 16 **Q. Okay. Do you have any training in safety? A**
 17 **safety instructor, for example?**
 18 A. No. But we have ongoing safety training through
 19 the Company on a monthly basis.
 20 **Q. Okay. And do you participate in that training?**
 21 A. I do.
 22 **Q. Okay. Where does that training take place?**
 23 A. In our -- our service centers.
 24 **Q. Okay. You're not an engineer, are you?**
 25 A. No, I am not.

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1 **Q. Now, your direct testimony testified about a**
 2 **primary concern, I believe, of duplication of facilities.**
 3 **Is that an accurate characterization?**
 4 A. Yes.
 5 **Q. Okay. And I believe you indicated that there were**
 6 **various issues with respect to fire.**
 7 **You described an incident where there was a fire**
 8 **that occurred, emergency services confusion, proximity of**
 9 **buried lines, and I think you also described instances of**
 10 **contractors possibly encountering abandoned conduit and**
 11 **being confused or that creating risk to them; is that**
 12 **accurate?**
 13 A. That's right.
 14 **Q. Okay. Have you encountered -- some of these,**
 15 **rather, are actual incidences that took place in the Walla**
 16 **Walla area?**
 17 A. Mm-hmm.
 18 **Q. Okay. And have you ever encountered a contractor**
 19 **that actually encountered abandoned conduit and then went**
 20 **on to excavate and came across live wires?**
 21 A. Not to this point, but we have had them dig into
 22 live wires.
 23 **Q. Okay. Now, referring to Exhibit WGC-2 -- I don't**
 24 **know if you have that there -- and that consists of various**
 25 **photographs of facilities around the Walla Walla area, does**

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1 **it not?**

2 A. Correct.

3 **Q. Okay. Let's ta- -- take a look at page 1 of 9, if**

4 **we could. That is above-ground facilities located along**

5 **JB George Road; correct?**

6 A. Correct.

7 **Q. Okay. And is it fair to say JB George Road is not**

8 **located in the vicinity of the Walla Walla Country Club?**

9 A. Correct.

10 **Q. And, in fact, there are -- there are no overhead**

11 **lines in the area of the Walla Walla Country Club, are**

12 **there?**

13 A. That's not true. There's several overhead lines

14 around the Country Club.

15 **Q. Okay. REA's facilities, though, are all**

16 **undergrounded within the City of Walla Walla, are they not?**

17 A. I couldn't say that all of them are. I don't know

18 that for sure.

19 **Q. Okay. Are you aware of a policy with the City of**

20 **Walla Walla requiring that REA bury its lines?**

21 A. That would be a policy between them and the City.

22 **Q. Page 2 of 9, Mr. Clemens, appears to be a**

23 **photograph of trenching, close proximity of REA trenching**

24 **to PacifiCorp an- -- anchors at Dell and Bowman. And that**

25 **also is not in the location the Country Club, is it?**

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1 A. No. We were just showing instances that had the

2 potential of happening at the Country Club.

3 **Q. Likewise, page 3 of 9, we have a photograph near**

4 **Canberra, and that's in a subdivision called -- oh, I**

5 **forget the name of the subdivision. Sydney Heights, I**

6 **believe it is; is that correct?**

7 A. Correct.

8 **Q. And, again, that is not terribly close to the**

9 **Country Club?**

10 A. No. Just another example of the potential of

11 safety at the Country Club.

12 **Q. Okay. And similarly, page 4 of 9 does not --**

13 **indicates it's at Cottonwood Road, and again, that would**

14 **just be an example of safety concerns that you have in**

15 **general?**

16 A. Correct.

17 **Q. Page 5 of 9 does not identify a location. Do you**

18 **know what the location is there?**

19 A. Yeah. That's on Whitman Avenue in College Place.

20 **Q. Okay. Again, nowhere near the Country Club?**

21 A. Correct.

22 **Q. Unrelated to the Country Club.**

23 **Page 6 of 9, we have REA conduits that are**

24 **identified, and what's the location of that photograph?**

25 A. That is at the Walla Walla Country Club.

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1 **Q. It is. Okay.**

2 **In what location is that at the Country Club?**

3 A. It's on -- can I show you on the map?

4 **Q. Certainly.**

5 MR. GREENFIELD: Your Honor, if I may, this

6 is already an admitted exhibit. It is -- shoot --

7 JCT-24CX, and it's just an enlargement on that. May I

8 bring it in for the witness and for your benefit?

9 JUDGE PEARSON: Yes. Yes.

10 MR. GREENFIELD: Thank you.

11 And may Mr. Clemens approach --

12 JUDGE PEARSON: Sure.

13 MR. GREENFIELD: -- for your benefit?

14 A. This is an aerial photo of the Country Club and

15 the area around the Country Club. As you can tell, the big

16 green area is actually the Country Club.

17 The red lines within the drawing are our existing

18 facilities. The services serving the meters to the Country

19 Club are identified by letters, and the yellow line is the

20 line that the contractor for Columbia REA built into the

21 Country Club, so they started here, came around all the way

22 over here and over to here (indicating).

23 If you see this little star right here

24 (indicating), that's what the picture in the exhibit

25 related to. We have an underground service coming back to

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1 serve one of the Country Club's pipes. While the REA was

2 installing their six conduits to come in to serve the

3 Country Club, they actually struck our line, causing an

4 outage on this pump.

5 And if you look at the picture, there was also a

6 service there of Pacific Power's that serves another

7 customer, and they actually put their six conduits between

8 the service that was to another customer. Luckily, missed

9 that one, but struck our facilities on the Country Club

10 property right here (indicating).

11 JUDGE PEARSON: Okay. Thank you.

12 BY MR. GROSSMAN:

13 **Q. Moving on, Mr. Clemens, to page 7 of 9 of WGC-2,**

14 **Pine Street trenching. That's in a location other than the**

15 **Country Club, is it not?**

16 A. Correct.

17 **Q. Okay. Likewise, page 8 of 9, we have Pine Street**

18 **looking west. Again, not in the location of the Country**

19 **Club?**

20 A. Correct.

21 **Q. And page 9 of 9, we have an issue of staking of a**

22 **primary line within 2.5 feet of the locate mark. Where is**

23 **that location?**

24 A. I'm not sure of the exact location.

25 **Q. Okay. You're not aware that it's at the Country**

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1 **Club, then?**
 2 A. It is not at the Country Club.
 3 **Q. So of all the photographs and these examples of**
 4 **safety issues and concerns, it's really only the page 6 of**
 5 **9 that occurred in the area of the Walla Walla Country**
 6 **Club?**
 7 A. And the reason for that is they've only built
 8 around the perimeter of the Country Club. They haven't
 9 actually installed the lines into the actual facilities
 10 where the meters and the transformers could be.
 11 **Q. And I believe your -- your testimony also**
 12 **discussed an issue of multi-occupant buildings --**
 13 A. Correct.
 14 **Q. -- I believe?**
 15 **And that would not be the case --**
 16 A. No.
 17 **Q. -- in the case of the Country Club, would it?**
 18 **So is it fair to say that a -- that lot of these**
 19 **examples that you gave, with the exception of page 6 of 9,**
 20 **the photograph there, are anecdotal and they're just**
 21 **generalized concerns that the Company has with respect to**
 22 **facilities being duplicated?**
 23 A. Yeah. But they're examples that could relate to
 24 what is going to happen at the Country Club.
 25 **Q. Okay. But presumably, if you were aware of actual**

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1 **duplication at the location of the Country Club, you would**
 2 **have brought that out in your direct testimony, would you**
 3 **not?**
 4 A. There is duplication, but not 100 percent of the
 5 duplication relates to safety issues, but the majority of
 6 it does. And the current duplication is outside the
 7 Country Club property.
 8 **Q. And now, Mr. Dalley testified that the Company's**
 9 **position with respect to abandonment versus removal of**
 10 **facilities has been evolving. Is that an accurate --**
 11 A. That's correct.
 12 **Q. -- characterization?**
 13 **And at the time the Country Club first approached**
 14 **the Company about switching to Columbia REA, it was the**
 15 **Company's policy that you would have abandoned and/or sold**
 16 **the facilities to the Country Club?**
 17 A. I'm -- I wouldn't agree with that. No.
 18 **Q. There -- there is evidence in the record, is there**
 19 **not, of -- of correspondence back and forth discussing the**
 20 **cost to remove -- and this was touched on by Mr. Dalley in**
 21 **his testimony -- versus paying the \$66,000 to transfer the**
 22 **facilities, specifically the conduit and the vault, to the**
 23 **Country Club; correct?**
 24 A. (Nods head.)
 25 **Q. So at the time these discussions were taking**

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1 place, the Company was willing to transfer these
 2 facilities?
 3 A. I would say "considering" more than "willing."
 4 One thing on abandonment of facilities, you've got
 5 to understand that the REA serves a very small area in the
 6 City of Walla Walla, so we have a lot of area where there
 7 isn't any duplication. So it's a whole different
 8 consideration on abandonment where there is no duplication
 9 versus areas like the Country Club.
 10 **Q. Okay. So you indicate that the Company was**
 11 **considering selling the facilities; however, I'd ask you to**
 12 **refer to JCT-8, and that was Exhibit D to the Complaint**
 13 **with the Country Club.**
 14 MR. GREENFIELD: Mr. Clemens, it will not
 15 appear in your notebook.
 16 THE WITNESS: Okay.
 17 MR. GREENFIELD: It's that separate stack
 18 that Mr. Dalley was working with.
 19 Your Honor, if I may approach the witness?
 20 JUDGE PEARSON: Sure.
 21 THE WITNESS: Thank you.
 22 A. Which part of JCT-8 was it?
 23 BY MR. GROSSMAN:
 24 **Q. Well, that consists of a letter dated**
 25 **January 25th, 2013, from -- to Jeff Thomas from Mike Gavin,**

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1 **distribution manager --**
 2 A. Mm-hmm.
 3 **Q. -- is that accurate?**
 4 A. Okay.
 5 **Q. And down at the bottom, it says, "Before Pacific**
 6 **Power can proceed with the permanent removal of its**
 7 **facilities at the Country Club, we request the following**
 8 **items be submitted," and that includes a check in the**
 9 **amount of \$104,176, two signed copies of the**
 10 **customer-requested work agreement, two signed copies of the**
 11 **bill of sale for the conduits and the vaults.**
 12 **That suggests to me that the Company was more than**
 13 **considering. It was offering to sell the facilities, was**
 14 **it not?**
 15 A. At that time; yes.
 16 **Q. At that time, for \$104,176. And in fact, there**
 17 **was this removal estimate that was attached?**
 18 A. (Nods head.)
 19 **Q. And there was a bill of sale, which we've heard**
 20 **Mr. Dalley discuss in his testimony?**
 21 A. Correct.
 22 **Q. Okay. And that bill of sale provides that "The**
 23 **buyer shall assume sole and exclusive responsibility" --**
 24 **this is the very last substantive paragraph --**
 25 **"responsibility and legal liability for the design,**

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1 **location, repair, replacement, construction, installation,**
 2 **and maintenance of the facilities transferred to it by the**
 3 **seller." That's accurate; correct?**
 4 A. Well, I'm not a lawyer, so I can't comment on
 5 legality of certain things.
 6 **Q. But that's what the bill of sale says, is --**
 7 A. That's how it reads.
 8 **Q. So at -- at the time of this letter, the Company**
 9 **was essentially offering to sell the facilities and leave**
 10 **them in place?**
 11 A. At the request of the Country Club, to consider
 12 it.
 13 **Q. Were some of the safety and operational issues**
 14 **that are discussed in your direct testimony present at the**
 15 **time in 2013?**
 16 A. Not on the Country Club property.
 17 **Q. Okay. And so what's changed between 2013 and now?**
 18 A. Well, they just built into the perimeter. They
 19 have not actually built into the Country Club property.
 20 **Q. Okay. But what -- what has changed in this**
 21 **evolving position on the part of the Company that it will**
 22 **no longer abandon facilities and leave them in place?**
 23 A. What has changed is, over time, our experience has
 24 shown are we do have operational and safety issues on these
 25 removal jobs, so the decision was made at a higher level

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1 than me that we will no longer sell facilities.
 2 **Q. Were there any operational or safety issues with**
 3 **respect to the City of Walla Walla when the Company left**
 4 **facilities in place?**
 5 A. That was a very specific example that was a
 6 franchise involved where we didn't have the options. The
 7 other issue with the water plant was that it is not
 8 accessible by any other contractors or the public. It's
 9 city property, fenced off. A whole different situation.
 10 **Q. Can -- can you cite to Judge Pearson about any**
 11 **specific operational or safety issues with respect to other**
 12 **locations in Walla Walla?**
 13 A. Yes. There's several locations where they've
 14 installed underground cable within a foot of our
 15 facilities --
 16 **Q. I'm speaking, sir, in terms of an actual**
 17 **abandonment or leaving facilities in place.**
 18 A. They -- not specific to abandoned cable, because
 19 we would not abandon conduit in areas where there was
 20 duplication. Like I stated earlier, there's areas -- large
 21 areas of this city that there is not any duplication, that
 22 it isn't the same issue as it is where -- where the REA has
 23 built into.
 24 MR. GROSSMAN: Okay. Thank you. I have no
 25 further questions.

