

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

THE WALLA WALLA COUNTRY CLUB,) Docket No. UE-143932
) Pages 12 - 187
Complainant,)
)
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 ***

9:30 A.M.

SEPTEMBER 3, 2015

Washington Utilities and Transportation Commission
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25	* * * * *	

1 OLYMPIA, WASHINGTON; SEPTEMBER 3, 2015

2 9:30 A.M.

3 --o0o--

4
5 JUDGE PEARSON: Good morning. Today is
6 Thursday, September 3rd, 2015, at 9:30 a.m., and we are
7 here today for an evidentiary hearing in Docket UE-143932,
8 which is a formal Complaint filed by the Walla Walla
9 Country Club against PacifiCorp, d/b/a Pacific Power &
10 Light Corporation.

11 We took care of some housekeeping matters off
12 the record this morning, and the parties have stipulated to
13 the admission of all but one of the exhibits, which may or
14 may not be offered later this morning, meaning the one
15 exhibit that they did not stipu- -- stipulate to, so I will
16 read those exhibits into the record now.

17 The first exhibits are sponsored by Bradley
18 G. Mullins for Walla Walla Country Club. The first is
19 BGM-1CT, which is the Confidential Direct Testimony of
20 Mr. Mullins. The second is BGM-2, which is the
21 Qualification Statement of Bradley Mullins.

22 The third is BGM-3, which is exhibit filing
23 excerpts from Docket UE-130043. The fourth is BGM-4C,
24 which is Confidential Company Responses to Club Data
25 Requests. Next is BGM-5C, which is a confidential Club

1 letter proposing facilities sale.

2 The next is BGM-6T, which is Mr. Mullins'
3 Rebuttal Testimony. And BGM-7, which is the general
4 service contract between Pacific Power and Walla Walla
5 School District 140, followed by BGM-8C, which is
6 Confidential Company Responses to Club Data Requests.

7 The cross-examination exhibits for
8 Mr. Mullins are BGM-9C -- CX, excuse me. BGM-9CX, which is
9 a January 10th, 2013, e-mail from Jeff Thomas to Scott
10 Peters. BGM-10CX, which is a January 7th, 2013, e-mail
11 from Michael Gavin to Jeff Thomas. BGM-11CX, which is a
12 December 20th, 2012, e-mail from Jeff Thomas to Scott
13 Peters.

14 BGM-12CX, which is a November 9th, 2012,
15 e-mail from Jeff Thomas to Scott Peters. BGM-13CX, which
16 is Club Responses to the Company's Third Set of Data
17 Requests. BGM-14CX, which is a fair market value
18 appraisal. BGM-15CX, which is the Club's Supplemental
19 Response to the Company's Data Request No. 58.

20 The next set is for -- can you tell me how to
21 pronounce David's last name? Is it Marne or Marne?

22 MR. MARNE: Silent E.

23 JUDGE PEARSON: Okay. Marne?

24 MR. MARNE: Marne.

25 JUDGE PEARSON: Okay. The next set of

1 exhibits are sponsored by David J. Marne for the Walla
2 Walla Country Club. DJM-1CT, which is Mr. Marne's
3 Confidential Direct Testimony. DJM-2, which is his
4 curriculum -- I don't know how to pronounce that.

5 MR. GREENFIELD: Vitae.

6 MS. WALLACE: Vitae.

7 JUDGE PEARSON: -- vitae. DJM-3C, which is
8 Confidential Company Responses to Club Data Requests.
9 DJM-4, which is the NESC rule excerpts, Sections 1, 2, and
10 31. DJM-5T, which is Mr. Marne's Rebuttal Testimony.
11 DJM-6, NESC rule excerpts, Section 35.

12 DJM-7CX, which is an aerial photo of the
13 Walla Walla Country Club and surrounding area, with
14 indication of the electric facilities. And DJM-8CX, which
15 is Club Responses to the Company's Third Set of Data
16 Requests.

17 The next set of exhibits are sponsored by
18 Jeffrey C. Thomas for the Walla Walla Country Club, and the
19 first is JCT-1T, which is Mr. Thomas's Direct Testimony.
20 JCT-2, which is Club and Company Responses to Data
21 Requests. JCT-3, which is an exhibit filing from
22 Docket UE-130043.

23 JCT-4T, which is Mr. Thomas's Rebuttal
24 Testimony. JCT-5, which is an Order re: Defendant's Motion
25 to Dismiss from the United States -- States District Court

1 for the Eastern District of Washington, which is Exhibit A
2 to the Complaint. JCT-6, which is the Declaration of
3 Mr. Thomas, and which is Exhibit B to the Complaint.