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1 JUDGE PEARSON: Any redirect?
 2 MR. GREENFIELD: Thank you, Your Honor. Yes.
 3 R E D I R E C T E X A M I N A T I O N
 4 BY MR. GREENFIELD:
 5 **Q. Mr. Clemens, if you wouldn't mind approaching the**
 6 **blowup of JCT-24CX again, you were asked a very specific**
 7 **question regarding the location of the incident where**
 8 **Columbia REA struck Pacific Power's facilities; correct?**
 9 A. Correct.
 10 **Q. And that appears where -- and you can refer to the**
 11 **legend so that it's -- it's clear for us.**
 12 A. We'd labeled these with letters, so this was on
 13 Letter A, the service into one of the pumps serving the --
 14 **Q. Okay.**
 15 A. -- Country Club.
 16 **Q. What else is depicted in JCT-24CX?**
 17 A. Well, like I said earlier, all the red lines are
 18 Pacific Power's existing facilities in the area. The
 19 yellow line is where the contractor for Columbia REA
 20 started and where -- the route that they have built in
 21 currently. They haven't finished the installation.
 22 We have several different areas where they plan to
 23 build in when the Country Club pays the removal cost.
 24 **Q. And if I understand correctly, there's a depiction**
 25 **of various meters on the Country Club --**

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REDIRECT EXAMINATION OF WILLIAM G. CLEMENS

1 **A. Correct.**
 2 **Q. -- property? If you would reference that --**
 3 A. Okay.
 4 **Q. -- for Judge Pearson so it's clear?**
 5 A. Before -- before I do that, I just want to explain
 6 that to remove conduit is basically the same thing as
 7 installing it. We do it all the time. We remediate after
 8 we install. The comments were earlier that we were going
 9 to rip out conduit. We don't rip anything out. We're
 10 actually very good at restoration after constructions
 11 happen.
 12 So this (indicating) is the first of the five
 13 different runs that we were referencing. This is an
 14 underground pump where we will be --
 15 **Q. Mr. Clemens, just for the record purpose -- I'm**
 16 **sorry -- could you use the letter reference when you**
 17 **mention "this"?**
 18 A. Okay. I thought I did.
 19 This is Letter A, and it's a pump. It's an
 20 underground service with a dip off a pole. So we will go
 21 in, we'll remove the -- the riser off the pole. We'll pull
 22 the wire. We'll remove the transformer.
 23 Then the contractor will come in, dig a narrow
 24 trench over the conduit, remove the conduit, remove the
 25 vault, and then do the remediation.

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REDIRECT EXAMINATION OF WILLIAM G. CLEMENS

1 The other thing I want to mention is what we're
 2 willing to do is not only do that, but to do it at a time
 3 of year in January where there's very little usage on the
 4 course so we can do the minimum amount of disruption at the
 5 time of the removal. So that was Letter A.

6 The next one is Letter B. This is a short
 7 overhead service to a small building here, so on this
 8 removal, what we'll be doing is just cutting the wire loose
 9 from the transformer on the overhead pole and at the
 10 weatherhead on the building.

11 Then we come down here; that's Letter C. There's
 12 a run of conduit that comes in. It's currently serving
 13 these three houses, plus the service to a pump out here.
 14 There's a very short piece of cable between our transformer
 15 and the meter.

16 We can't remove the transformer because it's
 17 serving other customers. It's such a short run, we'll have
 18 to go in and hand-dig this one, so again, it will be
 19 minimal disruption, and then we'll fill the trench back in
 20 and replace the grass.

21 You come around corner to D; this is the -- the
 22 shop for the Country Club. There's an overhead service
 23 from a pole to a meter, overhead service, weatherhead.
 24 We'll cut the wire loose. We'll need to remove the
 25 transformer on this one because it's only related to this.

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REDIRECT EXAMINATION OF WILLIAM G. CLEMENS

1 You know, and this brings up one of the other
 2 safety concerns we have is with emergency responders. You
 3 know, we have our line coming down here. If there was a
 4 fire here, you know, the emergency responders wouldn't have
 5 any idea. We've got our pole right out front with a label
 6 on it; they have underground facilities. So that's just an
 7 example of one of the difficulties.

8 Now, this is a very good example of how good we
 9 are at remediation after we install and remove conduit.
 10 This (indicating) is where we had the problem with a fault
 11 in the cable where we had to come in and completely replace
 12 this run of conduit and wire, and I'll bet if you visited
 13 today, you would never even know it happened.

14 So this is about a 300-foot run out to a
 15 transformer and meter. So we disconnect, remove the riser
 16 off the pole, pull the wire out, remove the
 17 transformer/meter, and then the contractor would come in,
 18 again, digging a narrow ditch, and --

19 JUDGE PEARSON: And that's at Point E;
 20 correct?

21 THE WITNESS: Yeah. Point E.
 22 JUDGE PEARSON: I can't quite --
 23 THE WITNESS: Yeah.
 24 JUDGE PEARSON: -- see that.
 25 THE WITNESS: It is E.

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REDIRECT EXAMINATION OF WILLIAM G. CLEMENS

1 A. So then we move down to G. This is the service
 2 into the -- the main clubhouse, and the clubhouse did burn
 3 down at one time, so there is the potential for fire on
 4 the -- on the facility.

5 Well, wait. I missed F. We need to do F first.
 6 This is the tennis courts. There's actually two meters
 7 here on F. One is an underground service; one is an
 8 overhead. The overhead's fairly simple, just remove the
 9 wire between the transformer and the weatherhead. The
 10 underground cable, in this case, the concrete will -- or I
 11 mean the asphalt will need to be cut.

12 So they make a real accurate cut. They remove
 13 that piece of asphalt, dig the dirt out, remove the
 14 conduit, put it back in, and then patch the concrete, very
 15 much like the REA did on several places on the street
 16 building in here.

17 Then we move on to G, and this is the service into
 18 the main clubhouse. We've got a pole that we do an
 19 underground dip and then it goes underground into here
 20 (indicating). It does cross their parking lot, but you can
 21 see it -- it impacts a very small piece of their parking
 22 spot -- parking lot. It only impacts six parking spots out
 23 of, probably, a couple hundred in here.

24 Again, we would cut the blacktop, remove the dirt,
 25 remove the wire, transformer, riser on the pole; and then

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REDIRECT EXAMINATION OF WILLIAM G. CLEMENS

1 the contractor would come in and dig the conduit and then
 2 put the dirt back in and -- and patch the concrete.

3 Then the last service is this one here
 4 (indicating). We have a pole right here and then a run of
 5 conduit out to a pump. And, again, we would remove the
 6 riser on the pole, remove the transformer, pull the wire
 7 out. The contractor would come in, dig a narrow disk down
 8 to the rough, and pull the conduit, remediate behind --

9 JUDGE PEARSON: And that's --
 10 THE WITNESS: -- replace the grass.
 11 JUDGE PEARSON: -- at Point H; correct?
 12 THE WITNESS: Point H. Yes.
 13 JUDGE PEARSON: Okay.

14 BY MR. GREENFIELD:
 15 **Q. Does that cover it?**
 16 A. I think so.
 17 **Q. Good. You can go ahead and go back to your seat.**
 18 **Thank you.**

19 **Mr. Clemens, if we could revisit WGC-2, and**
 20 **specifically page 6, those were the photographs that we**
 21 **were discussing earlier.**
 22 A. Sure.
 23 **Q. You indicated that was an unfortunate circumstance**
 24 **that occurred on Club property where Columbia REA actually**
 25 **struck Pacific Power's facilities; correct?**

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REDIRECT EXAMINATION OF WILLIAM G. CLEMENS

1 **A. Correct.**

2 **Q. Do you know when that photo was taken? When the**

3 **incident occurred?**

4 A. It was early in 2012, I'm thinking either January

5 or February by the -- the snow on the ground. I don't have

6 the exact date.

7 **Q. So Columbia REA was doing its installation in**

8 **January. You mentioned the work that would be necessary to**

9 **remove the facilities on Club property, that Pacific Power**

10 **had offered to do that in January, and that seems**

11 **consistent with what Columbia REA's done with its**

12 **operations on Club property; correct?**

13 A. Well, they haven't done anything on Club property

14 yet, but --

15 **Q. Other than --**

16 A. -- we -- but we would, and it's my understanding

17 they have, like, a two-week shutdown of the Country Club,

18 that they would -- when we talked to them earlier, that

19 that would be their preference, to have the work done then.

20 **Q. What is your current position with Pacific Power?**

21 A. I'm a region- -- regional business manager.

22 **Q. Okay. In that role, have you come to learn that**

23 **Columbia REA may have solicited other current Walla Walla**

24 **customers of Pacific Power who have requested --**

25 MR. GROSSMAN: Objection, Your Honor. I

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REDIRECT EXAMINATION OF WILLIAM G. CLEMENS

1 don't believe that's relevant to the issues here.

2 JUDGE PEARSON: Do you want respond,

3 Mr. Greenfield?

4 MR. GREENFIELD: Yes, I certainly do. We

5 have very clear indication, Your Honor, that Columbia REA

6 has solicited other customers that are waiting on the

7 outcome of this proceeding, and I'm just establishing that

8 fact through Mr. Clemens.

9 JUDGE PEARSON: So that's actually already in

10 his testimony. I mean, it's well documented throughout --

11 MR. GREENFIELD: Okay.

12 JUDGE PEARSON: -- the testimony, so I don't

13 see any need to be redundant.

14 MR. GREENFIELD: Okay. Thank you, Your

15 Honor. With that, we're concluded with Mr. Clemens.

16 JUDGE PEARSON: Okay. I have a couple of

17 follow-up questions.

18 THE WITNESS: Sure.

19 **EXAMINATION BY THE JUDGE**

20 **BY JUDGE PEARSON:**

21 **Q. The first is the question that I asked Mr. Dalley,**

22 **just to clarify and see if you're aware of any different**

23 **operational or safety reasons for why the Company deemed**

24 **that these underground facilities needed to be removed, but**

25 **then offered the opportunity to purchase in lieu of**

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EXAMINATION BY THE JUDGE OF WILLIAM G. CLEMENS

1 **removal, other than the more general policies that are in**

2 **yours and Mr. Dalley's testimony?**

3 A. The two safety issues specific to --

4 **Q. To the Country Club --**

5 A. -- the Country Club --

6 **Q. -- yes.**

7 A. -- property was the confusion between abandoned

8 conduit and -- and live wires underground. The other one

9 is the -- the fire issue I mentioned briefly when I was up

10 at the exhibit.

11 **Q. So which live wires? Because Pacific Power was**

12 **never intending to leave live wires behind; correct?**

13 A. No. But if the conduit was abandoned near live,

14 energized wires, somebody was coming in, for instance, to

15 install additional irrigation or something on that and they

16 dug into a piece of conduit and found that it was empty,

17 they would feel like there's no indication there's any

18 other conduit in the area. They could continue on and hit

19 a live wire.

20 **Q. Okay. So your -- originally, the Company's**

21 **concerns related to -- the safety concerns related to the**

22 **confusion between abandoned conduit and live wires? Is**

23 **that what you're saying?**

24 A. Correct.

25 **Q. Okay. So then I have another question that's kind**

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EXAMINATION BY THE JUDGE OF WILLIAM G. CLEMENS

1 **of a follow-up to what Mr. Dalley testified about.**

2 **So in the past, in instances where underground**

3 **facilities were sold in lieu of removal, were -- was there**

4 **a bill of sale used that was similar to the one in**

5 **Exhibit JCT-8?**

6 A. The only sale of facilities I'm aware of was for

7 the City of Walla Walla water plant in which we did use a

8 bill of sale for \$0, and we were basically -- I don't know

9 if I want to say forced, but due to our franchise, it was a

10 specific instance that wouldn't relate to our other

11 customers.

12 **Q. Okay. But in that -- in that bill of sale, it had**

13 **a similar limitation of liability and indemnity clause?**

14 A. Yeah. That's --

15 **Q. Is that true?**

16 A. That's a bill of sale that's used on any kind of

17 sales within the Company.

18 **Q. Okay. So my question is, is that, in those**

19 **instances, and even with those clauses in place, does**

20 **Pacific Power continue to track and maintain those**

21 **facilities?**

22 A. We do.

23 **Q. Okay. Thank you.**

24 JUDGE PEARSON: Those are the only questions

25 that I have.

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1 MR. GREENFIELD: No follow-up, Your Honor.
 2 MR. GROSSMAN: Nothing further.
 3 JUDGE PEARSON: Okay. Then, Mr. Clemens, you
 4 may step down.
 5 So why don't we go ahead and we can call
 6 Mr. Mullins, see how long that goes, and then probably what
 7 we'll do is break for lunch either after that or depending
 8 on how long it goes.
 9 MR. GROSSMAN: And, Your Honor, if I may, one
 10 issue I have is Mr. Thomas, we've all agreed, can
 11 participate by telephone. He does have a hard appointment
 12 at 1:00, so --
 13 JUDGE PEARSON: Do you want to take him out
 14 of order, then?
 15 MR. GROSSMAN: I -- I would --
 16 MR. GREENFIELD: I would have no objection to
 17 Mr. Thomas testifying at this point if it would be more
 18 convenient for him.
 19 JUDGE PEARSON: Okay.
 20 MR. GROSSMAN: And -- and I think, really,
 21 all we have for him is cross and, if possible, some
 22 redirect that comes out of the cross. I do not have any
 23 additional questions for Mr. Thomas.
 24 JUDGE PEARSON: Okay. So is he on the line
 25 now? Mr. Thomas, are you there?

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1 MR. GROSSMAN: No. We -- we'd have to call
 2 him, Your Honor.
 3 JUDGE PEARSON: You'd have to call him.
 4 Okay. So what you would need to do is we'd need to take a
 5 break, place a phone call to him, and have him call into
 6 the bridge line. I don't have any ability to place a phone
 7 call from the hearing room.
 8 MR. GROSSMAN: Okay. Do we have a number for
 9 that bridge line?
 10 MR. GREENFIELD: It's online. I know that.
 11 JUDGE PEARSON: It is on our website. I
 12 don't believe I have any documents that have it right now.
 13 I can go get it for you if you need me to. I don't have it
 14 memorized.
 15 MR. GREENFIELD: Ms. Son has it memorized.
 16 MS. WALLACE: Ms. Son has it memorized.
 17 MS. SON: It's 360-664-3846.
 18 JUDGE PEARSON: Okay.
 19 MR. GROSSMAN: Could I -- could I have that
 20 again? It's 3 -- 66-?
 21 MS. SON: -- -4.
 22 MR. GROSSMAN: Yep.
 23 MS. SON: 3846.
 24 MR. GROSSMAN: 3846. Okay. I'll get him on
 25 the line.

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1 JUDGE PEARSON: So we will go ahead and take
 2 a brief recess and be off the record for about five
 3 minutes?
 4 MR. GROSSMAN: Correct.
 5 MR. GREENFIELD: Thank you, Your Honor.
 6 (A break was taken from 11:36 a.m. to 11:47 a.m.)
 7 JUDGE PEARSON: Let's be back on the record
 8 after a short break, and Mr. Thomas is now on the bridge
 9 line.
 10 So, Mr. Thomas, if you could stand and raise
 11 your right hand where you are.
 12 MR. THOMAS: Okay.
 13
 14 JEFFREY C. THOMAS, witness herein, having been
 15 first duly sworn on oath,
 16 was examined and testified
 17 as follows:
 18
 19 JUDGE PEARSON: Okay. Thank you.
 20 C R O S S - E X A M I N A T I O N
 21 BY MR. GREENFIELD:
 22 **Q. Good morning, Mr. Thomas. This is Troy Greenfield**
 23 **on behalf of Pacific Power. I've got a few questions for**
 24 **you, and I appreciate --**
 25 A. Okay.

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CROSS-EXAMINATION OF JEFFREY C. THOMAS
 1 Q. -- your time today.
 2 Mr. Thomas, I assume the Club prides itself on the
 3 level of service provided to its members; correct?
 4 A. Yes.
 5 **Q. What procedures are in place to deal with member**
 6 **complaints regarding the level of service experienced?**
 7 A. Well, normally, it's my ear.
 8 **Q. Your ear gets bent every time, huh?**
 9 A. Yeah. Just about, and then they just --
 10 COURT REPORTER: I'm sorry. I can't hear.
 11 A. -- they get passed on to the board of directors --
 12 JUDGE PEARSON: Mr. -- Mr. Thomas, excuse me.
 13 Sorry. This is Judge Pearson. The court reporter is
 14 having difficulty hearing you.
 15 THE WITNESS: And I'm not hearing you very
 16 well. You're better than the gentleman was, but --
 17 JUDGE PEARSON: Okay. Well, we'll have him
 18 talk more closely to the microphone, but if you could just
 19 speak loudly and directly into your phone. We have had
 20 technical difficulties with our bridge line, so I'm
 21 inclined to think it's our fault.
 22 THE WITNESS: Okay. Is that better?
 23 MR. GREENFIELD: A little bit.
 24 JUDGE PEARSON: A little bit.
 25 THE WITNESS: A little bit. Maybe if I try

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 on speaker. Let's see if that works better.

2 MR. GREENFIELD: Usually, that's worse.

3 THE WITNESS: Is that any better?

4 JUDGE PEARSON: As long as you just speak

5 clearly and --

6 THE WITNESS: Wow. That is --

7 JUDGE PEARSON: -- loudly, that would be

8 great.

9 THE WITNESS: We'll go back to the regular

10 phone. That wasn't very good either. Okay. I'll do my

11 very best to talk louder.

12 JUDGE PEARSON: Okay. And can you repeat

13 your answer, please, for the court reporter?

14 A. Most all the complaints come through to myself as

15 the general manager.

16 BY MR. GREENFIELD:

17 **Q. And when that happens, what's your procedure?**

18 **What do you do?**

19 A. I check out all the appropriate people that may

20 be -- who are around when the complaint was made or if it

21 was directed to someone and try to get a resolved answer.

22 And then I usually, 99 percent of the time, call

23 the member myself and let him know what's happened from our

24 end, if there was a -- if we fell down or if it was just

25 something that is a new policy or a policy of the Club.

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 Q. Okay. Thank you.

2 For how many years has Pacific Power served the

3 Club?

4 A. As far as I know, we've had the same service

5 from -- I'm assuming it was Pacific Power -- since 1923,

6 when the Club first began.

7 **Q. And for how many years have you been employed by**

8 **the Club?**

9 A. I started employment in 19- -- in fact, it was

10 February of 1980.

11 **Q. And, Mr. Thomas, I understand that you sponsored**

12 **prefiled testimony in this proceeding on June 24th;**

13 **correct?**

14 A. I don't know the date, but -- I don't know how to

15 answer that date-wise.

16 **Q. Do you have Exhibit JCT-1T in front of you?**

17 A. 1T. Let's see. 1T. Yes. Where's the date on

18 it? That is my testimony, but I don't see a date on...

19 **Q. We can just proceed, sir.**

20 A. Okay.

21 **Q. You concluded your testimony to the Commission**

22 **with the following statement in response to the question of**

23 **why the Club decided to change providers, and I'm referring**

24 **to page 10, lines 3 through 4. Your answer was,**

25 **"Certainly, saving money was one consideration, but our**

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 **decision was mainly as a result of deteriorating customer**

2 **service." Do you see that testimony?**

3 A. Yes, I do.

4 **Q. As the manager of a service entity, do you**

5 **appreciate how such a statement might trouble Pacific**

6 **Power?**

7 A. Yes.

8 **Q. What role did you play in preparation of the**

9 **Club's responses to Pacific Power's third data requests?**

10 A. Are you talking to me?

11 **Q. Yes.**

12 A. Oh. What's the third data requests? What's...

13 **Q. I -- have you ever seen a number of written**

14 **questions issued by Pacific Power in which the Club**

15 **provided written responses?**

16 A. Yes.

17 **Q. Okay. Those are the data requests. Through the**

18 **course of this proceeding, have you played any role in**

19 **assisting in responding to those data requests?**

20 A. Wait a minute. I said yes to data requests.

21 Where -- tell me again where the data requests are?

22 **Q. Well, one example would be BGM-13CX.**

23 A. Well, in this book -- I can tell you that, with

24 the book I have, that BGM -- and what was the number?

25 **Q. 13CX.**

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 MR. GROSSMAN: And if -- if I may, Your

2 Honor, the book that he has is also cross-indexed. That

3 would be No. 13 in the book you have, Mr. Thomas.

4 THE WITNESS: Okay.

5 BY MR. GREENFIELD:

6 **Q. Have you located that?**

7 A. I have it in -- under 13...

8 **Q. And I'm going to be asking you questions regarding**

9 **DR 63, if you'd turn to that page. Have you located DR 63**

10 **and the Club's response?**

11 A. Well, I have -- on 63, is that the one that says,

12 "Please refer to page 10, line 4, of Exhibit No. JCT" --

13 **Q. Right.**

14 A. -- "-1T"?

15 **Q. And I'll just ask you a general question, sir.**

16 **Did you understand that Pacific Power was seeking what I'll**

17 **refer to as the nitty-gritty specifics of what you**

18 **contended was deteriorating service that was the primary**

19 **driver for the Club to change electric service providers?**

20 A. No. I would say that the deteriorating service...

21 **Q. You closed your prefiled testimony with the**

22 **statement that the decision to disconnect was mainly the**

23 **result of deteriorating customer service. We've**

24 **established that; correct?**

25 **Mr. Thomas?**

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 **JUDGE PEARSON: Mr. Thomas, are you there?**
 2 MR. GROSSMAN: Uh-oh.
 3 JUDGE PEARSON: Well, hopefully, he will call
 4 back in. We'll hear a beep if he joins us again on the
 5 bridge line.
 6 Do you want to take a short break to try
 7 and --
 8 MR. GROSSMAN: I -- I can call him on my cell
 9 phone.
 10 JUDGE PEARSON: Okay.
 11 MR. GROSSMAN: I apologize, Your Honor.
 12 JUDGE PEARSON: That's okay. We'll be off
 13 the --
 14 MR. GROSSMAN: I don't know if it's --
 15 JUDGE PEARSON: -- record briefly until
 16 Mr. Thomas is back on the line.
 17 (Pause in the proceedings)
 18 JUDGE PEARSON: We'll go back on the record,
 19 then, and proceed.
 20 MR. GREENFIELD: Thank you, Your Honor.
 21 BY MR. GREENFIELD:
 22 **Q. Again, Mr. Thomas, we broke referring to**
 23 **Exhibit BGM-13CX, and specifically Data Request 63. Do you**
 24 **have that in front of you?**
 25 A. I do have 63 --

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 Q. Okay.
 2 A. -- in front of me.
 3 **Q. And I assume you'll agree with me that Pacific**
 4 **Power was asking you to give the very specific**
 5 **circumstances underlying your direct prefiled testimony**
 6 **regarding deteriorating customer service; correct?**
 7 A. Yes.
 8 **Q. And the response was simply to refer Pacific Power**
 9 **to your rebuttal testimony, is it not?**
 10 THE WITNESS: You back?
 11 COURT REPORTER: I'm sorry?
 12 MR. GREENFIELD: Yes. We're here.
 13 He asked --
 14 THE WITNESS: Oh, there you are.
 15 MR. GREENFIELD: -- if we're back.
 16 BY MR. GREENFIELD:
 17 **Q. Did you hear my question, Mr. Thomas?**
 18 A. Not the end of it, no.
 19 **Q. Okay. I was simply establishing that the response**
 20 **to the DR was to refer Pacific Power to your rebuttal**
 21 **testimony, specifically page 4, line 9, through page 5,**
 22 **line 3; correct?**
 23 A. Well, you have lost me again on pages and lines.
 24 **Q. Okay.**
 25 A. I'm sorry.

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 Q. The response to DR 63, you have in front of you,
 2 is it referring Pacific Power to your rebuttal testimony,
 3 page 4, line 9, through page 5, line 3?
 4 A. Page 4, no. It says, "Please refer to page 10,
 5 line 4."
 6 Q. Yeah. I think you're looking at the question,
 7 sir, rather than the response.
 8 A. All right. So --
 9 **Q. Right below the question, you should see the**
 10 **response in bold.**
 11 A. Response, "See the Club's response to PP DR 63"?
 12 **Q. No, sir. I think you're looking at a different**
 13 **data request.**
 14 A. I'm not --
 15 **Q. Let's go ahead --**
 16 A. -- actually, because --
 17 **Q. Okay. Why don't we go ahead and move forward to**
 18 **JCT-4T, and specifically page 4.**
 19 MR. GROSSMAN: And, Mr. Thomas, that is --
 20 THE WITNESS: Yes.
 21 MR. GROSSMAN: -- Tab No. 26 in the book you
 22 have.
 23 THE WITNESS: 26? Okay. Okay. And the page
 24 number, again?
 25

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 BY MR. GREENFIELD:
 2 **Q. We're on page 4.**
 3 A. 4. Okay. Now I'm on page 4.
 4 **Q. And if you'd look at line 13 through line 15, it's**
 5 **your testimony that, prior to the Club's request to**
 6 **disconnect from Pacific Power's service, the Club did not**
 7 **encounter any significant customer-service related issues.**
 8 **Do you see that testimony?**
 9 A. Yes.
 10 **Q. That seems markedly at odds with your prefiled**
 11 **direct testimony, the conclusion of your prefiled direct**
 12 **testimony, is it not?**
 13 A. Yes, it is.
 14 **Q. Okay. And if we go up to the top of page 4, line**
 15 **2 through line 6, there's a question regarding the primary**
 16 **reason for the Club to seek to disconnect. Do you see**
 17 **that?**
 18 **Do you see that question, sir?**
 19 **JUDGE PEARSON: Mr. Thomas?**
 20 **Okay. I think we've lost him again. Let's**
 21 **just --**
 22 **(Bridge line beeped.)**
 23 MR. SCHWARTZ: There we go.
 24 JUDGE PEARSON: Mr. Thomas?
 25 THE WITNESS: Yes.

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 JUDGE PEARSON: Okay. Thank you. If you can
 2 just continue to call back in at any point if you get
 3 disconnected, then we don't have to go off the record.
 4 THE WITNESS: Okay.
 5 JUDGE PEARSON: Thank you.
 6 BY MR. GREENFIELD:
 7 **Q. So, Mr. Thomas, we left off referring to JCT-4T.**
 8 **We're on page 4, and if you look at the top, a question**
 9 **starts on line 2. Do you see that?**
 10 A. Yes.
 11 **Q. And the question is, "What was the primary reason**
 12 **for the Club to seek to disconnect"; correct?**
 13 A. Correct.
 14 **Q. And your answer this time is cost, where in your**
 15 **direct testimony, you said it was due to deteriorating**
 16 **service; correct?**
 17 A. Correct.
 18 **Q. Bear with me just a moment.**
 19 **Did you designate your prefiled direct testimony**
 20 **regarding deteriorating services confidential?**
 21 A. I could not tell you that.
 22 **Q. If you would, please turn to JCT-14CX.**
 23 A. 14.
 24 MR. GROSSMAN: And that would be Tab No. 36,
 25 Mr. Thomas.