4 JCT-7, which is a December 11th, 2012, letter
5 to Pacific Power from Thomas K. Baffney for the Club, which
6 is Exhibit C to the Complaint. JCT-8, which is a
7 January 25th, 2013, letter to Thomas K. Baffney from Mike
8 Gavin for Pacific Power, with attachments, and this is
9 Exhibit D to the Complaint.

10 JCT-9, a March 18th, 2013, letter to Thomas
11 K. Baffney from Michelle Mishoe for Pacific Power with an
12 attachment, which is Exhibit E to the Complaint. JCT-10,
13 which is a May 3rd, 2013, letter to Michelle Mishoe from
14 Thomas K. Baffney for the Club, which is Exhibit F to the
15 Complaint. JCT-11, which is a May 23rd, 2013, letter to
16 Michelle Mishoe from Thomas K. Baffney for the Club, which
17 is Exhibit G to the Complaint.

18 JCT-12 is a May 31st, 2013, letter to Thomas
19 K. Baffney from Michelle Mishoe for Pacific Power, which is
20 Exhibit H to the Complaint. JCT-13, which is Pacific Power
21 Tariff WN U-75, Rule 6, which is Exhibit I to the
22 Complaint. JCT-14CX is a November 5th, 2012, e-mail from
23 Jeff Thomas to Scott Peters.

24 JCT-15CX is an October 17th, 2012, letter
25 from Scott Peters to Jeff Thomas. JCT-16CX are Club

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

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 --

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 --

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.

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.

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

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.

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?

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.

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

CROSS-EXAMINATION OF R. BRYCE DALLEY

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

CROSS-EXAMINATION OF R. BRYCE DALLEY

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.

CROSS-EXAMINATION OF R. BRYCE DALLEY

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

CROSS-EXAMINATION OF R. BRYCE DALLEY

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?

CROSS-EXAMINATION OF R. BRYCE DALLEY

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?

CROSS-EXAMINATION OF R. BRYCE DALLEY

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

CROSS-EXAMINATION OF R. BRYCE DALLEY

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?

CROSS-EXAMINATION OF R. BRYCE DALLEY

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,**

CROSS-EXAMINATION OF R. BRYCE DALLEY

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.

CROSS-EXAMINATION OF R. BRYCE DALLEY

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?

CROSS-EXAMINATION OF R. BRYCE DALLEY

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."

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

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?

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

CROSS-EXAMINATION OF R. BRYCE DALLEY

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.

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."

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?

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?

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

CROSS-EXAMINATION OF R. BRYCE DALLEY

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.

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 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 --

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

CROSS-EXAMINATION OF R. BRYCE DALLEY

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

3 A. Yes.

4 Q. Okay.

5 A. It -- all the facilities would be removed.

6 Q. And the last estimate was 66,000?

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.

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.

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.

CROSS-EXAMINATION OF R. BRYCE DALLEY

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?**

CROSS-EXAMINATION OF R. BRYCE DALLEY

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 --

CROSS-EXAMINATION OF R. BRYCE DALLEY

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 --

CROSS-EXAMINATION OF R. BRYCE DALLEY

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

CROSS-EXAMINATION OF R. BRYCE DALLEY

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?

CROSS-EXAMINATION OF R. BRYCE DALLEY

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?

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

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**

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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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.

E X A M I N A T I O N B Y T H E J U D G E

BY JUDGE PEARSON:

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

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

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

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

Q. Okay. I understand that.

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

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 --

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

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."**

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

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.

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?

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.

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

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 overheard
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?

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.

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

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

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

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

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,**

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,

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

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.

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 --

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.

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.

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.

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

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?

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

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.

E X A M I N A T I O N B Y T H E J U D G E

19 BY JUDGE PEARSON:

20 **Q. The first is the question that I asked Mr. Dalley,**
21 **just to clarify and see if you're aware of any different**
22 **operational or safety reasons for why the Company deemed**
23 **that these underground facilities needed to be removed, but**
24 **then offered the opportunity to purchase in lieu of**
25

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**

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.

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?

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.

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.

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

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.

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

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.

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?**

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 --

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.

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

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.

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.

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?

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?

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?

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

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.

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

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

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

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.

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,

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

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.

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.

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

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?**

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.

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

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.

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

14 BY MR. GROSSMAN:

15 Q. Mr. Thomas, just one brief question -- line of
16 questions.

17 Mr. Greenfield asked you about boring, Columbia
18 REA boring and trenching lines. Are you aware of whether
19 that was on Club property, or was it out around the
20 perimeter of the Club property?
21

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?