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 THE WITNESS: Is that the one that says that
 2 Scott just talked to Tom Baffney, and he said --
 3 BY MR. GREENFIELD:
 4 **Q. I'll lay some groundwork there. Is this exhibit a**
 5 **copy of your November 5, 2012, e-mail to Scott Peters of**
 6 **Columbia REA?**
 7 A. Yes.
 8 **Q. Who is Gary Hanson?**
 9 A. Gary Hanson was the president of the Club.
 10 **Q. Okay.**
 11 A. Or the board of directors.
 12 **Q. And you note that, as of November 5, 2012, the**
 13 **Club's position was that it would go through with switching**
 14 **to Columbia REA provided the REA would be responsible for**
 15 **installing new facilities and repairing any damage to Club**
 16 **property that might arise from removal of Pacific Power's**
 17 **facilities; correct?**
 18 A. Correct.
 19 **Q. If you would, please turn to RBD-6.**
 20 A. Which is under which tab?
 21 **Q. I think you've got cross-tabs.**
 22 MR. GROSSMAN: 52.
 23 MR. GREENFIELD: Okay.
 24 THE WITNESS: 52. That's in a different
 25 book. Okay. And what page number is it?

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 BY MR. GREENFIELD:
 2 **Q. Let's see here. Would you identify that document,**
 3 **sir?**
 4 A. This is the WW Country Club versus Pacific Power
 5 and Light Exhibit List Docket UE-143932, Book 2 of 2.
 6 **Q. No, no. Refer -- we're referring to RBD-6, which**
 7 **is the electric service agreement between the Club and**
 8 **Columbia REA. Can you find that document?**
 9 A. No. But --
 10 MR. GROSSMAN: Mr. Thomas, that's Tab 52 in
 11 your book.
 12 THE WITNESS: Well, that's where I was.
 13 Tab 52. RBD-6, page 1 of 7, is that it?
 14 BY MR. GREENFIELD:
 15 **Q. Correct. Is that the electric service agreement?**
 16 A. Electric service agreement, Columbia REA
 17 Electrical Association.
 18 **Q. Great. I -- I think we're on the same page.**
 19 A. All right.
 20 **Q. And so this was an agreement that was executed on**
 21 **December 7, 2012, but effective as of November 30, 2012;**
 22 **correct?**
 23 A. Yes.
 24 **Q. And it's an agreement between the Club and the**
 25 **REA; correct?**

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 **A. Correct.**
 2 **Q. Please turn to page 3 of the exhibit. It's got**
 3 **a --**
 4 A. Okay.
 5 **Q. -- marking of 70 in the bottom right corner. Have**
 6 **you found it?**
 7 A. Yes.
 8 **Q. As of December 7, 2012, I assume the Club**
 9 **understood that Columbia REA would construct all necessary**
 10 **facilities on the property at a cost of \$318,732.50;**
 11 **correct?**
 12 A. That's what it says, correct.
 13 **Q. Did you have any discussions with any**
 14 **representatives of the REA regarding that cost to install**
 15 **new facilities?**
 16 A. Of that -- at that cost, no.
 17 **Q. Okay. And you just led right into my next**
 18 **question. But the Club did understand that it would not be**
 19 **responsible for any of those facilities' construction**
 20 **costs; correct?**
 21 A. Correct.
 22 **Q. Now, if you would, please turn to RBD-5.**
 23 MR. GROSSMAN: That would be Tab 51,
 24 Mr. Thomas.
 25 THE WITNESS: Tab -- what was it?

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 MR. GROSSMAN: Fif --

2 BY MR. GREENFIELD:

3 **Q. Actually, Mr. Thomas, I have one more question**

4 **regarding 6. We're on the same page, and I apologize.**

5 A. Okay.

6 **Q. If you --**

7 A. That's page 70?

8 **Q. Correct. In the bottom right corner.**

9 A. Right. Right.

10 **Q. If you go to paragraph 9, that's titled "Term."**

11 **Do you see that?**

12 A. Mm-hmm.

13 **Q. That's a yes?**

14 A. Yes. I'm sorry.

15 **Q. Okay. And about 40 percent of the way down the**

16 **paragraph on the far right, that's a sentence that begins**

17 **with "Upon." Do you see that?**

18 A. A pond?

19 **Q. There's a paren, "Rate Termination," close paren,**

20 **and then a new sentence starting with "upon." Do you see**

21 **that?**

22 A. Under "Term," I don't see a pond. P-O-N-D?

23 **Q. Yes. On the very far right side.**

24 MS. WALLACE: No. He said, "Pond."

25

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 BY MR. GREENFIELD:

2 **Q. Pond. "Upon." U-P-O-N.**

3 A. I'm sorry. Upon. Okay.

4 **Q. Do you see that?**

5 A. "Upon termination," yes.

6 **Q. Okay. Back in December of '12, did the Club**

7 **understand that Columbia REA was actually reserving the**

8 **right at its discretion to remove all of its facilities if**

9 **and when the Club were to disconnect from the REA system?**

10 MR. GROSSMAN: Your -- Your Honor, I would

11 object to this on the grounds of relevance. I'm not sure

12 what this has to do with the -- Rule 6 or the issues of,

13 you know, safety and operational reasons to remove this.

14 JUDGE PEARSON: I am also curious where

15 you're going with this.

16 MR. GREENFIELD: I'm just establishing, Your

17 Honor, that Columbia REA, in fact, reserves the right for

18 itself to remove all of its facilities, something that it

19 and the Club is critical of Pacific Power exercising its

20 rights under its tariff to do so in this matter.

21 JUDGE PEARSON: Okay.

22 MR. GREENFIELD: I can move forward, Your

23 Honor.

24 JUDGE PEARSON: Yes, please do.

25 MR. GREENFIELD: Thank you.

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 BY MR. GREENFIELD:

2 **Q. Mr. Thomas, would you please now refer to RBD-5?**

3 MR. GROSSMAN: That would be Tab 51,

4 Mr. Thomas.

5 THE WITNESS: Tab which one?

6 MR. GROSSMAN: 51.

7 THE WITNESS: 5-1. Okay. All right. Letter

8 to my -- addressed to myself?

9 BY MR. GREENFIELD:

10 **Q. Correct. Dated January 3, 2013. Are we on the**

11 **same document?**

12 A. We are.

13 **Q. Do you recognize this as an agreement between the**

14 **REA and the Club?**

15 A. I do.

16 **Q. And this agreement is executed by the CEO of**

17 **Columbia REA and yourself; correct?**

18 A. Correct. Les Teel. Yes.

19 **Q. Okay. And am I correct in my understanding that**

20 **this agreement addresses the relative responsibilities for**

21 **the cost associated with the disconnecting from Pacific --**

22 **from the Pacific Power system?**

23 MR. GROSSMAN: Again, Your Honor, objection

24 to relevance. The agreement between the REA and the Walla

25 Walla Country Club has nothing to do with -- with Rule 6

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 and the removal of the facilities and the charge that

2 Pacific Power wishes to impose for the removal of the

3 facilities.

4 MR. GREENFIELD: Your Honor, their direct --

5 their prefiled direct and rebuttal is replete with

6 statements regarding purported hardships to the Country

7 Club if Pacific Power is allowed to proceed and remove its

8 facilities per its tariff, and we're just simply

9 establishing that this is not an issue with regard to the

10 Club.

11 This is Columbia REA pursuing this

12 proceeding. Its CEO is sitting right behind me, and I'm

13 just trying to establish that through this witness.

14 JUDGE PEARSON: I understand that. I don't

15 think it's relevant to what we're talking about here. The

16 Company has made that point repeatedly. I get it, so if

17 you could move on.

18 MR. GREENFIELD: Okay. Thank you, Your

19 Honor.

20 BY MR. GREENFIELD:

21 **Q. If you would, sir, please turn to JCT-19CX.**

22 MR. GROSSMAN: That would be Tab 41, 4-1,

23 Mr. Thomas.

24 THE WITNESS: Okay. All right.

25

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 BY MR. GREENFIELD:

2 **Q. Is this an e-mail between yourself and Mr. Peters**

3 **dated January 10, 2013?**

4 A. It is.

5 **Q. And you were confirming at that time that Pacific**

6 **Power had, in fact, bored and installed new conduit in**

7 **2007, 2008; correct?**

8 A. Correct.

9 **Q. There was some issue that you and Mr. Peters were**

10 **addressing at the time that made that a relevant inquiry?**

11 A. I think they were asking how many lines we had

12 pulled in -- or conduit in under the golf course with PP&L.

13 And there have been some wire damage in that long run, and

14 so PPL -- PP&L came in and pulled in new conduit in '7, '8

15 to our deep well.

16 **Q. And if you would, please refer now to JCT-20CX.**

17 MR. GROSSMAN: That would be No. 42.

18 THE WITNESS: Okay.

19 BY MR. GREENFIELD:

20 **Q. Does this appear to be a January 7 e-mail from**

21 **Mr. Gavin of Pacific Power to you in the middle of the**

22 **page?**

23 A. Yes.

24 **Q. And Mr. Gavin was representing, which you**

25 **understand to be the case, that facilities were installed**

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 **on Club property at a cost of roughly \$40,000; correct?**

2 A. That's what it says.

3 **Q. And those costs were borne by Pacific Power rather**

4 **than the Club; correct?**

5 A. Correct.

6 **Q. If you would, please refer to JCT-22CX.**

7 MR. GROSSMAN: No. 44.

8 THE WITNESS: Okay. I'm there.

9 BY MR. GREENFIELD:

10 **Q. Okay. Is that a November 9, 2012, e-mail to**

11 **Mr. Peters of Columbia REA?**

12 A. Yes.

13 **Q. And at that point, had the Club already executed**

14 **an electric service agreement with the REA, but was, in**

15 **fact, revoking that agreement unless the REA agreed to**

16 **cover all costs of laying new conduit in the event Pacific**

17 **Power was determined to remove its conduit under the**

18 **tariff?**

19 A. It looks like that's what it says. Doesn't it?

20 **Q. Yes, sir.**

21 **Sir, there are three firms representing the Club**

22 **in this proceeding. Is the Club paying the fees of any of**

23 **those firms?**

24 MR. GROSSMAN: Objection, Your Honor.

25 Relevance again.

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 JUDGE PEARSON: I'm going to sustain that

2 objection.

3 BY MR. GREENFIELD:

4 **Q. Mr. Thomas, would you now refer to JCT-22CX?**

5 MR. GROSSMAN: That would be Tab 44 in your

6 book.

7 JUDGE PEARSON: Is that the same --

8 MR. GROSSMAN: Same --

9 JUDGE PEARSON: -- the same one?

10 THE WITNESS: That -- that was the same one.

11 MR. GREENFIELD: Let's see. Hang on here

12 just a moment. Yep. You've got it in front of you there.

13 THE WITNESS: That would be 45, tab?

14 MR. GREENFIELD: Is that 45?

15 MR. GROSSMAN: 22CX --

16 MR. GREENFIELD: 22CX.

17 MR. GROSSMAN: -- is 44.

18 BY MR. GREENFIELD:

19 **Q. 44, sir.**

20 A. 44. I was just there.

21 **Q. You gave the express directive to the REA that it**

22 **was not to start trenching, boring, or any backhoe work on**

23 **Club property; correct?**

24 A. Correct.

25 **Q. Has Columbia REA since done any trenching, boring,**

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 **or backhoe work on Club property?**

2 A. Yes.

3 **Q. On which dates did it do so?**

4 A. Well, it would have been after that date of

5 November 9th, and by -- most of -- through December of that

6 year, they had bored and trenched almost the entire Club.

7 They probably finished sometime in January, February of

8 '13.

9 **Q. You just said --**

10 A. So all their --

11 **Q. I'm sorry, sir.**

12 A. Pardon?

13 **Q. I'm sorry. I interrupted you. I apologize.**

14 A. So all their service is underground, in vaults,

15 all in place.

16 **Q. That's news to us, sir. I was just about to ask**

17 **you, what work was performed? It's your testimony today**

18 **that Columbia REA has completed its work on Club property**

19 **and it has vaults and everything it needs to immediately**

20 **service the Club?**

21 A. Yes.

22 Well, it would have been finished before '13,

23 because I took a check down to Pacific Power, I think, on

24 December 11th of '12 to disconnect, and they said they

25 needed that money first. Pacific Power did not accept that

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 check.

2 **Q. If you would, please --**

3 A. And --

4 **Q. Oh, I'm sorry, sir. I cut you off again. It's**

5 **difficult with the -- the phone connection.**

6 A. Yes. Go ahead.

7 **Q. If you would, please refer to WGC-2. It's a**

8 **number of photographs.**

9 MR. GROSSMAN: No. 64. Tab 64 in your book.

10 THE WITNESS: 64. Okay.

11 BY MR. GREENFIELD:

12 **Q. Have you found it, sir?**

13 A. Yes.

14 **Q. If you would, go to the sixth page, the sixth**

15 **photograph. It shows a gentleman near a large trench and**

16 **some conduit.**

17 A. Okay.

18 **Q. Are you aware that photo depicts a condition on**

19 **Club property?**

20 A. I have no idea of knowing if that's on Club

21 property.

22 **Q. Okay. Were you made aware that when Columbia REA**

23 **was installing conduit on Club property, it actually struck**

24 **a Pacific Power conduit that had live wire in it?**

25 A. No.

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 Q. Sir, is there a period each year during which

2 members rarely use the golf course, if at all? You know,

3 for example, the first couple weeks of January?

4 A. Well, we close down the clubhouse for two weeks to

5 do cleaning, but the golf course is kept open year round,

6 weather permitting.

7 **Q. Okay. When do you close the clubhouse to do**

8 **cleaning?**

9 A. January 1 through -- until the second or third

10 Tuesday of the month. Usually around the 15th, the 19th of

11 the month, we reopen the clubhouse.

12 **Q. Sir, if you would, please refer to your prefiled**

13 **rebuttal testimony, which is JCT-4T, and specifically**

14 **page 2, lines 9 through 14.**

15 MR. GROSSMAN: Tab 26.

16 BY MR. GREENFIELD:

17 **Q. Page 2.**

18 A. And which page again?

19 **Q. Page 2.**

20 A. Page 2. Okay.

21 **Q. And I'm referring to lines 9 through 14.**

22 **You were asked whether any of the photos in any**

23 **way -- photos submitted by Mr. Clemens, sponsored by**

24 **Mr. Clemens, in any way relate to facilities in any way**

25 **relevant to electrical service to the Club.**

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 **And you responded, "No. None of the photographs**

2 **annexed to Mr. Clemens' testimony reflect actual facilities**

3 **at, or even near, the Country Club. The exhibits do not**

4 **reflect a single photograph of facilities relevant to the**

5 **Club and its property."**

6 **And yet you just testified that the photograph**

7 **that appeared in WGC-2 at page 6, you have no idea whether**

8 **that unfortunate incident occurred on Club property; is**

9 **that correct?**

10 A. Well, there's nothing in that photograph that

11 would tell me that that's the -- at the Country Club.

12 **Q. But you have no way to -- you have no reason to**

13 **refute the very clear testimony of Mr. Clemens that --**

14 MR. GROSSMAN: Your --

15 **Q. -- that actually occurred on Club property;**

16 **correct?**

17 A. I -- I can tell --

18 MR. GROSSMAN: Your Honor --

19 A. -- from that picture -- go ahead.

20 MR. GROSSMAN: Objection, Your Honor. It's

21 been asked -- asked and answered. Mr. Thomas indicated

22 in -- with reference to the photograph, that he was not

23 aware of where that was taken.

24 And his testimony is consistent, that he --

25 he stated none of the photographs reflect actual

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 facilities. He's not aware of it. I'm not sure where

2 Mr. Greenfield's going with this.

3 JUDGE PEARSON: Right. I think it's --

4 MR. GREENFIELD: I'll move forward, Your

5 Honor.

6 JUDGE PEARSON: Thank you.

7 BY MR. GREENFIELD:

8 **Q. Mr. Thomas, please refer to BGM-15CX.**

9 THE WITNESS: You have a tab, David?

10 MR. GROSSMAN: I think that might be one --

11 my index does not reflect a 15CX.

12 MR. GREENFIELD: That is the second

13 supplemental response to DR 58, and I assume that was

14 provided to Mr. Thomas for his testimony today.

15 MR. GROSSMAN: I don't believe the book has

16 it.

17 MR. GREENFIELD: Okay.

18 MR. GROSSMAN: I apologize.

19 BY MR. GREENFIELD:

20 **Q. Mr. Thomas, I'm going to go off the script a**

21 **little bit and walk you through some issues, because I**

22 **understand you do not have that sec- -- second supplemental**

23 **DR response in front of you.**

24 **Did you play any role in preparing the second**

25 **supplemental response to DR 58?**

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 **A. Well, with the number you're throwing out, I have**
 2 **no idea.**

3 THE WITNESS: So, David, help me out.
 4 MR. GROSSMAN: I -- I think --
 5 BY MR. GREENFIELD:

6 **Q. Mr. Thomas, I'll represent to you that we asked a**
 7 **question regarding the breakdown of the costs, roughly**
 8 **\$312,000, et cetera, and there was a statement that came**
 9 **back from the Club in the second supplemental that was a**
 10 **bit of a surprise to us, and I'll quote it for you.**

11 **"All of the electrical components included in the**
 12 **list of facilities transferred" -- and I assume that's what**
 13 **the Club is seeking in this case, to transfer all the**
 14 **facilities -- "will be of no value to Columbia REA and will**
 15 **be removed and scrapped at the expense of the Club."**

16 **Do you understand, sir, as the general manager,**
 17 **that the Club intends to remove all of Pacific Power's**
 18 **facilities and scrap them?**

19 MR. GROSSMAN: Your Honor, I would note that
 20 the data request is directed to Mr. Mullins. So I don't
 21 believe that Mr. Thomas was involved in -- in a data
 22 request directed to Mr. Mullins.
 23 MR. GREENFIELD: And I'll --
 24 MR. GROSSMAN: And I think perhaps this is
 25 better directed to Mr. Mullins.

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 MR. GREENFIELD: And I'll just --
 2 JUDGE PEARSON: Do you agree that you can
 3 direct that question to Mr. Mullins when the --
 4 MR. GREENFIELD: I can, but I --
 5 JUDGE PEARSON: -- time comes?
 6 MR. GREENFIELD: I need to know whether the
 7 Club is even aware of a representation that's been made
 8 that it will remove all of Pacific Power's facilities and
 9 scrap them. That's how this response reads.
 10 JUDGE PEARSON: Okay. Mr. Thomas, if you
 11 could answer that question.
 12 BY MR. GREENFIELD:

13 **Q. And I'll read it -- I'll read the quote to you**
 14 **again, sir, and see -- I'm just asking whether you're aware**
 15 **of this.**

16 **"All of the electrical components included in the**
 17 **list of facilities transferred will be of no value to**
 18 **Columbia REA and will be removed and scrapped at the**
 19 **expense of the Club."**

20 **Is that an accurate summary of your understanding**
 21 **of the circumstances as they currently exist?**

22 A. I don't remember that at all.
 23 **Q. Does the Club --**
 24 A. I -- I remember Mr. Clemens giving us a figure to
 25 remove all of Pacific Power's wires, meters, things for us

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CROSS-EXAMINATION OF JEFFREY C. THOMAS

1 to move with this project, and that was at \$19,581.
 2 **Q. So I'm talking about the -- the current**
 3 **circumstance. Am I fair in understanding your testimony**
 4 **right now that, as general manager of the Club, you have no**
 5 **idea of whether the Club will remove all of -- will seek to**
 6 **remove all of Pacific Power's facilities and scrap them?**

7 A. No. It was never in my mind that we were to
 8 remove and scrap anything. We couldn't touch a thing.
 9 Pacific Power would remove their wires and meters.
 10 **Q. Thank you, Mr. Thomas.**

11 MR. GREENFIELD: That's all I have.
 12 MR. GROSSMAN: If we could have a moment?
 13 JUDGE PEARSON: Sure.
 14 **R E D I R E C T E X A M I N A T I O N**
 15 BY MR. GROSSMAN:

16 **Q. Mr. Thomas, just one brief question -- line of**
 17 **questions.**

18 **Mr. Greenfield asked you about boring, Columbia**
 19 **REA boring and trenching lines. Are you aware of whether**
 20 **that was on Club property, or was it out around the**
 21 **perimeter of the Club property?**

22 A. It was around the perimeter, but sometimes they
 23 were on Club property.
 24 **Q. Okay. But for the most part, it was just around**
 25 **the perimeter?**

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REDIRECT EXAMINATION OF JEFFREY C. THOMAS

1 **A. Yes. They did not trench, to speak of, on course**
 2 **property. They mainly bored on Club property.**

3 **Q. Thank you. The -- the judge may have some**
 4 **questions for you.**

5 **JUDGE PEARSON: I do not.**
 6 THE WITNESS: Okay.
 7 JUDGE PEARSON: So if there's nothing
 8 further --
 9 MR. GREENFIELD: Nothing, Your Honor.
 10 JUDGE PEARSON: Okay. Thank you, Mr. Thomas.
 11 You can hang up now.
 12 THE WITNESS: All right. Thank you. Bye
 13 bye.
 14 JUDGE PEARSON: Bye bye.
 15 Okay. So this would be a good point at which
 16 to break for lunch. I'm inclined to give you all 90
 17 minutes, if that works. It's very hard to go anywhere and
 18 eat and get back here in any amount of time less than that,
 19 so why don't we just reconvene at 2:00, which is slightly
 20 more than an hour and a half?
 21 MR. GREENFIELD: Thank you, Your Honor.
 22 JUDGE PEARSON: Okay.
 23 MS. WALLACE: Thank you.
 24 JUDGE PEARSON: So we will be off the record
 25 and be back here at 2 p.m.

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1 (A luncheon recess was taken from 12:25 p.m. to
 2 2:00 p.m.)
 3 JUDGE PEARSON: Let's be back on the record.
 4 It's 2 p.m.
 5 And before we get started again, I wanted to
 6 discuss with the Company about the due dates for the two
 7 bench requests. How much time do you think you would need
 8 to respond to those?
 9 MS. WALLACE: Five business days.
 10 JUDGE PEARSON: Five business days? Okay.
 11 So that would be next Friday, since next week is --
 12 MS. WALLACE: Yes.
 13 JUDGE PEARSON: -- four days.
 14 MS. WALLACE: Yes.
 15 JUDGE PEARSON: Okay.
 16 MR. GREENFIELD: That'd be great.
 17 JUDGE PEARSON: That sounds good. So that's
 18 Friday, September 11th?
 19 MS. WALLACE: Yes.
 20 JUDGE PEARSON: Is that correct?
 21 MS. WALLACE: Yes.
 22 JUDGE PEARSON: Okay. So those will be the
 23 due dates for those two bench requests.
 24 MR. COWELL: Your Honor?
 25 JUDGE PEARSON: Yes?

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1 MR. COWELL: Just for the sake of the record,
 2 Jesse Cowell on behalf of the Walla Walla Country Club. In
 3 terms of the bench requests, may Walla Walla Country Club
 4 also respond, particularly to Bench Request 2? We believe
 5 we have some pertinent information.
 6 JUDGE PEARSON: Sure.
 7 MR. COWELL: Okay. Thank you.
 8 JUDGE PEARSON: Okay. So is Mr. Mullins
 9 first?
 10 MR. GREENFIELD: I believe so, Your Honor.
 11 JUDGE PEARSON: Okay. If you could raise
 12 your right hand.
 13
 14 BRADLEY G. MULLINS, witness herein, having been
 15 first duly sworn on oath,
 16 was examined and testified
 17 as follows:
 18
 19 JUDGE PEARSON: Okay. Thank you,
 20 Mr. Mullins. You can take a seat.
 21 MR. GREENFIELD: I'm having a hard time
 22 seeing you here. I'm going to lean forward, and if I have
 23 counsel --
 24 MR. SCHWARTZ: Oh, I'm sorry.
 25 MR. GREENFIELD: -- maybe lean back a

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1 little --
 2 MR. SCHWARTZ: Sure.
 3 MR. GREENFIELD: -- bit. It's --
 4 MR. SCHWARTZ: It's fine.
 5 MR. GREENFIELD: It's a bit of a challenge.
 6 C R O S S - E X A M I N A T I O N
 7 BY MR. GREENFIELD:
 8 **Q. Mr. Mullins, why don't we start out, if you refer**
 9 **to BGM-1CT, page 17.**
 10 **JUDGE PEARSON: I'm sorry. What was the**
 11 **number?**
 12 MR. GREENFIELD: BGM-1CT, page 17.
 13 JUDGE PEARSON: Oh, okay.
 14 MR. GREENFIELD: Prefiled direct.
 15 THE WITNESS: I'm there when you're ready.
 16 BY MR. GREENFIELD:
 17 **Q. Thank you. And at the conclusion of your prefiled**
 18 **direct testimony, I take it you succinctly stated what**
 19 **Columbia REA and the Club seek in this proceeding.**
 20 **And I'm going to quote: "I recommend that the**
 21 **Commission find that it is in the public interest for the**
 22 **Company to transfer the facilities at net book value plus**
 23 **reasonably negotiated labor charges necessary to effect**
 24 **permanent disconnection as requested in the Club's June 19,**
 25 **2015, offer letter."**

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CROSS-EXAMINATION OF BRADLEY G. MULLINS
That's your direct testimony?
 1 A. That is a section of my direct testimony, correct.
 2 **Q. Okay. Now, if you'd refer to BGM-6T, page 13.**
 3 A. Okay.
 4 **Q. I'm looking at lines 5 through 6. You then refine**
 5 **your request further, and this time you indicate, "In this**
 6 **case, it is in the public interest to require the**
 7 **facilities located on the Club property to be transferred**
 8 **at net book value."**
 9 **A. Correct.**
 10 **Q. That's your rebuttal testimony?**
 11 A. It is.
 12 **Q. And that is still what you're requesting on behalf**
 13 **of your clients, that the Commission require Pacific Power**
 14 **to transfer its facilities to the Club and Columbia REA;**
 15 **correct?**
 16 A. That's correct.
 17 **Q. I assume you've carefully read and even cited -- I**
 18 **see you cited to the Net Removal Tariff Rule 6.I. in your**
 19 **prefiled direct testimony; correct?**
 20 A. Correct. I think that's --
 21 **Q. Does the word "transfer" appear at any point**
 22 **within the Company's Net Removal Tariff?**
 23 A. No.
 24 **Q. Then why do you testify, "The objective of Rule 6**
 25

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 is to effectuate a fair transfer price without regard to
 2 the cost of interconnection with the new service provider"?
 3 And I'm referring to BGM-6T, page 11, lines 4 through 5.
 4 A. So this particular section refers to -- it
 5 responds to Mr. Dalley's testimony about competitive
 6 practices, and the point of this section is that
 7 competitive practices are irrelevant to the application of
 8 the Net Removal Tariff.
 9 **Q. And you state, "It is the objective of Rule 6, the**
 10 **Net Removal Tariff, to effectuate a fair transfer price."**
 11 **That's your testimony, sir? Do you feel --**
 12 A. So --
 13 **Q. -- compelled to change it?**
 14 A. Well, so -- yeah. So I'd probably change that a
 15 little bit. So -- so it is -- I'd probably flip it around
 16 such that -- I guess, to say that it is not the objective
 17 of Rule 6 to prohibit competition. That was the -- the
 18 point of that.
 19 **Q. Does the word "sale" appear anywhere in the Net**
 20 **Removal Tariff?**
 21 A. It does not.
 22 **Q. Or "sell"?**
 23 A. No.
 24 **Q. Neither?**
 25 **Do you actually go another step further and**