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.

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?

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

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."

CROSS-EXAMINATION OF BRADLEY G. MULLINS

1 **That's your direct testimony?**

2 A. That is a section of my direct testimony, correct.

3 **Q. Okay. Now, if you'd refer to BGM-6T, page 13.**

4 A. Okay.

5 **Q. I'm looking at lines 5 through 6. You then refine**
6 **your request further, and this time you indicate, "In this**
7 **case, it is in the public interest to require the**
8 **facilities located on the Club property to be transferred**
9 **at net book value."**

10 A. Correct.

11 **Q. That's your rebuttal testimony?**

12 A. It is.

13 **Q. And that is still what you're requesting on behalf**
14 **of your clients, that the Commission require Pacific Power**
15 **to transfer its facilities to the Club and Columbia REA;**
16 **correct?**

17 A. That's correct.

18 **Q. I assume you've carefully read and even cited -- I**
19 **see you cited to the Net Removal Tariff Rule 6.I. in your**
20 **prefiled direct testimony; correct?**

21 A. Correct. I think that's --

22 **Q. Does the word "transfer" appear at any point**
23 **within the Company's Net Removal Tariff?**

24 A. No.

25 **Q. Then why do you testify, "The objective of Rule 6**

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

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

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

CROSS-EXAMINATION OF BRADLEY G. MULLINS

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

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.

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?**

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.

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

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 --

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.**

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

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

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

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.

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

13 BY MR. COWELL:

14 Q. Mr. Mullins, I don't know if you have this exhibit
15 we were just discussing, BGM-15CX, in front of you.

16 A. I do.

17 Q. If we could -- maybe if we could just elaborate a
18 little bit here. We were discussing, Mr. Greenfield, the
19 last sentence of the second paragraph of your -- of the
20 second supplemental response that was -- for the data
21 request that was directed to you.

22 And how could you put that last sentence in
23 context with the paragraph that follows?

24 A. Yeah. So -- so the first paragraph, it describes
25

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

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

1
2 BY MR. GREENFIELD:

3 Q. There are a number of runs of conduit on the Club
4 property that, I guess, Columbia REA doesn't want to use,
5 and if I understand the response to the DR request, the
6 Club will then be taking out those other runs of conduit.

7 And I'm trying to make that jive with the various
8 statements in your testimony and Mr. Marne's about the
9 inconvenience and the damage to the facil- -- the property
10 and so forth.

11 A. Could you -- could you identify those statements?

12 Q. Didn't you indicate that it would be wasteful and
13 damaging to the property if the --

14 A. Well, if you could --

15 Q. -- conduit were removed?

16 A. Well, you said that there were contradictory
17 statements. If you could point to those --

18 Q. I'm just --

19 A. -- in testimony.

20 Q. -- asking for your recollection. Did you testify
21 that it would be wasteful and damaging to the property to
22 remove the conduit; therefore, it should all be sold to
23 Columbia REA and the Club?

24 A. So my testimony was that it would be economically
25 wasteful relative to the Net Removal Tariff to require and

RE-CROSS-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

RE-CROSS-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.

RE-CROSS-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 E X A M I N A T I O N B Y T H E J U D G E

24 BY JUDGE PEARSON:

25 Q. And just for clarification, can you show me on

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

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.

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

2 BY MR. GREENFIELD:

3 Q. All set?

4 A. All set.

5 Q. Good afternoon, Mr. Marne. I assume you've
6 reviewed Pacific Power's Net Removal Tariff carefully;
7 correct?

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

CROSS-EXAMINATION OF DAVID J. MARNE

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.

CROSS-EXAMINATION OF DAVID J. MARNE

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?

CROSS-EXAMINATION OF DAVID J. MARNE

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?**

CROSS-EXAMINATION OF DAVID J. MARNE

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

CROSS-EXAMINATION OF DAVID J. MARNE

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?

CROSS-EXAMINATION OF DAVID J. MARNE

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.

CROSS-EXAMINATION OF DAVID J. MARNE

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?**

CROSS-EXAMINATION OF DAVID J. MARNE

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

CROSS-EXAMINATION OF DAVID J. MARNE

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

CROSS-EXAMINATION OF DAVID J. MARNE

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

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.

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

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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C E R T I F I C A T E

STATE OF WASHINGTON
COUNTY OF KING

I, Ryan Ziegler, a Certified Shorthand Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the proceedings held September 3, 2015, is true and accurate to the best of my knowledge, skill, and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this September 15, 2015.

RYAN ZIEGLER, RPR, CCR