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 testify that Pacific Power "should have an obligation" to
 2 not remove but rather sell its facilities?
 3 A. I do.
 4 **Q. When you use the word "should" in the term "should**
 5 **have an obligation," are you acknowledging that the**
 6 **existing tariff does not include such an obligation?**
 7 A. So the -- the existing tariff exists within the
 8 regulatory construct in this state, and if it is, indeed,
 9 in the public interest to avoid the economically wasteful
 10 activities of digging the conduit out of the Country Club,
 11 then the Company should be required to transfer those
 12 assets pursuant to the Net Removal Tariff.
 13 **Q. Would you turn to BGM-6T, page 2? And I'm focused**
 14 **on Footnote No. 1.**
 15 **Isn't it true that, buried in a footnote to your**
 16 **prefiled rebuttal testimony, you state that your testimony**
 17 **does not contain any conclusions regarding the Net Removal**
 18 **Tariff's application to the sale and transfer of facilities**
 19 **absent removal?**
 20 A. No. So it says "legal conclusions." So the
 21 distinction there was to -- to state that I'm -- I'm not
 22 offering any legal opinions on the applicability of that
 23 tariff.
 24 **Q. Isn't it accurate to state that, on behalf of**
 25 **Columbia REA and the Club, you're essentially requesting**

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 that the Commission exercise some form of eminent domain
 2 and require Pacific Power to transfer its facilities when
 3 it chooses not to?
 4 A. Well, I believe that'd be a legal question, which
 5 I'm not qualified to answer.
 6 **Q. Okay. Do you know what the damages are in eminent**
 7 **domain when there is a taking?**
 8 A. Again, that's a legal question that I am not
 9 qualified to answer.
 10 **Q. So you're not aware that it's fair market value**
 11 **that is the measure of damages in eminent domain?**
 12 MR. COWELL: Objection, Your Honor. I
 13 believe he's stated he's not aware of the eminent domain
 14 law.
 15 JUDGE PEARSON: Move on, please.
 16 MR. GREENFIELD: Thank you.
 17 BY MR. GREENFIELD:
 18 **Q. Is it fair to state that, in your rebuttal**
 19 **testimony, you were critical of Pacific Power for not**
 20 **having obtained an appraisal, fair market value appraisal,**
 21 **at that time?**
 22 A. I don't know if I'd go as far as "critical," but
 23 I -- I make that statement, correct.
 24 **Q. Over the course of your career, have you had**
 25 **occasion to review and ultimately rely upon appraisals of**

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1 machinery and equipment?
 2 A. I am familiar with the methods and techniques used
 3 to appraise property.
 4 **Q. In your prefiled testimony, you repeatedly use the**
 5 **term "fair value." As you liberally use that term, is it**
 6 **the same as fair market value?**
 7 A. So you're referring to my rebuttal testimony?
 8 **Q. I believe that's where it appears most often.**
 9 A. Correct. So -- so I -- does it appear in my
 10 opening testimony?
 11 **Q. I can't recall.**
 12 A. I guess I can't ask questions, but -- so the --
 13 the use of the term "fair value" is directly in response to
 14 Mr. Dalley's testimony that -- where he alleges that the
 15 book value is less than the fair value.
 16 **Q. Are you familiar with the Uniform Standards of**
 17 **Professional Appraisal Practice, USPAP?**
 18 A. Not in detail, no.
 19 **Q. Do you recognize them as standards that govern**
 20 **appraisals or valuation of property?**
 21 A. I -- I am not familiar with their -- their
 22 methods, no.
 23 **Q. Have you ever seen a definition of fair market**
 24 **value under USPAP?**
 25 A. I have seen a definition -- many definitions of

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 market value and fair market value; however, not the one
 2 you're referring to.

3 **Q. Let me ask you whether you agree with the**
 4 **following definition of fair market value. It's defined as**
 5 **"the price at which property would change hands between a**
 6 **willing buyer and a willing seller, neither being under any**
 7 **compulsion to buy or sell, and both having reasonable**
 8 **knowledge of the relevant facts."**

9 **Would you agree with that definition?**

10 A. I think it's a fair -- fair definition.

11 **Q. Did you rely upon any recognized standards when**
 12 **you used the term "fair value" in your rebuttal testimony?**

13 A. That term was used to respond to Mr. Dalley's
 14 testimony, and my testimony explicitly referred to the Net
 15 Removal Tariff, not fair value issues.

16 **Q. In your rebuttal testimony, you contend that**
 17 **salvage value is the same as "market value" of the removed**
 18 **facilities at the time they're taken out of service, do you**
 19 **not?**

20 A. I do.

21 **Q. Do you rely upon USPAP or any other recognized**
 22 **standards in making that statement?**

23 A. I rely upon the -- just my general understanding
 24 of accounting, based on my experience, and -- and how that
 25 term is typically used for -- for accounting purposes.

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 Q. Does your methodology for determining market value
 2 or fair value, as you use that term, take into account
 3 continued use of the facilities?

4 A. What methodology are you referring to?

5 **Q. Whatever you used to opine regarding fair value.**

6 A. So I didn't opine to a fair value in my testimony.
 7 I opined to the application of the Net Removal Tariff to
 8 the very specific facts and circumstances of this case.

9 **Q. And did your definition of fair value, as you used**
 10 **it, include consideration for the cost of installation?**

11 A. Again, I did not propose a fair value metric. I
 12 relied upon the Net Removal Tariff and proposed how that
 13 tariff should be applied on a nondiscriminatory basis in --
 14 given the facts and circumstances of this case.

15 **Q. A simple yes or no, sir, please. Did your**
 16 **analysis include consideration of the cost of installation**
 17 **when you used the term "fair value"?**

18 A. So the -- the Net Removal Tariff, the formula that
 19 I relied upon, is detailed -- it's detailed in Table 1 on
 20 page 4 of BGM-1CT.

21 **Q. Does Table 1 reference cost of installation?**

22 A. Table 1 is the Net Removal Tariff formula which
 23 does not reference the cost of installation, correct.

24 **Q. And again, the Net Removal Tariff does not**
 25 **reference sale or transfer; correct?**

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 **A. The -- the tariff itself does not, but the --**
 2 **well, correct. I won't -- I won't go on.**

3 **Q. Do you know what it would cost Columbia REA to**
 4 **install all new facilities, specifically the facilities**
 5 **that you seek to have Pacific Power compelled to transfer?**

6 A. So we -- we do have a sense of what it would
 7 require. Of the facilities that would be transferred,
 8 those that could be potentially reused, we have a sense of
 9 what -- the amount that they would save if they were to --
 10 to do that.

11 **Q. Did you review the electric service agreement**
 12 **between Columbia REA and the Club where it stated that the**
 13 **cost to install all the facilities would be about**
 14 **\$318,732.50?**

15 A. So -- so that particular number -- and maybe I
 16 could just refer, Your Honor, to the map here. But that
 17 particular number, it didn't refer to the -- the tangents,
 18 necessarily, off of -- or exclusively off of that yellow
 19 line. It referred to the totality of those costs.

20 Now, that -- the yellow line that wraps around --
 21 and I'd just caveat that this map, from our perspective, is
 22 not an accurate map because the yellow line, it actually
 23 extends beyond to serve a whole subdivision that's now
 24 being developed up near the -- northwest of the Country
 25 Club.

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 And so my understanding of that number was it was
 2 predominantly related to those -- the outer underground
 3 facilities, not the facilities that would be the subject of
 4 the Net Removal Tariff.

5 **Q. What's the cost to Columbia REA to install new**
 6 **facilities? You said "tangents" and such, so we can -- we**
 7 **can exclude the -- the line around the Club. What portion**
 8 **of the 318,000 is dedicated to replacing Pacific Power's**
 9 **facilities when they're removed?**

10 A. So the -- the portion that would be -- so maybe to
 11 back up a little bit. So if the facilities are
 12 transferred, Columbia REA, they're -- they have a different
 13 voltage than PacifiCorp, so they actually can't use any of
 14 the electrical equipment.

15 The only thing that could potentially be used are
 16 two runs of conduit, and they -- maybe only one. They're
 17 still investigating. And the savings to Columbia REA, if
 18 they were to use PacifiCorp's conduit, rather than to
 19 construct their own, would be about \$18,000.

20 **Q. You testify in your rebuttal, "The Club, in**
 21 **offering to pay full net book value would more than**
 22 **compensate the Company for the fair value of the**
 23 **facilities." And I'm referring to BGM-6T, page 7, 16 --**
 24 **line 16 dash 17. Does that remain your testimony?**

25 A. So the -- the context of that was -- was referring

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 actually to the salvage value. So, you know, you -- you
 2 referenced the definition of fair market value: willing
 3 buyer, willing seller, you know, whatever -- whatever they
 4 negotiate.

5 And in this case, the -- the value of those
 6 facilities to Columbia REA, with the exception of those two
 7 runs of conduit, is zero. And, in fact, it's probably
 8 negative, because they would have to undergo the -- the
 9 cost of actually removing those facilities themselves.

10 So -- so in referring to the salvage value, I was
 11 pointing out that they're -- you know, that the market
 12 value to Columbia REA, willing buy- -- as a willing buyer
 13 is -- is essentially just the salvage value.

14 And so PacifiCorp is being paid, under the Net
 15 Removal Tariff, an amount in excess of that salvage value.

16 **Q. Did you review the appraisal that was obtained by
 17 Pacific Power?**

18 A. So I did -- I did not undertake a substantive
 19 review of that appraisal. It was provided about one week
 20 ago as a cross-exhibit. It wasn't sponsored by a witness,
 21 and we didn't have an opportunity to conduct discovery on
 22 it.

23 For that reason, I'd actually ask that the -- the
 24 Commission, I guess, afford it the weight that it's due
 25 within the context of this proceeding. Now, with that --

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 Q. The question was, simply, did you review it, sir?
 2 A. Right. So I was informing of the -- the scope of
 3 my review. So I -- I read through it, and I made some very
 4 high-level, you know, comparisons to some -- you know, some
 5 other numbers that I've seen.

6 **Q. Okay. And you noted, I assume, that the
 7 professional appraisers concluded the fair market value
 8 installed of the subject facilities that you're seeking to
 9 have Pacific Power, against its will, transfer to the Club
 10 and Columbia REA is over \$108,000; correct?**

11 A. So the appraisal itself assumes that Columbia REA
 12 will actually use those facilities, which it will not.

13 I agree that they came to that value, and I
 14 don't -- I disagree with that value on many levels, not to
 15 mention the fact that the -- you know, just the easy
 16 comparisons show -- and I'd be happy to discuss these
 17 after, but they show that it's very much inflated relative
 18 to the Company's historical costs.

19 **Q. Can a customer own and thereby require -- be
 20 required to maintain electric facilities?**

21 A. So a customer can own electrical facilities, and a
 22 customer can maintain them. I guess I'm not sure -- I
 23 guess I'm not sure the -- the step that you're making.
 24 Maybe you can clarify.

25 **Q. Let me ask you a follow-up question to that.**

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 **From a legal liability standpoint, if Pacific
 2 Power were required to transfer its facilities to Columbia
 3 REA and the Club, would the Club then be responsible for
 4 any injuries to third parties caused by failure to properly
 5 maintain the facilities?**

6 MR. COWELL: Objection, Your Honor. He's
 7 asking a legal question.

8 JUDGE PEARSON: Can you rephrase that?
 9 MR. GREENFIELD: I'll try.

10 BY MR. GREENFIELD:

11 **Q. If we assume that Pacific Power's required to
 12 transfer its facilities to Columbia REA and the Club, and
 13 you've indicated the Club would take ownership of those
 14 facilities, would the Club then be exposed to liability
 15 claims from third parties who perhaps could be injured by
 16 virtue of those facilities?**

17 A. You know, I can't answer that question. It's a
 18 legal question.

19 **Q. You testified -- and this was news to us before we
 20 saw the supplemental response to the DR -- that the Club
 21 will not use any of Pacific Power's facilities -- again, if
 22 Pacific Power's required to transfer them -- other than a
 23 couple runs of conduit.**

24 **And if I understand the response to the DR
 25 correctly, the Club is now indicating it will take out all**

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 **of the other facilities?**

2 A. So, you know, I think the -- the DR speaks for
 3 itself, but I'll -- maybe I could just discuss it for --
 4 for a moment, so --

5 **Q. Well, actually, let's -- you make a good point.
 6 I'll read a quote from the supplemental DR response and see
 7 if this is accurate with your understanding.**

8 "All of the electrical components included in the
 9 list of facilities transferred will be of no value to
 10 Columbia REA and will be removed and scrapped at the
 11 expense of the Club." Is that your understanding?

12 A. Yes. Yes.

13 **Q. So now the Club is proposing to do what it has
 14 argued Pacific Power should not be allowed to do, and
 15 that's, specifically, to remove these facilities; correct?**

16 A. As -- as they see fit and in a cost-effective
 17 manner, correct.

18 **Q. So they're going to remove everything. That's
 19 your understanding?**

20 A. No. That's not what this says.

21 **Q. So when the term "all of the electrical
 22 components" is used, that doesn't encompass all the
 23 facilities that are owned and maintained by Pacific Power?**

24 A. Not under -- not under our use of that term, no.

25 **Q. So which of the facilities is the Club intending**

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 **to take out? Which is it going to leave in the ground?**
 2 **Which is it going to use?**
 3 A. So the -- the yellow line that extends around the
 4 Country Club currently has a voltage of 24.9 kilovolts, and
 5 my understanding is that PacifiCorp's facilities have a
 6 voltage of -- I believe it's 15 kilovolts.
 7 So all the transformers, the meters, the
 8 conductor -- conductors, and, you know, related electrical
 9 components, those sort of live electrical components, they
 10 have no use to the Club for providing -- or to -- yeah, to
 11 the Club in order to take service from Columbia REA.
 12 **Q. So again, what portion of the facilities is the**
 13 **Club trying to acquire through this process? The Club and**
 14 **Columbia REA. Which will it simply leave in the ground?**
 15 **And I'm talking about underground facilities. And which**
 16 **will it remove?**
 17 A. So -- so under -- under our proposal, it would
 18 remove -- and -- and in, you know, it's really yet to be
 19 seen, but my understanding is that the -- the -- really,
 20 the only facilities that would have any value to Columbia
 21 REA would be the run of conduit that runs out to the center
 22 pump in the -- in the golf course.
 23 And potentially, they may be able to use the run
 24 of conduit that runs under the golf -- the clubhouse
 25 parking lot; however, they believe that there may already

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CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 be an abandoned piece of conduit that they can use
 2 underneath the -- the parking lot.
 3 **Q. And you're talking about Columbia REA using it;**
 4 **correct?**
 5 A. So the -- the Country Club would -- would use it
 6 to take service from Columbia REA, and I don't know the
 7 ultimate arrangements that would be made.
 8 MR. GREENFIELD: Your Honor, that's all the
 9 questions I have.
 10 JUDGE PEARSON: Thank you.
 11 Did you have any questions?
 12 MR. COWELL: Very briefly, Your Honor.
 13 **R E D I R E C T E X A M I N A T I O N**
 14 **BY MR. COWELL:**
 15 **Q. Mr. Mullins, I don't know if you have this exhibit**
 16 **we were just discussing, BGM-15CX, in front of you.**
 17 A. I do.
 18 **Q. If we could -- maybe if we could just elaborate a**
 19 **little bit here. We were discussing, Mr. Greenfield, the**
 20 **last sentence of the second paragraph of your -- of the**
 21 **second supplemental response that was -- for the data**
 22 **request that was directed to you.**
 23 **And how could you put that last sentence in**
 24 **context with the paragraph that follows?**
 25 A. Yeah. So -- so the first paragraph, it describes

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REDIRECT EXAMINATION OF BRADLEY G. MULLINS

1 that all of the facilities that are at 15 kV are of no
 2 value to Columbia REA, as we discussed, and that they will
 3 have to be removed. And so the -- that's actually a real
 4 cost to the Club, and so -- which is, you know, in addition
 5 to all of these -- these other calculations.
 6 And the Company itself stated that the cost of
 7 removing those facilities was about \$20,000, and so -- so
 8 the Club would have to incur that cost in order to remove
 9 the facilities. So in addition to that, it would be
 10 convenient if they could use the -- the runs of conduit
 11 rather than boring new conduit.
 12 And Columbia REA, in my conversations with them
 13 last week, stated that they have bids from -- actual bids
 14 from contractors, not the -- the hypothetical valuations
 15 performed by PacifiCorp, that it would only cost \$18,000
 16 and -- or \$18,066 to -- to reinstall those particular
 17 facilities.
 18 MR. COWELL: No further questions, Your
 19 Honor.
 20 JUDGE PEARSON: Okay. Thank you.
 21 MR. GREENFIELD: If I might --
 22 JUDGE PEARSON: Sure.
 23 MR. GREENFIELD: -- follow up with a couple
 24 more?
 25

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

1 **BY MR. GREENFIELD:**
 2 **Q. There are a number of runs of conduit on the Club**
 3 **property that, I guess, Columbia REA doesn't want to use,**
 4 **and if I understand the response to the DR request, the**
 5 **Club will then be taking out those other runs of conduit.**
 6 **And I'm trying to make that jive with the various**
 7 **statements in your testimony and Mr. Marne's about the**
 8 **inconvenience and the damage to the facil- -- the property**
 9 **and so forth.**
 10 A. Could you -- could you identify those statements?
 11 **Q. Didn't you indicate that it would be wasteful and**
 12 **damaging to the property if the --**
 13 A. Well, if you could --
 14 **Q. -- conduit were removed?**
 15 A. Well, you said that there were contradictory
 16 statements. If you could point to those --
 17 **Q. I'm just --**
 18 A. -- in testimony.
 19 **Q. -- asking for your recollection. Did you testify**
 20 **that it would be wasteful and damaging to the property to**
 21 **remove the conduit; therefore, it should all be sold to**
 22 **Columbia REA and the Club?**
 23 A. So my testimony was that it would be economically
 24 wasteful relative to the Net Removal Tariff to require and
 25

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RECROSS-EXAMINATION OF BRADLEY G. MULLINS

1 mandate the removal of the facilities when they can be
 2 transferred at a price that the Company is indifferent to
 3 relative to the Net Removal Tariff. So that's my testimony
 4 regarding economic waste.

5 **Q. And you reviewed the testimony of Mr. Thomas, I
 6 assume, where he said the Club didn't want to have the
 7 facilities removed because it would be somehow damaging to
 8 the property. You recall that; correct?**

9 A. Right. And that would be considered in sort of
 10 these wasteful practices.

11 **Q. Right.**

12 A. Correct.

13 **Q. But now the Club's going to remove -- by your
 14 testimony, going to be removing some of this conduit;
 15 correct? Again, if it's -- Pacific Power is forced to sell
 16 it --**

17 MR. COWELL: Objection, Your Honor. I don't
 18 believe that's what Mr. Mullins testified.

19 A. Well, I mean, I can answer it, if it's okay.

20 So, you know, we're really only talking about two
 21 pieces of conduit. I think if you look around this map,
 22 the service drops are very short segments, and no real
 23 facilities need to be installed that aren't already there
 24 for Columbia REA to -- to access those meters, so we're
 25 really only talking about two pieces of conduit at this

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RECROSS-EXAMINATION OF BRADLEY G. MULLINS

1 point.

2 BY MR. GREENFIELD:

3 **Q. That Columbia REA wants, but you heard
 4 Mr. Clemens' testimony regarding the other conduit that's
 5 on site; correct?**

6 A. So can you just -- where -- where in the record
 7 does it state that they want that?

8 **Q. They don't, from what I understand. You just
 9 testified they only want two, but what are they going to do
 10 with the rest of the conduit? Take it out?**

11 A. Well, presumably, they'd follow whatever standards
 12 that they need to follow to safely manage those facilities,
 13 whether it's abandon them or not, and --

14 **Q. And -- and you're talking about the Club and
 15 Columbia REA because, again, you're proposing a sale, a
 16 forced sale, to Columbia REA and the Club; correct?**

17 A. So, again, you know, my testimony is that it's in
 18 the public interest to transfer the facilities at a price
 19 that holds the Company harmless relative to the Net Removal
 20 Tariff, and -- and that is my testimony.

21 MR. GREENFIELD: No further questions, Your
 22 Honor.

23 MS. WALLACE: I have one.

24 MR. GREENFIELD: Sorry.

25 JUDGE PEARSON: Sure.

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RECROSS-EXAMINATION OF BRADLEY G. MULLINS

1 MS. WALLACE: Thank you.

2 BY MS. WALLACE:

3 **Q. Mr. Mullins, just moments ago, you testified that
 4 Pacific Power's estimate for removal was hypothetical;
 5 correct?**

6 A. Yeah.

7 **Q. Could you please turn to Exhibit JCT-12?**

8 MR. COWELL: It's Exhibit H to the Complaint.

9 THE WITNESS: It's Exhibit H?

10 MR. COWELL: To the Complaint. Do you have
 11 that?

12 THE WITNESS: Okay.

13 BY MS. WALLACE:

14 **Q. And in the last paragraph, about two thirds of the
 15 way down, there's a sentence that reads, "Pacific Power
 16 received bids from outside contractors for the cost to
 17 remove Pacific Power's underground facilities. Pacific
 18 Power selected the lowest bid as the estimate for removal";
 19 correct?**

20 A. I agree it states that.

21 MS. WALLACE: Thank you.

22 JUDGE PEARSON: Thank you.

23 EXAMINATION BY THE JUDGE

24 BY JUDGE PEARSON:

25 **Q. And just for clarification, can you show me on**

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EXAMINATION BY THE JUDGE OF BRADLEY G. MULLINS

1 **this map which two pieces --**

2 A. Yeah.

3 **Q. -- of conduit? I think I know, but I want to be
 4 sure.**

5 A. All right. So -- so this (indicating) is the --
 6 it's a long piece of conduit. I think it's -- I want to
 7 say it's 550 feet. Right? And so we're not talking about
 8 the cost to remove. We're talking about the cost to build
 9 new conduit, which is the -- the \$18,000, not the cost to
 10 remove that was quoted in the \$66,000, just mentioned.

11 And so -- and -- and then the other one is this
 12 (indicating), through the parking lot to the clubhouse.

13 **Q. And that's the one that the Club -- the Country
 14 Club isn't sure about yet? They're still investigating?**

15 A. They're not sure about, because they think there
 16 may actually be an already-abandoned piece of conduit
 17 there, and they're --

18 **Q. Okay.**

19 A. They're investigating it.

20 **Q. Okay. So it's just that one that reaches across?**

21 A. Correct. And so -- so all of this stuff here
 22 (indicating), as we've discussed, has already been built,
 23 and this line, actually, my understanding is that it
 24 extends up into this (indicating) area to actually
 25 serve load. And so the -- sort of the -- you know, all of

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EXAMINATION BY THE JUDGE OF BRADLEY G. MULLINS

1 this stuff has already been put into place.

2 **Q. Okay. Thank you.**

3 A. Yep.

4 JUDGE PEARSON: Anything else for this

5 witness?

6 MR. COWELL: Nothing further.

7 JUDGE PEARSON: Okay. You may step down,

8 Mr. Mullins. And then --

9 MR. GREENFIELD: I think we're up to

10 Mr. Marne, Your Honor.

11 JUDGE PEARSON: Mr. Marne.

12 COURT REPORTER: Mr. Greenfield?

13 MR. GREENFIELD: Yes?

14 COURT REPORTER: Can you pull the

15 microphone closer to you? Thank you.

16 MR. GREENFIELD: You bet.

17 JUDGE PEARSON: Mr. Marne, if you could

18 please raise your right hand.

19

20 DAVID J. MARNE, witness herein, having been

21 first duly sworn on oath,

22 was examined and testified

23 as follows:

24

25 JUDGE PEARSON: Okay. Please be seated.

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CROSS-EXAMINATION

1 BY MR. GREENFIELD:

2 **Q. All set?**

3 A. All set.

4 **Q. Good afternoon, Mr. Marne. I assume you've**

5 **reviewed Pacific Power's Net Removal Tariff carefully;**

6 **correct?**

7

8 A. The tariff being Rule 6?

9 **Q. Yes.**

10 A. Is that the same thing?

11 **Q. Yes, sir.**

12 A. I've reviewed it carefully from an engineer's

13 point of view, yes.

14 **Q. Fair enough.**

15 **Does the word "transfer" appear in the Net Removal**

16 **Tariff?**

17 A. I didn't review it from that -- to that detail.

18 I'm sorry.

19 **Q. To your knowledge, does the word "sale" appear in**

20 **the Net Removal Tariff?**

21 A. To my knowledge, it doesn't, but I didn't review

22 it in that detail.

23 **Q. Okay. If I understand correctly, your opinions**

24 **and your testimony are predicated upon a sale of Pacific**

25 **Power's facilities, are they not? And I'll refer you to**

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1 **some testimony here.**

2 **If you take a look at DJM-1CT, page 5, lines 5**

3 **through 7 -- yeah, excuse me, 15 through 17. And I'm going**

4 **to read a quote, and tell me if I've read it accurately.**

5 MR. SCHWARTZ: What page? I'm sorry.

6 MR. GREENFIELD: I'm sorry. Page 5 --

7 MR. SCHWARTZ: Yes.

8 MR. GREENFIELD: -- lines 15 through 17.

9 MR. SCHWARTZ: Thank you.

10 BY MR. GREENFIELD:

11 **Q. "Thus, if Pacific Power were to sell its**

12 **facilities, they will not have to be maintained by Pacific**

13 **Power since it will be transferring all interest and**

14 **responsibility to the Country Club." That's your**

15 **testimony?**

16 A. Yes.

17 **Q. Okay. So, again, predicated upon a sale; correct?**

18 A. That particular paragraph, yes.

19 **Q. If you would, turn to DJM-1CT -- we're on the same**

20 **page, line 7. "Once facilities are sold by a utility, such**

21 **facilities are no longer their facilities." That's your**

22 **testimony; correct?**

23 A. Correct.

24 **Q. Again, predicated upon a sale; correct?**

25 A. Yes.

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1 Q. In fact, you note that there are two alternatives

2 in this circumstance: removing or selling the facilities.

3 I'm going to quote again, and this is from DJM-1CT, page 5,

4 lines 4 through 5. "Transferring the facilities to a

5 departing customer is a perfectly viable alternative to

6 requiring facilities removal." That's your testimony, is

7 it not?

8 A. Yes.

9 **Q. So we remove or we sell; correct?**

10 A. Per -- per that paragraph, yes.

11 **Q. Okay. If I understand correctly, your opinions**

12 **are also predicated upon the following, which is taken from**

13 **your prefiled direct testimony, and I'm referring to page**

14 **4, lines 14 through 18, so that's DJM-1CT.**

15 **And there you testify, "The maps, drawings, and**

16 **pictures I have reviewed produced by the Company in**

17 **discovery show that the facilities can be reused to supply**

18 **power to buildings, pumps, and other improvements on the**

19 **Club's property. There's no reason or necessity to install**

20 **additional conduit to serve the property."**

21 **So as I read that, I took it that you were**

22 **assuming that Columbia REA would reuse Pacific Power's**

23 **facilities; correct?**

24 A. Facilities as in conduits.

25 **Q. Okay. And they'd be reusing all of it?**

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1 **A. The Country Club would take over those facilities,**
2 **and then they would pass on to Columbia REA whichever ones**
3 **were beneficial for the Country Club to have used.**

4 **Q. And if they didn't pass some on, as Mr. Mullins**
5 **testified, we would have, under the scenario presented by**
6 **Columbia REA and the Club in this matter, facilities of**
7 **Pacific Power's that are sitting on Club property that**
8 **aren't being used by Columbia REA; correct?**

9 A. They're -- if they're sold, they're owned by the
10 Country Club, if I'm following you.

11 **Q. Okay.**

12 A. Yes.

13 **Q. And some may not be used by the REA. What's going**
14 **to happen to those? Will they be dug up? Will they just**
15 **sit there fallow in the ground? What's intended?**

16 A. That would be up to the Country Club.

17 **Q. And what would that do to the Country Club's**
18 **liability if there are Pacific Power facilities on its**
19 **property that aren't used by the REA?**

20 A. They wouldn't be Pacific Power's property. They
21 would be the Country Club's property if they bought them.

22 **Q. And what would that mean for the Country Club's**
23 **liability to third parties, now there's -- if it didn't**
24 **maintain those facilities as a utility such as Pacific**
25 **Power is required to do?**

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1 **A. The Country Club doesn't have to follow the**
2 **National Electric Safety Code.**

3 I mean, I want to be clear. All -- all day long,
4 we talk about a conduit. It's just a pipe. Right? A
5 plastic pipe in the ground. Not a water pipe, but an empty
6 pipe that people pull wires through. So the wires would be
7 pulled out. There would be this empty plastic pipe in the
8 ground.

9 The Country Club could do whatever they want with
10 it. They could transfer it to Columbia REA. They could
11 not do anything with it. They could run an irrigation line
12 through it. They could run a fiber-optic line through it.
13 They could do whatever they want with it after they buy it.

14 **Q. Let's assume that they leave some of the conduit**
15 **in the ground, the Club does, and they don't maintain it,**
16 **they don't track it, it just sits there.**

17 And somebody does want to run an irrigation pipe
18 through the area, and the Club goes out and has Columbia
19 REA come in and do a locate. The party comes in, starts to
20 dig, sees a conduit, assumes they've found the electric
21 facilities that are marked by the locate, continue digging,
22 and hit an energized line. What happens to the Club in
23 that circumstance?

24 MR. SCHWARTZ: Your Honor, I'm --
25

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1 Q. -- using your theories and what you present in
2 this case?

3 MR. SCHWARTZ: I'm going to object to that
4 question because I think, Mr. Greenfield, when he started
5 that question, was referring to abandoned, empty conduit.
6 Now he's talking about an energized line, and it's not
7 clear. Are you talking about energized line that would
8 then be in that conduit? Or something separate?

9 MR. GREENFIELD: Side by side, like we've
10 seen in a number of pictures. A conduit where Columbia REA
11 runs its right next to Pacific Power's conduit.

12 MR. SCHWARTZ: It's --

13 MR. GREENFIELD: So we've got an empty
14 conduit of Pacific Power's. We've got Columbia REA running
15 live, energized line side by side. What happens to the
16 Club in that circumstance, under --

17 JUDGE PEARSON: So I just want to clarify
18 your question. So you're saying that the person who's
19 doing the digging would mistake the empty conduit --

20 MR. GREENFIELD: Correct.

21 JUDGE PEARSON: -- for a conduit containing
22 live wire and, vice versa, mistake the conduit containing
23 live wire for an empty conduit?

24 MR. GREENFIELD: Yes.

25 JUDGE PEARSON: That's what you're saying?

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1 MR. GREENFIELD: So we've got the two in
2 parallel. We've got abandoned conduit of Pacific Power's.
3 We have Columbia REA's live lines running through conduit
4 very nearby, as we've seen in the pictures.

5 A locate is requested. It's marked. The
6 contractor digs, sees the abandoned conduit, assumes that's
7 the one that's marked for locate, and continues digging and
8 hits an energized line.

9 My question is, what does that mean with
10 regard to the Club at that point and its liability, under
11 your testimony?

12 MR. SCHWARTZ: And, Your Honor, for the
13 record, to the extent that that's calling for a legal
14 conclusion, I -- I don't think Mr. Marne has testified to
15 give a legal conclusion with regard to legal liability.
16 But as far as operational issues, I do not have an
17 objection.

18 JUDGE PEARSON: Okay. So if you could answer
19 it with respect to operational issues.

20 A. I have a couple-part answer to that.

21 So first of all, I keep hearing you say, "Pacific
22 Power's empty conduit next to Columbia REA's conduit with
23 wires in it." In my mind, it's the Country Club's empty
24 conduit, not Pacific Power's empty conduit, if I'm
25 following everything that's going on here.

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1 The Country Club's empty conduit with Columbia
 2 REA's conduit, not Pacific Power's conduit, side by side.
 3 I -- I think that's a right assumption to start the
 4 question. Is that true?
 5 BY MR. GREENFIELD:
 6 **Q. If there's a forced sale, even though it's not**
 7 **provided for in the tariff, I understand where you're**
 8 **going.**
 9 A. Okay. Very good.
 10 So you're acting like that is something special.
 11 I mean, that is in the industry all the time. I am sure
 12 Pacific Power runs a conduit and then installs a spare,
 13 empty conduit next to their conduits for someday, future
 14 use. That is nothing special.
 15 That's -- that's not like, "Oh my gosh. What
 16 would happen?" That is part of our industry. And you
 17 don't locate an empty conduit. You locate the conduit with
 18 the wires in it. You can't locate an empty plastic
 19 conduit. You locate the conduit with the wires in it.
 20 That's the electronic locating system.
 21 There's nothing, like, scary or -- or "Oh my gosh"
 22 about that. That's just part of our industry.
 23 **Q. And yet the NES- -- NESC requires that abandoned**
 24 **conduit be removed or maintained in a safe condition, does**
 25 **it not?**

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1 **A. It does, and -- and I gave --**
 2 **Q. And so you're going to put that obligation upon**
 3 **the Club?**
 4 A. You could call that thing a plastic pipe after the
 5 Club buys it. You -- you know, once the Club buys it,
 6 they've got a plastic pipe in the ground.
 7 What they want to do with it is their business: if
 8 they want to give it to Columbia REA, if they want to reuse
 9 it. The -- the Country Club doesn't follow the National
 10 Electric Safety Code. They're not a utility.
 11 **Q. You could also call it abandoned conduit, could**
 12 **you not? Which is directly addressed in the NESC.**
 13 A. I mean, it is abandoned conduit, but it's not
 14 being used to hold wires like an electrical conduit.
 15 **Q. NESC 313, Subpart B, Subpart 3, provides quite**
 16 **simply, as I read it, "Lines and equipment permanently**
 17 **abandoned shall be removed or maintained in a safe**
 18 **condition"; correct?**
 19 A. Yes.
 20 **Q. And the NESC does not provide for shifting of**
 21 **liability in the event of a sale of abandoned facilities,**
 22 **does it?**
 23 A. Well, the NESC doesn't talk about sales and
 24 shifting of liability, but the NESC applies to the utility
 25 that owns and operates and maintains those facilities. So

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1 if you, the utilities, sell those facilities, you're free.
 2 You know, I don't -- I don't understand the issue there.
 3 **Q. Did you not testify in your rebuttal, "With regard**
 4 **to Pacific Power's duplication claims, there's no reason to**
 5 **put a second duplicate energized underground line in**
 6 **conduit on the Country Club property"?**
 7 A. Yes. Can I explain that a little?
 8 **Q. Well, let me -- I've got another quote here that**
 9 **sort of ties to it.**
 10 MR. SCHWARTZ: Would you tell -- I didn't
 11 hear it. Did you identify where that came from?
 12 MR. GREENFIELD: DJM-5T, page 9, lines 16
 13 through 18.
 14 BY MR. GREENFIELD:
 15 **Q. And then you also state, "In this case, reusing**
 16 **conduit instead of tearing it out and creating waste is an**
 17 **accepted good practice." And I'm referring to DJM-5T, page**
 18 **9, line 22. Correct?**
 19 A. Yes.
 20 **Q. And, again, that's back where we started. Your**
 21 **opinions were predicated upon Columbia REA reusing these**
 22 **facilities, namely the conduit; correct?**
 23 A. When I originally started preparing these
 24 documents, yes, I assumed that Columbia REA would take over
 25 the conduits from the Country Club after the Country Club

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1 bought them from PacifiCorp. But if they don't, they're
 2 theirs to do what they want with.
 3 **Q. Theirs. You're referring to whom?**
 4 A. Theirs, meaning the Country Club's, to do what
 5 they want with. If the Country Club doesn't say, "Okay.
 6 Here, Columbia REA. You can use these," then they just
 7 bought an empty pipe in the ground to do what they want
 8 with.
 9 MR. GREENFIELD: No further questions, Your
 10 Honor.
 11 JUDGE PEARSON: Did you have anything?
 12 MR. SCHWARTZ: I do not, Your Honor. Thank
 13 you.
 14 JUDGE PEARSON: Okay.
 15 MR. SCHWARTZ: May we do -- is this the end
 16 of the proceeding with regard to witnesses?
 17 JUDGE PEARSON: I believe so, once I ask him
 18 to step down.
 19 MR. SCHWARTZ: Yeah. And then I just have a
 20 procedural issue to address.
 21 JUDGE PEARSON: Okay. All right.
 22 You can step down, Mr. Marne. Thank you.
 23 THE WITNESS: Thank you.
 24 MR. SCHWARTZ: Your Honor, at the beginning
 25 of the hearing, you may recall that there's one exhibit

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1 that we objected to.

2 JUDGE PEARSON: Yes.

3 MR. SCHWARTZ: And that was the exhibit that

4 had the joint representation agreement. I think the

5 number --

6 JUDGE PEARSON: 18C- -- JCT-18CX?

7 MR. SCHWARTZ: Yes, I think so.

8 MR. GREENFIELD: And, Your Honor, that's not

9 being offered at this time.

10 JUDGE PEARSON: Okay.

11 MR. SCHWARTZ: Okay. That's very

12 considerate.

13 MR. GREENFIELD: And I thought you were

14 seeking to put the stipulation on the record regarding

15 briefing? You have a personal request?

16 MR. SCHWARTZ: Your Honor, if it's okay --

17 and I'd like to work with you and the judge for scheduling

18 purposes -- I'm actually leaving the country on

19 December 10, and I won't be back until December -- I'll be

20 in the office on the 22nd --

21 MR. GREENFIELD: September? I'm sorry.

22 MR. SCHWARTZ: I'm sorry. September.

23 JUDGE PEARSON: I was going to say,

24 "December?"

25 MR. GREENFIELD: Got no issue, there.

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1 JUDGE PEARSON: Yeah.

2 MR. SCHWARTZ: What am I thinking?

3 So I'm leaving the country on September 10.

4 I will be back in the office on September 22nd, and I would

5 just like to ask, if it's all right with the Commission, to

6 extend the briefing date. And then I'd like to work with

7 Mr. Greenfield and other counsel on the matter. I think

8 I'm only going to request about an additional seven or ten

9 days.

10 JUDGE PEARSON: I have no issue with that.

11 MR. GREENFIELD: We -- we have no issue, Your

12 Honor.

13 JUDGE PEARSON: Okay. Do you want to make

14 that adjustment now, while we're here on the record?

15 MR. SCHWARTZ: I would just like to look at

16 the calendar, because --

17 JUDGE PEARSON: Okay.

18 MR. SCHWARTZ: -- I know I have an oral

19 argument --

20 JUDGE PEARSON: Okay.

21 MR. SCHWARTZ: -- within that time frame.

22 JUDGE PEARSON: That's fine. So if you can

23 just get that to me in the next few days via e-mail, I can

24 issue a notice adjusting the procedural schedule and say

25 that it was a joint submission by the parties and it's

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1 agreed to. That's no problem.

2 MR. SCHWARTZ: Okay. Thank you.

3 JUDGE PEARSON: Okay. Is there anything else

4 before we adjourn today?

5 MR. GREENFIELD: Not on behalf of Pacific

6 Power, Your Honor.

7 MR. SCHWARTZ: No. Thank you, Your Honor.

8 JUDGE PEARSON: Okay. Thank you.

9 So thank you all for being here today, and we

10 will adjourn and be off the record.

11 (Proceedings concluded at 2:48 p.m.)

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1 CERTIFICATE

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3 STATE OF WASHINGTON

4 COUNTY OF KING

5

6 I, Ryan Ziegler, a Certified Shorthand Reporter in

7 and for the State of Washington, do hereby certify that the

8 foregoing transcript of the proceedings held September 3,

9 2015, is true and accurate to the best of my knowledge,

10 skill, and ability.

11 IN WITNESS WHEREOF, I have hereunto set my hand

12 and seal this September 15, 2015.

13

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17 RYAN ZIEGLER, RPR, CCR _____

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